

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 963

*An Act to amend the Code of Virginia by adding sections numbered 38.2-3407.2, 38.2-3407.3, 38.2-4209.1, 38.2-4209.2, 38.2-4312.1 and 38.2-4312.2, relating to accident and sickness insurance; pharmacies and ancillary service providers; preferred provider networks and health maintenance organizations.*

[H 840]

Approved May 20, 1994

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

**1. That the Code of Virginia is amended by adding sections numbered 38.2-3407.2, 38.2-3407.3, 38.2-4209.1, 38.2-4209.2, 38.2-4312.1 and 38.2-4312.2 as follows:**

*§ 38.2-3407.2. Pharmacies; freedom of choice.*

*A. Notwithstanding any provision of § 38.2-3407 to the contrary, no insurer proposing to issue preferred provider policies or contracts shall prohibit any person receiving pharmacy benefits furnished thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes pharmacies that are nonpreferred providers and that agree to accept reimbursement for their services at rates applicable to pharmacies that are preferred providers.*

*B. No such insurer shall impose upon any person receiving pharmaceutical benefits furnished under any such policy or contract:*

*1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are nonpreferred providers;*

*2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or*

*3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are nonpreferred providers.*

*C. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.*

*§ 38.2-3407.3. Ancillary service providers; freedom of choice.*

*A. Notwithstanding any provision of § 38.2-3407 to the contrary, no insurer proposing to issue preferred provider policies or contracts shall prohibit any person receiving ancillary service benefits furnished thereunder from selecting, without limitation, the ancillary service provider of his choice to furnish such benefits. This right of selection extends to and includes ancillary service providers that are nonpreferred providers and that agree to accept reimbursement for their services at rates applicable to ancillary service providers that are preferred providers.*

*B. No such insurer shall impose upon any person receiving ancillary service benefits furnished under any such policy or contract:*

*1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by ancillary service providers who are nonpreferred providers;*

*2. Any monetary penalty that would affect or influence any such person's choice of ancillary service provider; or*

*3. Any reduction in allowable reimbursement for ancillary services related to utilization of ancillary service providers who are nonpreferred providers.*

*C. For the purposes of this section:*

*1. "Ancillary services" means those services required to support, facilitate or otherwise enhance medical care and treatment. Such services include, but are not limited to, the furnishing of medical equipment required for therapeutic purposes or life support;*

*2. "Ancillary service provider" and "ancillary service providers" mean a person or persons providing ancillary services.*

*D. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.*

*§ 38.2-4209.1. Pharmacies; freedom of choice.*

*A. Notwithstanding any provision of § 38.2-4209, no corporation providing preferred provider subscription contracts shall prohibit any person receiving pharmaceutical benefits thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes pharmacies that are nonpreferred providers and that agree to accept reimbursement for their services at rates applicable to pharmacies that are preferred providers.*

*B. No such corporation shall impose upon any person receiving pharmaceutical benefits furnished under any such contract:*

*1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are nonpreferred providers;*

2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or
3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are nonpreferred providers.

C. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

§ 38.2-4209.2. Ancillary service providers; freedom of choice.

A. Notwithstanding any provision of § 38.2-4209, no corporation providing preferred provider subscription contracts shall prohibit any person receiving ancillary service benefits thereunder from selecting, without limitation, the ancillary service provider of his choice to furnish such benefits. This right of selection extends to and includes ancillary service providers that are nonpreferred providers and that agree to accept reimbursement for their services at rates applicable to ancillary service providers that are preferred providers.

B. No such corporation shall impose upon any person receiving ancillary service benefits furnished under any such contract:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by ancillary service providers who are nonpreferred providers;

2. Any monetary penalty that would affect or influence any such person's choice of ancillary service provider; or

3. Any reduction in allowable reimbursement for ancillary services related to utilization of ancillary service providers who are nonpreferred providers.

C. For the purposes of this section:

1. "Ancillary services" means those services required to support, facilitate or otherwise enhance medical care and treatment. Such services include, but are not limited to, the furnishing of medical equipment required for therapeutic purposes or life support;

2. "Ancillary service provider" and "ancillary service providers" mean a person or persons providing ancillary services.

D. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

§ 38.2-4312.1. Pharmacies; freedom of choice.

A. Notwithstanding any other provision in this chapter, no health maintenance organization providing health care plans shall prohibit any person receiving pharmaceutical benefits thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes pharmacies that are not participating providers under any such health care plan and that agree to accept reimbursement for their services at rates applicable to pharmacies that are participating providers.

B. No such health maintenance organization shall impose upon any person receiving pharmaceutical benefits furnished under any such health care plan:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are not participating providers;

2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or

3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are not participating providers.

C. The provisions of this section are not applicable to any health care plan whose terms require exclusive utilization of pharmacies wholly owned and operated by the health maintenance organization providing the health care plan.

D. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

§ 38.2-4312.2. Ancillary service providers; freedom of choice.

A. Notwithstanding any other provision in this chapter, no health maintenance organization providing health care plans shall prohibit any person receiving ancillary service benefits thereunder from selecting, without limitation, the ancillary service provider of his choice to furnish such benefits. This right of selection extends to and includes ancillary service providers that are not participating providers under any such health care plan and that agree to accept reimbursement for their services at rates applicable to ancillary service providers that are participating providers.

B. No such health maintenance organization shall impose upon any person receiving ancillary services benefits furnished under any such health care plan:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by ancillary service providers who are not participating providers;

2. Any monetary penalty that would affect or influence any such person's choice of ancillary service provider; or

3. Any reduction in allowable reimbursement for ancillary services related to utilization of ancillary service providers who are not participating providers.

C. For the purposes of this section:

1. "Ancillary services" means those services required to support, facilitate or otherwise enhance

*medical care and treatment. Such services include, but are not limited to, the furnishing of medical equipment required for therapeutic purposes or life support;*

*2. "Ancillary service provider" and "ancillary service providers" mean a person or persons providing ancillary services.*

*D. The provisions of this section are not applicable to any health care plan whose terms require exclusive utilization of ancillary service providers wholly owned and operated by the health maintenance organization providing the health care plan.*

*E. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.*