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HOUSE BILL NO. 139

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 26, 2018)

(Patron Prior to Substitute—Delegate Head)

A BILL to amend the Code of Virginia by adding a section numbered 38.2-3407.10:1, relating to reimbursement of a physician for services rendered during the period in which a credentialing application is pending before a health insurance carrier.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-3407.10:1 as follows:

§ 38.2-3407.10:1. *Reimbursement for services rendered during pendency of physician's credentialing application.*

A. As used in this section:

"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 health care services, including 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.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

"Network" means a group of participating physicians who provide health care services under the carrier's health benefit plan that requires or creates incentives for a covered person to use the participating physicians.

"New provider applicant" means a physician who has submitted a completed credentialing application to a carrier.

"Participating physician" means a physician who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Physician" means a doctor of medicine or osteopathic medicine holding an active license from the Board of Medicine.

B. A carrier that credentials the physicians in its network shall establish reasonable protocols and procedures for reimbursing new provider applicants, after being credentialed by the carrier, for health care services provided to covered persons during the period in which the applicant's completed credentialing application is pending. At a minimum, the protocols and procedures shall:

1. Apply only if the physician's credentialing application is approved by the carrier;

2. Permit physician reimbursement for services rendered from the date the physician's completed credentialing application is received for consideration by the carrier;

3. Apply only if a contractual relationship exists between the carrier and the physician or entity for whom the physician is employed or engaged; and

4. Require that any reimbursement be paid at the in-network rate that the physician would have received had he been, at the time the covered health care services were provided, a credentialed participating physician in the network for the applicable health benefit plan.

C. Nothing in this section shall require reimbursement of physician-rendered services that are not benefits or services covered by the carrier's health benefit plan.

D. Nothing in this section requires a carrier to pay reimbursement at the contracted in-network rate for any covered medical services provided by the new provider applicant if the new provider applicant's credentialing application is not approved or the carrier is otherwise not willing to contract with the new provider applicant.

E. Payments made or retroactive denials of payments made under this section shall be governed by § 38.2-3407.15.

F. If a payment is made by the carrier to a physician or any entity that employs or engages such physician under this section for a covered service, the patient shall only be responsible for any coinsurance, copayments, or deductibles permitted under the insurance contract with the carrier or participating provider agreement with the physician. If the new provider applicant is not credentialed by the carrier, the new provider applicant or any entity that employs or engages such physician shall not collect any amount from the patient for health care services provided from the date the completed

60 *credentialing application was submitted to the carrier until the applicant received notification from the*
61 *carrier that credentialing was denied.*

62 *G. New provider applicants, in order to submit claims to the carrier pursuant to this section, shall*
63 *provide written or electronic notice to covered persons in advance of treatment that they have submitted*
64 *a credentialing application to the carrier of the covered person, stating that the carrier is in the process*
65 *of obtaining and verifying the following pursuant to credentialing regulations:*

66 *"Notice of Provider credentialing and re-credentialing.*

67 *Your health insurance carrier is required to establish and maintain a comprehensive credentialing*
68 *verification program to ensure that its physicians meet the minimum standards of professional licensure*
69 *or certification. Written supporting documentation for physicians who have completed their residency or*
70 *fellowship requirements for their specialty area more than 12 months prior to the credentialing decision*
71 *shall include:*

- 72 *1. Current valid license and history of licensure or certification;*
- 73 *2. Status of hospital privileges, if applicable;*
- 74 *3. Valid U.S. Drug Enforcement Administration certificate, if applicable;*
- 75 *4. Information from the National Practitioner Data Bank, as available;*
- 76 *5. Education and training, including postgraduate training, if applicable;*
- 77 *6. Specialty board certification status, if applicable;*
- 78 *7. Practice or work history covering at least the past five years; and*
- 79 *8. Current, adequate malpractice insurance and malpractice history covering at least the past five*
80 *years.*

81 *Your health insurance carrier is in the process of obtaining and verifying the above information in*
82 *order to determine if your physician will be credentialed or not."*

83 *H. The provisions of this section shall not apply to coverages issued by a Medicare Advantage plan*
84 *or pursuant to Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid).*

85 *I. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this*
86 *section.*

87 **2. That the Virginia Department of Health shall revise and reenact the regulations promulgated**
88 **pursuant to § 32.1-137.1 of the Code of Virginia regarding managed care health insurance plans**
89 **consistent with the provisions of this act.**