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HOUSE BILL NO. 776

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.18, relating to health insurance; coverage for certain fertility preservation procedures for cancer patients.

Patron—Helmer

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4319 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.18 as follows:

§ 38.2-3418.18. Coverage for fertility preservation procedures for cancer patients.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage under any such policy, contract, or plan for standard fertility preservation procedures that are medically necessary to preserve the fertility of a covered individual due to the covered individual's receiving cancer treatment that may directly or indirectly cause iatrogenic infertility.

B. As used in this section:

"Cancer treatment that may directly or indirectly cause iatrogenic infertility" means a cancer treatment that has a likely side effect of infertility as established by the American Society for Reproductive Medicine, the American College of Obstetricians and Gynecologists, or the American Society of Clinical Oncology.

"Covered individual" means a policyholder, subscriber, enrollee, participant, or other individual covered by an insurance policy, subscription contract, or health care plan described in subsection A.

"Iatrogenic infertility" means an impairment of fertility caused directly or indirectly by surgery, chemotherapy, radiation, or other medical treatment of cancer affecting the reproductive organs or processes.

"Standard fertility preservation procedures" means procedures to preserve fertility that are consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American College of Obstetricians and Gynecologists, or the American Society of Clinical Oncology. "Standard fertility preservation procedures" includes sperm and oocyte cryopreservation and evaluations, laboratory assessments, medications, and treatments associated with sperm and oocyte cryopreservation. "Standard fertility preservation procedures" does not include the storage of sperm or oocytes.

C. The reimbursement for standard fertility preservation procedures required by subsection A shall be determined according to the same formula by which charges are developed for other medical and surgical procedures. Such coverage shall have durational limits, deductibles, and coinsurance factors that are no less favorable than for physical illness generally.

D. The provisions of this section shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, extended, or renewed in the Commonwealth on or after January 1, 2021, and to all such policies, contracts, or plans to which a term is changed or any premium adjustment is made on or after such date.

E. The provisions of this section shall not apply to short-term travel, accident-only, or limited or specified disease policies; 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; or short-term nonrenewable policies of not more than six months' duration.

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

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this 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 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, 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 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 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 (§ 38.2-1317 et seq.), 5

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59 (§ 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,
60 Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14,
61 Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836,
62 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
63 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
64 through ~~38.2-3418.17~~ 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, Article 8 (§ 38.2-3461
65 et seq.) of Chapter 34, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504,
66 §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2,
67 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1
68 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter
69 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license
70 under this chapter. This chapter shall not apply to an insurer or health services plan licensed and
71 regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with
72 respect to the activities of its health maintenance organization.

73 B. For plans administered by the Department of Medical Assistance Services that provide benefits
74 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
75 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
76 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,
77 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
78 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,
79 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
80 (§ 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
81 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.)
82 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,
83 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,
84 §§ 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,
85 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503,
86 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,
87 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.),
88 Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health
89 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer
90 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§
91 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

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

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

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

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