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HOUSE BILL NO. 1301

Offered January 21, 2016

A *BILL to amend the Code of Virginia by adding sections numbered 2.2-2818.3 and 38.2-3407.9:04, relating to administrators of pharmacy benefits; provision of explanation of benefits.*

Patron—Hodges

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 2.2-2818.3 and 38.2-3407.9:04 as follows:

§ 2.2-2818.3. Explanations of benefits by pharmacy benefits administrators.

Any contract between the Department of Human Resource Management (the Department) and a pharmacy benefits administrator providing for pharmacy benefits administration with respect to a health insurance or health coverage plan or program for current or retired state or local government employees or their dependents pursuant to this title shall require the pharmacy benefits administrator to provide, once each calendar quarter, to every covered employee, retiree, or dependent of such plan or program for whom the pharmacy benefits administrator processed or paid a claim for prescription drugs dispensed to a covered person, an explanation of benefits on a form approved by the Department. The pharmacy benefits administrator's explanation of benefits shall accurately and clearly set forth, with respect to each claim for prescription drugs dispensed to the covered individual, the following:

1. The copayment or other cost-sharing amount paid and payable by the covered individual, which copayment or other cost-sharing amount shall be calculated as provided in § 38.2-3407.3;

2. The amount of the payment, reimbursement, or other disbursement made to the dispensing pharmacy by the pharmacy benefits administrator or by the Department or local government, as applicable, pursuant to the plan or program;

3. The amount billed by the pharmacy benefits administrator to the Department or local government, as applicable; and

4. Other information that the Department may require in order to ensure that the explanation of benefits provides the covered individual with accurate and clear information regarding the prescription benefits provided under the plan or program.

§ 38.2-3407.9:04. Explanations of benefits by pharmacy benefits administrators.

A. As used in this section, unless the context requires a different meaning:

"Covered person" means a policyholder, subscriber, enrollee, participant, beneficiary, or other individual who is provided coverage under a health benefit plan provided by a health carrier. "Covered person" includes a dependent or other individual provided health coverage through a health benefit plan for a covered person.

"Explanation of benefits" includes any form provided by an insurer, health services plan, or health maintenance organization that explains the amounts covered under a policy or plan or shows the amounts payable by a covered person to a health care provider.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease. "Health benefit plan" does not include short-term travel or accident-only policies; short-term nonrenewable policies of not more than six months' duration; or policies, subscription contracts, or health care plans that do not include coverage for prescription drugs.

"Health carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease. "Health carrier" includes an insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health services plan, or any other entity providing a plan of health insurance, health benefits, or health care services.

"Pharmacy benefits administration" means the administration or management of prescription drug benefits provided by a health carrier for the benefit of covered persons, including claims processing and payment of claims to pharmacies for prescription drugs dispensed to a covered person.

"Pharmacy benefits administrator" means an entity that performs pharmacy benefits administration and includes (i) a pharmacy benefits manager or (ii) a person acting for a pharmacy benefits administrator in a contractual or employment relationship in the performance of pharmacy benefits

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59 administration for a health carrier.

60 "Pharmacy benefits manager" means a person that provides administrative services related to the
61 processing of claims for payment for the provision of prescription drugs or pharmacy services, including
62 performing pharmacy audits, developing and managing drug formularies and preferred drug lists, and
63 administering programs for payers' prior authorization of claims for payment for the provision of
64 prescription drugs or pharmacy services.

65 B. Each pharmacy benefits administrator shall provide, once each calendar quarter, to every covered
66 person for whom the pharmacy benefits administrator processed or paid a claim for prescription drugs
67 dispensed to a covered person, an explanation of benefits on a form approved by the Commission
68 pursuant to subsection C.

69 C. Each pharmacy benefits administrator shall file with the Commission for approval explanation of
70 benefits forms. Such explanation of benefits forms shall be subject to the requirements of § 38.2-316 or
71 38.2-4306, as applicable.

72 D. The pharmacy benefits administrator's explanation of benefits provided to a covered person shall
73 accurately and clearly set forth, with respect to each claim for prescription drugs dispensed to the
74 covered person, the following:

75 1. The copayment or other cost-sharing amount that has been paid by the covered person, which
76 copayment or other cost-sharing amount shall be calculated as provided in § 38.2-3407.3;

77 2. The amount of the payment, reimbursement, or other disbursement made to the dispensing
78 pharmacy by the pharmacy benefits administrator or the health carrier pursuant to the health benefit
79 plan;

80 3. The amount billed by the pharmacy benefits administrator to the health carrier; and

81 4. Other information that the Commission by regulation may require in order to ensure that the
82 explanation of benefits provides the covered person with accurate and clear information regarding the
83 prescription benefits provided under the health benefit plan.

84 E. The Commission shall adopt regulations establishing standards for the accuracy and clarity of the
85 information presented in an explanation of benefits required to be provided by a pharmacy benefits
86 administrator pursuant to this section.

87 F. The provisions of this section shall not affect the obligation of a health carrier to provide an
88 explanation of benefits pursuant to § 38.2-3407.4.

89 G. Nothing in this section shall be construed as requiring a health carrier to use a pharmacy
90 benefits administrator to administer pharmacy benefits provided under a health benefit plan.

91 H. This section shall apply with respect to health benefit plans that are entered into, amended,
92 extended, or renewed on or after January 1, 2017.