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**HOUSE BILL NO. 601**

Offered January 13, 2016

Prefiled January 11, 2016

A *BILL to amend and reenact §§ 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 34 of Title 38.2 a section numbered 38.2-3419.2, relating to health insurance; coverage for treatment of inborn errors of metabolism.*

Patrons—Murphy and O'Bannon

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-4214 and 38.2-4319 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 34 of Title 38.2 a section numbered 38.2-3419.2 as follows:**

**§ 38.2-3419.2. Coverage for treatment of inborn errors of metabolism.**

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

"Carrier" means an insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services, whose policy, contract, or plan, including any certificate or evidence of coverage issued in connection with such policy, contract, or plan, provides coverage for prescription drugs through a pharmacy benefits manager.

"Inborn error of metabolism" means a rare, genetically determined biochemical disorder in which a specific enzyme deficiency produces a metabolic block that may have pathogenic consequences at birth or later in life. An "inborn error of metabolism" (i) is present at birth; (ii) if left untreated, results in mental retardation or death; and (iii) requires the consumption of medical foods.

"Medical foods" means foods that are formulated to be consumed or administered enterally under the supervision of a physician that are (i) specifically processed or formulated to be deficient in one or more of the nutrients present in typical nutritional counterparts; (ii) for the medical and nutritional management of patients with limited capacity to metabolize ordinary foodstuffs or certain nutrients contained therein or have other specific nutrient requirements as established by medical evaluation; and (iii) essential to optimize growth, health and metabolic homeostasis.

B. Notwithstanding the provisions of § 38.2-3419, each carrier shall provide coverage for treatment of inborn errors of metabolism that involve amino acid, carbohydrate, and fat metabolism and for which medically standard methods of diagnosis, treatment, and monitoring exist, including quantification of metabolites in blood, urine, or spinal fluid or enzyme or DNA confirmation in tissues.

C. Coverage required pursuant to subsection B shall include expenses of diagnosing, monitoring, and controlling the disorders by nutritional and medical assessment, including clinical visits, biochemical analysis, medical foods, nutritional supplements, and formulas used in the treatment of such disorders.

D. No carrier shall impose upon any person receiving benefits pursuant to this section any copayment, fee, policy year or calendar year, or durational benefit limitation or maximum for benefits or services that is not equally imposed upon all individuals in the same benefit category. These covered benefits shall also be exempt from deductible provisions.

E. The requirements of this section shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2017, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

F. This section shall not apply to short-term travel, accident-only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

**§ 38.2-4214. Application of certain provisions of law.**

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et

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59 seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317  
60 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447,  
61 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1,  
62 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 38.2-3409,  
63 38.2-3411 through 38.2-3419.1, 38.2-3419.2, 38.2-3430.1 through 38.2-3454, 38.2-3501, 38.2-3502,  
64 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516  
65 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4,  
66 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of  
67 Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52  
68 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title  
69 shall apply to the operation of a plan.

70 **§ 38.2-4319. Statutory construction and relationship to other laws.**

71 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this  
72 chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218  
73 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-326, 38.2-400,  
74 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9  
75 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2  
76 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et  
77 seq.), and 5.1 (§ 38.2-1334.3 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et  
78 seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405,  
79 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19,  
80 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through  
81 38.2-3418.17, 38.2-3419.1, 38.2-3419.2, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision 13 of  
82 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through  
83 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5  
84 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et  
85 seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any  
86 health maintenance organization granted a license under this chapter. This chapter shall not apply to an  
87 insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter  
88 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

89 B. For plans administered by the Department of Medical Assistance Services that provide benefits  
90 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title  
91 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,  
92 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229,  
93 38.2-232, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through  
94 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1,  
95 Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et  
96 seq.), 5 (§ 38.2-1322 et seq.), and 5.1 (§ 38.2-1334.3 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et  
97 seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405,  
98 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and  
99 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3,  
100 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1,  
101 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504,  
102 §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2,  
103 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.),  
104 and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted  
105 a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed  
106 and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with  
107 respect to the activities of its health maintenance organization.

108 C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives  
109 shall not be construed to violate any provisions of law relating to solicitation or advertising by health  
110 professionals.

111 D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful  
112 practice of medicine. All health care providers associated with a health maintenance organization shall  
113 be subject to all provisions of law.

114 E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health  
115 maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to  
116 offer coverage to or accept applications from an employee who does not reside within the health  
117 maintenance organization's service area.

118 F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and  
119 B shall be construed to mean and include "health maintenance organizations" unless the section cited  
120 clearly applies to health maintenance organizations without such construction.