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## SENATE BILL NO. 250

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Commerce and Labor  
on February 9, 2020)

(Patron Prior to Substitute—Senator Edwards)

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 certain 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, health services plan, or health maintenance organization issuing Medicare supplement policies or certificates in the Commonwealth, including policies or certificates issued on an individual or group basis or through a group trust, shall offer the opportunity of enrolling in at least one of its issued Medicare supplement policies or certificates to any individual who resides in the Commonwealth, is under 65 years of age, is eligible for Medicare by reason of disability, as defined by 42 U.S.C. § 426(b), and is enrolled in Medicare Part A and B, or will be so enrolled by the effective date of coverage. Such Medicare supplement policies or certificates 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 or certificate. Such Medicare supplement policies or certificates 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 voluntary or involuntary termination of coverage under a group health plan.

B. The six-month period to enroll in a Medicare supplement policy or certificate 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 January 1, 2021, shall begin on January 1, 2021.

C. A Medicare supplement policy or certificate 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, "creditable coverage" and "group health plan" have the same meanings ascribed to the terms in § 38.2-3431.

§ 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, and 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 38.2-3407.20, 38.2-3409, 38.2-3411 through 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Article 8 (§ 38.2-3461 et seq.) of Chapter 34, §§ 38.2-3501, and 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, and 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 38.2-3541.2, 38.2-3542, and 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, and 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.

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60 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this  
61 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  
62 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,  
63 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, *and* 38.2-600 through 38.2-620,  
64 Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, *and* 38.2-1306.1, Article 2  
65 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, *and* Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5  
66 (§ 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,  
67 Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), *and* 4 (§ 38.2-1446 et seq.) of Chapter 14,  
68 Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836,  
69 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through  
70 38.2-3407.20, 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  
71 through 38.2-3418.17, 38.2-3419.1, *and* 38.2-3430.1 through 38.2-3454, Article 8 (§ 38.2-3461 et seq.)  
72 of Chapter 34, 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, *and* 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, *and*  
85 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,  
86 *and* 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 seq.)  
89 of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1,  
90 38.2-3407.9, 38.2-3407.9:01, *and* 38.2-3407.9:02, subdivisions F 1, F 2, *and* F 3 of § 38.2-3407.10,  
91 §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1,  
92 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, *and* 38.2-3500, subdivision 13 of § 38.2-3503,  
93 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,  
94 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, *and* 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.),  
95 Chapter 55 (§ 38.2-5500 et seq.), *and* Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health  
96 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer  
97 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42  
98 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

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

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

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

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