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HOUSE BILL NO. 2262

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact § 38.2-3407.10:1 of the Code of Virginia, relating to health insurance; provider credentialing; processing of new provider applications.

Patron—Hodges

Referred to Committee on Commerce and Energy

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.10:1 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407.10:1. Processing of new provider applications and reimbursement for services rendered during pendency of a participating provider's credentialing application.

A. As used in this section:

"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 or mental health 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 plan of health insurance, health benefits, health care services, or mental health services.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

"Mental health professional" has the meaning ascribed thereto in § 54.1-2400.1.

"Mental health services" means benefits with respect to items or services provided by mental health professionals for mental health conditions as defined *in § 37.2-100 that are covered* under the terms of a health benefit plan *and may include treatment of substance abuse*.

"Network" means a group of participating providers who provide health care services under the carrier's health benefit plan that requires or creates incentives for a covered person to use the participating providers.

"New provider applicant" means a physician, mental health professional, or other provider who has submitted a completed credentialing application to a carrier.

"Other provider" means a person, corporation, facility, or institution licensed by the Commonwealth under Title 32.1 or 54.1 to provide health care or professional health-related services on a fee basis.

"Participating mental health professional" means a mental health professional who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating other provider" means an other provider who is managed, under contract with, or employed by a carrier and who has agreed to provide such health care or professional services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating physician" means a physician who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services or mental health services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating provider" means a participating physician, participating mental health professional, or participating other provider.

"Physician" means a doctor of medicine or osteopathic medicine holding an active license from the Board of Medicine.

B. A carrier that credentials the physicians, mental health professionals, or other providers in its network shall establish reasonable protocols and procedures for *processing of new provider credentialing applications and* reimbursing new provider applicants~~, within 30 days of being credentialed by the carrier,~~ for health care services or mental health services provided to covered persons during the period in which the applicant's completed credentialing application is pending. At a minimum, the protocols and procedures shall:

1. ~~Apply only if the new provider applicant's credentialing application is approved by~~ *Require* the

carrier *to approve or deny new provider credentialing applications within 60 days of receiving a completed application*; *and*

2. ~~Permit reimbursement to a new provider applicant~~ *Require payment no later than 30 days after the carrier approves the new provider credentialing application* for services rendered from the date the new provider applicant's completed credentialing application is ~~received~~ *provided to the carrier* for consideration ~~by the carrier;~~

~~3. Notwithstanding the provisions of subdivision 1 or 4, if.~~

C. If the carrier accepts applications through an online credentialing system, ~~require~~ the carrier *shall be required* to recognize notification to a new provider applicant through the online credentialing system that the provider has submitted and attested to the application as notice by the carrier that the application is received *and complete*. If the carrier does not accept applications through an online credentialing system, the carrier shall be required, within 10 days of receiving an application, to provide notification to the new provider applicant either by mail or electronic mail, as selected by the applicant, that the application was received *and is complete*;

~~4.~~ *D. The reimbursement provisions of this section shall:*

1. Apply only if the new provider applicant's credentialing application is approved by the carrier;

2. Apply only if a contractual relationship exists between the carrier and the new provider applicant or entity for whom the new provider applicant is employed or engaged; and

~~5.~~ *3.* Require that any reimbursement be paid at the in-network rate that the new provider applicant would have received had he been, at the time the covered health care services *or mental health services* were provided, a credentialed participating provider in the network for the applicable health benefit plan.

~~C.~~ *E.* Nothing in this section shall require reimbursement of the new provider applicant-rendered services that are not benefits or services covered by the carrier's health benefit plan.

~~D.~~ *F.* Nothing in this section requires a carrier to pay reimbursement at the contracted in-network rate for any covered health care services or mental health services provided by the new provider applicant if the new provider applicant's credentialing application is not approved or the carrier is otherwise not willing to contract with the new provider applicant.

~~E.~~ *G.* Payments made or retroactive denials of payments made under this section shall be governed by § 38.2-3407.15.

~~F.~~ *H.* If a payment is made by the carrier to a new provider applicant or any entity that employs or engages such new provider applicant under this section for a covered service, the patient shall only be responsible for any coinsurance, copayments, or deductibles permitted under the insurance contract with the carrier or participating provider agreement with the physician, mental health professional, or other provider. If the new provider applicant is not credentialed by the carrier, the new provider applicant or any entity that employs or engages such physician, mental health professional, or other provider shall not collect any amount from the patient for health care services or mental health services provided from the date the completed credentialing application was submitted to the carrier until the applicant received notification from the carrier that credentialing was denied.

~~G.~~ *I.* New provider applicants, in order to submit claims to the carrier pursuant to this section, shall provide written or electronic notice to covered persons in advance of treatment that they have submitted a credentialing application to the carrier of the covered person, stating that the carrier is in the process of obtaining and verifying the following pursuant to credentialing regulations:

"Notice of Provider credentialing and re-credentialing.

Your health insurance carrier is required to establish and maintain a comprehensive credentialing verification program to ensure that its physicians, mental health professionals, and other providers meet the minimum standards of professional licensure or certification. Written supporting documentation for (i) physicians, (ii) mental health professionals who have completed their residency or fellowship requirements for their specialty area more than 12 months prior to the credentialing decision, or (iii) other providers shall include:

1. Current valid license and history of licensure or certification;

2. Status of hospital privileges, if applicable;

3. Valid U.S. Drug Enforcement Administration certificate, if applicable;

4. Information from the National Practitioner Data Bank, as available;

5. Education and training, including postgraduate training, if applicable;

6. Specialty board certification status, if applicable;

7. Practice or work history covering at least the past five years; and

8. Current, adequate malpractice insurance and malpractice history covering at least the past five years.

Your health insurance carrier is in the process of obtaining and verifying the above information in order to determine if your physician, mental health professional, or other provider will be credentialed or not."

~~H.~~ *J.* The provisions of this section shall not apply to coverages issued by a Medicare Advantage

plan, but shall apply to health maintenance organizations that issue coverage pursuant to Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid).

~~I.~~ *K.* The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.