

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding sections numbered 38.2-3407.2, 38.2-3407.3,*
 3 *38.2-4209.1, 38.2-4209.2, 38.2-4312.1 and 38.2-4312.2, relating to accident and sickness insurance;*
 4 *pharmacies and ancillary services providers; preferred provider networks and health maintenance*
 5 *organizations.*

[H 840]

Approved

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

9 **1. That the Code of Virginia is amended by adding sections numbered 38.2-3407.2, 38.2-3407.3,**
 10 **38.2-4209.1, 38.2-4209.2, 38.2-4312.1 and 38.2-4312.2 as follows:**

11 § 38.2-3407.2. *Pharmacies; freedom of choice.*

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

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

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

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

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

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

26 § 38.2-3407.3. *Ancillary service providers; freedom of choice.*

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

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

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

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

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

42 *C. For the purposes of this section:*

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

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

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

49 § 38.2-4209.1. *Pharmacies; freedom of choice.*

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

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

57 *1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same*

58 benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists
59 who are nonpreferred providers;

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

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

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

64 § 38.2-4209.2. Ancillary service providers; freedom of choice.

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

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

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

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

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

80 C. For the purposes of this section:

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

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

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

87 § 38.2-4312.1. Pharmacies; freedom of choice.

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

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

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

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

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

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

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

106 § 38.2-4312.2. Ancillary service providers; freedom of choice.

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

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

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

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

119 provider; or

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

122 C. For the purposes of this section:

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

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

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

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