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HOUSE BILL NO. 445

Offered January 10, 2024

Prefiled January 8, 2024

A *BILL to amend and reenact §§ 38.2-4214, 38.2-4319, and 38.2-4509 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-316.2, relating to health insurance; dental plans; approval of rates and medical loss ratio.*

Patron—Williams

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-4214, 38.2-4319, and 38.2-4509 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-316.2 as follows:

§ 38.2-316.2. Dental carriers; approval of rates; medical loss ratio.

A. As used in this section:

"Dental carrier" means (i) any carrier that proposes to issue individual or group health plans that provide coverage for limited scope excepted benefit dental services, (ii) any nonstock corporation that offers or administers dental services plans as defined in § 38.2-4501, or (iii) a dental plan organization as defined in § 38.2-6101.

"Dental plan" means any plan that provides coverage for dental health care services to enrollees offered by a dental carrier that provides dental benefits.

"Medical loss ratio" means the minimum percentage of all premium funds collected by a dental carrier for dental plans each year that are required to be spent on actual patient care rather than overhead costs, administration, and other expenses, as compared to the total revenue collected from that plan's premiums.

B. The Commission shall review and approve premium rates applicable to dental plans issued in the Commonwealth. 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. The Commission shall promulgate regulations to establish standards applicable to such review and approval. Benefits shall be deemed reasonable in relation to premiums, provided that the medical loss ratio of the policy form, including riders and endorsements, is at least as great as 85 percent.

C. If the Commission finds that any premium rate filed in accordance with this section is not meeting or will not meet a medical loss ratio of 85 percent, the Commission shall require appropriate rate adjustments, premium refunds, or premium credits as deemed necessary for the coverage to conform with the medical loss ratio standard of 85 percent. 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.

D. The Commission may request information subsequent to approval of a policy form or rate revision so that it may determine whether premium rates are reasonable in relation to the benefits. The Commission may prescribe procedures for the effective monitoring of actual experience as provided in Commission regulations.

§ 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, 38.2-316.2, 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 38.2-629, 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, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 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, 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

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59 and 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58
60 (§ 38.2-5800 et seq.), Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall apply
61 to the operation of a plan.

62 **§ 38.2-4319. Statutory construction and relationship to other laws.**

63 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
64 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
65 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-316.2, 38.2-322, 38.2-325,
66 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629,
67 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
68 (§ 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
69 (§ 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,
70 Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14,
71 Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836,
72 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
73 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
74 through 38.2-3418.19, 38.2-3418.21, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§
75 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of
76 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through
77 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5
78 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52
79 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), Chapter 65
80 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall be applicable to any health maintenance
81 organization granted a license under this chapter. This chapter shall not apply to an insurer or health
82 services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200
83 et seq.) except with respect to the activities of its health maintenance organization.

84 B. For plans administered by the Department of Medical Assistance Services that provide benefits
85 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
86 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
87 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,
88 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
89 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,
90 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
91 (§ 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
92 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et
93 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6,
94 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions E 1, 2, and 3 of
95 § 38.2-3407.10, §§ 38.2-3407.10:1, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1,
96 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1, 38.2-3430.1 through
97 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1,
98 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,
99 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter
100 58 (§ 38.2-5800 et seq.), Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall be
101 applicable to any health maintenance organization granted a license under this chapter. This chapter shall
102 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance
103 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance
104 organization.

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

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

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

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

118 **§ 38.2-4509. Application of certain laws.**

119 A. No provision of this title except this chapter and, insofar as they are not inconsistent with this
120 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229,

38.2-316, 38.2-316.2, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629, 38.2-900 through 38.2-904, 38.2-1038, 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, Articles 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), and 6 (§ 38.2-1335 et seq.) of Chapter 13, §§ 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.1, 38.2-3407.4, 38.2-3407.10, 38.2-3407.10:1, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15, 38.2-3407.17, 38.2-3407.17:1, 38.2-3407.19, 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3603, Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall apply to the operation of a plan.

B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to either an optometric or dental services plan.

D. The provisions of § 38.2-3407.1 shall apply to claim payments made on or after January 1, 2014. No optometric or dental services plan shall be required to pay interest computed under § 38.2-3407.1 if the total interest is less than \$5.

2. That the initial filings required by § 38.2-316.2 of the Code of Virginia, as created by this act, shall include actual loss ratios for calendar years 2019 through 2023.

3. That the State Corporation Commission shall convene a work group of stakeholders that includes dental carriers, representatives from the Virginia Dental Association and the Association of Dental Service Organizations, and any other interested stakeholders to determine if any revisions are necessary to § 38.2-3407.15 of the Code of Virginia regarding ethics and fairness in dental carrier business practices and health care providers of dental services. The work group shall report its recommendations to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor on or before November 15, 2024.