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HOUSE BILL NO. 2345

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 22, 2019)

(Patron Prior to Substitute—Delegate Toscano)

A BILL to amend and reenact § 38.2-316.1 of the Code of Virginia, relating to rates for individual and certain group health benefit plans; minimum loss ratios.

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-316.1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-316.1. Premium rates.

A. As used in this section:

"Anticipated loss ratio" means the ratio of the present value of the future benefits to the present value of the future premiums of a policy form over the entire period for which rates are computed to provide coverage.

"Student health insurance coverage" means a type of individual health insurance coverage offered in the individual market that is provided pursuant to a written agreement between an institution of higher education, as defined by the Higher Education Act of 1965, P.L. 89-329, and a health carrier to students enrolled in that institution of higher education and their dependents; that does not make health insurance coverage available other than in connection with enrollment as a student or as a dependent of a student in the institution of higher education; and that does not condition eligibility for health insurance coverage on any health status-related factor related to a student or a dependent of the student.

B. The Commission shall review and approve accident and sickness insurance premium rates applicable to (i) health benefit plans issued in the Commonwealth in the individual and small group markets, as those terms are defined in § 38.2-3431, and (ii) health benefit plans providing health insurance coverage, as defined in § 38.2-3431, in the individual market to residents of the Commonwealth through a group trust, association, purchasing cooperative, or other group that is not an employer plan. In connection therewith, the Commission is authorized to establish minimum loss ratios to assure that the benefits provided by accident and sickness insurance policies are or are likely to be reasonable in relation to the premiums charged. The Commission shall promulgate regulations to establish standards applicable to such review and approval.

C. Premium rate filings for a health benefit plan issued in the Commonwealth in the individual and small group markets shall include a description of agent commissions and any limitations or exceptions as they relate to the payment of such commissions.

D. Every policy, rider, or endorsement form affecting benefits that is submitted for approval shall be accompanied by a rate filing, as required by § 38.2-316. Any subsequent addition to or change in rates applicable to such policy, rider, or endorsement form shall also be filed. Each rate submission shall comply with the requirements of 14VAC5-130.

E. Benefits shall be deemed reasonable in relation to premiums, provided that the anticipated loss ratio of the policy form, including riders and endorsements, is at least as great as provided in 14VAC5-130. The reasonableness of benefits with respect to filings of rate revisions for a previously approved form shall be determined as provided in 14VAC5-130.

F. A health insurance issuer shall consider the claims experience of all enrollees in all health benefit plans, other than grandfathered plans and student health insurance coverage, in the individual market to be members of a single risk pool. A health insurance issuer shall consider the claims experience of all enrollees in all health plans, other than grandfathered plans, in the small group market to be members of a single risk pool. Each plan year or policy year, as applicable, a health insurance issuer shall establish an index rate based on the total combined claims costs for providing essential health benefits within the single risk pool of the individual or small group market as provided in 14VAC5-130. A health insurance issuer may vary premium rates for a particular plan from its index rate for a relevant state market only on the basis of an actuarially justified plan-specific factor permitted under 14VAC5-130.

G. If the Commission finds that the premium rate filed in accordance with this section is not meeting or will not meet the originally filed and approved loss ratio, the Commission may require appropriate rate adjustments, premium refunds, or premium credits (i) as deemed necessary for the coverage to conform with the minimum loss ratio standards established pursuant to subsection B and (ii) that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current rates by the health insurance issuer for the coverage. The Commission may take into consideration any previous or expected premium refunds or credits. The Commission may require the submission of detailed supporting documents as necessary to justify the adjustment.

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60 *H. The Commission may request information subsequent to approval of a policy form or rate*
61 *revision so that it may determine whether premium rates are reasonable in relation to the benefits*
62 *provided as specified in 14VAC5-130.*

63 *I. Except as otherwise provided, nothing contained in this section shall be construed to relieve a*
64 *health insurance issuer from complying with other statutory requirements set forth in this title.*

65 *J. The Commission may prescribe procedures for the effective monitoring of actual experience under*
66 *any form subject to 14VAC5-130.*