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SENATE BILL NO. 663

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend the Code of Virginia by adding a section numbered 38.2-3407.13:3, relating to health insurance; air ambulance providers; notice by health care providers.

Patron—McPike

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-3407.13:3 as follows:

§ 38.2-3407.13:3. Duties of health care provider arranging for air ambulance services.

A. As used in this section:

"Air ambulance provider" means a publicly or privately owned organization that is licensed or applies for licensure by the Department of Health to provide transportation and care of patients by air ambulance.

"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 health benefit plan.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual who is entitled to health care services provided, arranged for, paid for, or reimbursed pursuant to a health benefit plan.

"Health benefit plan" means an arrangement for the delivery of health care, on an individual or group basis, in which a carrier undertakes to provide, arrange for, pay for, or reimburse any of the costs of health care services for a covered person that is offered in accordance with the laws of any state. "Health benefit plan" does not include short-term travel, accident only, limited or specified disease, or individual conversion policies or contracts, nor 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.

"Health care provider" means a facility, physician, or other type of health care practitioner licensed, accredited, certified, or authorized by statute to deliver or furnish health care services.

"Out-of-network provider" means a health care provider or air ambulance provider that is not a participating provider under a covered person's health benefit plan.

"Participating provider" means a health care provider or air ambulance provider that has agreed to provide health care services or air ambulance services, as applicable, to covered persons and to hold those covered persons harmless from payment with an expectation of receiving payment, other than copayments or deductibles, directly or indirectly from the carrier.

B. Before a health care provider arranges for air ambulance services for an individual whom the provider knows to be a covered person, the health care provider shall:

1. Provide the covered person or the covered person's authorized representative a written disclosure that states:

a. Certain air ambulance providers may be called upon to render air ambulance services to the covered person during the course of treatment;

b. The air ambulance provider may not have contracted with the covered person's carrier to provide under his health benefit plan air ambulance services to covered persons and, if not, is an out-of-network provider;

c. If the air ambulance provider has not contracted with the covered person's carrier to provide air ambulance services to covered persons, (i) the air ambulance services will be provided as an out-of-network provider and (ii) the air ambulance provider has not agreed to hold covered persons harmless from payment of any balance due after receiving any payment from the carrier under the covered person's health benefit plan;

d. The range of the typical charges for out-of-network air ambulance services for which the covered person may be responsible;

e. The covered person or the covered person's authorized representative may (i) agree to accept and pay the charges of the air ambulance provider as an out-of-network provider, (ii) contact the covered person's carrier for additional assistance, or (iii) rely on other rights and remedies that may be

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59 available under state or federal law; and

60 f. The covered person or the covered person's authorized representative may (i) obtain a list of air
61 ambulance providers from the covered person's carrier that are participating providers and (ii) request
62 that the health care provider arrange for air ambulance providers that are participating providers; and

63 2. Obtain the covered person's or the covered person's authorized representative's signature on the
64 disclosure document required pursuant to subdivision 1, by which signature the covered person or the
65 covered person's authorized representative acknowledges receipt of the disclosure document before the
66 air ambulance services were arranged.

67 C. If the health care provider is unable to provide the written disclosure or obtain the signature of
68 the covered person or the covered person's authorized representative as required under subsection B,
69 the health care provider shall document the reason, which may include the health and safety of the
70 patient. The health care provider's documentation of the reason for his inability to provide the written
71 disclosure or obtain the signature of the covered person or the covered person's authorized
72 representative satisfies the requirements imposed on the health care provider under subsection B.