

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 320

*An Act to amend and reenact §§ 38.2-514, 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 34 of Title 38.2 sections numbered 38.2-3407.2 and 38.2-3407.3, relating to accident and sickness insurance; calculation of cost sharing provisions; explanation of benefits.*

[S 480]

Approved April 5, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-514, 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 Article 1 of Chapter 34 of Title 38.2 sections numbered 38.2-3407.2 and 38.2-3407.3 as follows:**

§ 38.2-514. Failure to make disclosure.

A. No person shall solicit or effect the sale of an annuity, a life insurance policy or an accident and sickness insurance policy without furnishing the disclosure information required by any rules and regulations of the Commission.

B. Any lending institution, bank holding company, savings institution holding company or subsidiary or affiliate of either the lending institution or holding company, including any officer or employee thereof, licensed as an insurance agency or insurance agent in this Commonwealth shall, prior to the sale of any policy of life insurance in which there is or will be an accumulation of cash value during the term of the policy, make a written disclosure to the purchaser of the policy's "interest adjusted net cost index" in compliance with regulations or forms approved by the Commission.

*C. No person shall provide to an insured, claimant, subscriber or enrollee under an accident and sickness insurance policy, subscription contract, or health maintenance organization contract, an explanation of benefits which does not clearly and accurately disclose the method of benefit calculation and the actual amount which has been or will be paid to the provider of services.*

§ 38.2-3407.2. *Explanation of Benefits.*

A. *Each insurer issuing an accident and sickness insurance policy, a corporation issuing subscription contracts, and each health maintenance organization shall file for approval explanation of benefits forms. These explanation of benefit forms shall be subject to the requirements of § 38.2-316 or § 38.2-4306 as applicable.*

B. *The explanation of benefits shall accurately and clearly set forth the benefits payable under the contract.*

C. *The Commission may issue regulations to establish standards for the accuracy and clarity of the information presented in an explanation of benefits.*

D. *The term "explanation of benefits" as used in this section shall include any form provided by an insurer, health services plan or health maintenance organization which explains the amounts covered under a policy or plan or shows the amounts payable by a covered person to a health care provider.*

§ 38.2-3407.3. *Calculation of cost sharing provisions.*

A. *An insurer, health services plan or health maintenance organization that issues an accident and sickness insurance policy or contract pursuant to which the insured, subscriber or enrollee is required to pay a specified percentage of the cost of covered services, shall calculate such amount payable based upon the total amount actually paid or payable to the provider of such services for the services provided to the insured, subscriber or enrollee.*

B. *Any insurer, health services plan or health maintenance organization failing to administer its contracts as set forth herein shall be deemed to have committed a knowing and willful violation of this section, and shall be punished as set forth in subsection A of § 38.2-218. Each claim payment found to have been calculated in noncompliance with this section shall be deemed a separate and distinct violation, and shall further be deemed a violation subject to subdivision D 1 c of § 38.2-218, permitting the Commission to require restitution in addition to any other penalties.*

§ 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, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-316, 38.2-322, 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, 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, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1444, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.1, 38.2-3407.2, 38.2-3407.3, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3425 through 38.2-3429, 38.2-3431, 38.2-3432, 38.2-3500, 38.2-3501, 38.2-3502, 38.2-3516 through 38.2-3520 as they

apply to Medicare supplement policies, §§ 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3542, 38.2-3600 through 38.2-3607 and Chapter 53 of this title shall apply to the operation of a plan.

§ 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, 38.2-200, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-316, 38.2-322, 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.) of this title, 38.2-1057, 38.2-1306.2 through 38.2-1310, Article 4 (§ 38.2-1317 et seq.) of Chapter 13, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3407.2, 38.2-3407.3, 38.2-3411.2, 38.2-3418.1, 38.2-3419.1, 38.2-3431, 38.2-3432, 38.2-3500, 38.2-3525, 38.2-3542, and Chapter 53 (§ 38.2-5300 et seq.) of this title shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200) of this title except with respect to the activities of its health maintenance organization.

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

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

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