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SENATE BILL NO. 696

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 15, 2016)

(Patron Prior to Substitute—Senator Deeds)

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 Chapter 36 of Title 38.2 a section numbered 38.2-3610, relating to Medicare supplement policies for individuals under age 65.

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 Chapter 36 of Title 38.2 a section numbered 38.2-3610 as follows:

§ 38.2-3610. *Medicare supplement policies for persons eligible by reason of disability.*

A. An insurer issuing Medicare supplement policies in the Commonwealth shall offer the opportunity of enrolling in a Medicare supplement policy to any individual who resides in the Commonwealth, is enrolled in Medicare Part B, and is under 65 years of age and eligible for Medicare by reason of disability, not including individuals with end-stage renal disease. Medicare supplement policies shall be issued on a guaranteed renewable basis under which the insurer shall be required to continue coverage as long as premiums are paid on the policy. Medicare supplement policies shall be offered:

1. Upon the request of the individual during the six-month period beginning with the first month in which the individual is eligible for Medicare by reason of a disability. For those persons who are retroactively enrolled in Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration, the application must be submitted within a six-month period beginning with the month in which the person receives notification of the retroactive eligibility decision; or

2. Upon the request of the individual during the 63-day period following termination of coverage under a group health plan.

B. The six-month period to enroll in a Medicare supplement policy for an individual who is under 65 years of age and is eligible for Medicare by reason of disability and otherwise eligible under subsection A and first enrolled in Medicare Part B before October 1, 2016, shall begin on October 1, 2016.

C. A Medicare supplement policy issued to an individual under subsection A shall not exclude benefits based on a preexisting condition if the individual has a continuous period of creditable coverage of at least six months as of the effective date of coverage.

D. An insurer may develop premium rates specific to the class of individuals described in subsection A.

E. For purposes of this section, "group health plan" means the same as that term is defined in § 38.2-3431.

F. Insurance agents shall be prohibited from charging a percentage fee for any policy issued pursuant to this section. However, insurance agents may charge a flat administrative fee in accordance with § 38.2-1812.2, for the issuance of any such policy.

§ 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 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 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 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, 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, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 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 Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

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

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this 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

60 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,
61 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9
62 (§ 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
63 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
64 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
65 seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405,
66 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,
67 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
68 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision 13 of § 38.2-3503,
69 subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525,
70 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of
71 Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter
72 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health
73 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer
74 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42
75 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

76 B. For plans administered by the Department of Medical Assistance Services that provide benefits
77 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
78 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
79 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,
80 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
81 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,
82 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
83 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
84 seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405,
85 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
86 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,
87 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,
88 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504,
89 §§ 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,
90 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.),
91 and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted
92 a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed
93 and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with
94 respect to the activities of its health maintenance organization.

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

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

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

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