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**SENATE BILL NO. 161**

Offered January 10, 2018

Prefiled December 28, 2017

*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.*

Patrons—Edwards and Deeds

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 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, health services plan, or health maintenance organization 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, 2018, shall begin on October 1, 2018.*

*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" and "creditable coverage" have the same meanings ascribed to the terms 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, 38.2-325, 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

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59 title shall apply to the operation of a plan.

60 **§ 38.2-4319. Statutory construction and relationship to other laws.**

61 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this  
62 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  
63 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326,  
64 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9  
65 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2  
66 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5  
67 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13,  
68 Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14,  
69 §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through  
70 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4,  
71 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through  
72 38.2-3454, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1,  
73 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2,  
74 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et  
75 seq.), § 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58  
76 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under  
77 this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in  
78 conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the  
79 activities of its health maintenance organization.

80 B. For plans administered by the Department of Medical Assistance Services that provide benefits  
81 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title  
82 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,  
83 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,  
84 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600  
85 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,  
86 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4  
87 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et  
88 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et  
89 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6,  
90 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of  
91 § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14,  
92 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,  
93 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
94 through 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, Chapter  
95 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall  
96 be applicable to any health maintenance organization granted a license under this chapter. This chapter  
97 shall not apply to an insurer or health services plan licensed and regulated in conformance with the  
98 insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health  
99 maintenance organization.

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

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

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

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