

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 38.2-3407.3 of the Code of Virginia, relating to health insurance;*
3 *calculation of cost-sharing provisions.*

4 [H 2037]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 38.2-3407.3 of the Code of Virginia is amended and reenacted as follows:**8 **§ 38.2-3407.3. Calculation of cost-sharing provisions.**

9 A. An insurer, health services plan, or health maintenance organization that issues an accident and
10 sickness insurance policy or contract pursuant to which the insured, subscriber or enrollee is required to
11 pay a specified percentage of the cost of covered services, shall calculate such amount payable based
12 upon an amount not to exceed the total amount actually paid or payable to the provider of such services
13 for the services provided to the insured, subscriber, or enrollee. *When there is no amount actually paid*
14 *or payable to the provider by the insurer, health services plan, or health maintenance organization for*
15 *the services provided, the insurer, health services plan, or health maintenance organization shall use*
16 *such insurer's, health services plan's, or health maintenance organization's pre-established allowed*
17 *amount to calculate the amount payable by the insured for such services.* When an insured, subscriber,
18 or enrollee receives covered services outside the insurer's, health services plan's, or health maintenance
19 organization's provider network, and such entity utilizes another insurer's, health services plan's, or
20 health maintenance organization's provider network located outside the Commonwealth, such entity may
21 satisfy the obligation of this section by using the cost of services as reported by the out-of-state insurer,
22 health services plan, or health maintenance organization when calculating the insured's, subscriber's, or
23 enrollee's percentage of the cost of covered services.

24 B. Any insurer, health services plan, or health maintenance organization failing to administer its
25 contracts as set forth herein shall be deemed to have committed a knowing and willful violation of this
26 section, and shall be punished as set forth in subsection A of § 38.2-218. Each claim payment found to
27 have been calculated in noncompliance with this section shall be deemed a separate and distinct
28 violation, and shall further be deemed a violation subject to subdivision D 1 c of § 38.2-218, permitting
29 the Commission to require restitution in addition to any other penalties.

ENROLLED

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