

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 550

An Act to amend and reenact §§ 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3514.2, relating to individual accident and sickness insurance policies.

[H 1026]

Approved April 3, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 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 a section numbered 38.2-3514.2 as follows:

§ 38.2-3514.2. Renewability of coverage.

A. Every individual policy, subscription contract or plan delivered, issued for delivery or renewal in this Commonwealth providing benefits to or on behalf of an individual shall provide for the renewability of such coverage at the sole option of the insured, policyholder, subscriber, or enrollee. The insurer, health services plan or health maintenance organization issuing such policy, subscription contract or plan shall be permitted to refuse to renew the policy, subscription contract or plan only for one or more of the following reasons:

1. Nonpayment of the required premiums by the insured, policyholder, subscriber, or enrollee, or such individual's representative;

2. In the event that the policy, subscription contract or plan contains a provision requiring the use of network providers, a documented pattern of abuse or misuse of such provision by the insured, policyholder, subscriber, or enrollee, continuing for a period of no less than two years;

3. Subject to the time limits contained in § 38.2-3503.2 or in regulations adopted by the Commission governing the practices of health maintenance organizations, for fraud or material misrepresentation by the individual, with respect to his application for coverage;

4. Eligibility of an individual insured for Medicare, provided that such coverage may not terminate with respect to other individuals insured under the same policy, subscription contract or plan and who are not eligible for Medicare; and

5. The insured, subscriber, or enrollee has not maintained a legal residence in the service area of the insurer, health services plan or health maintenance organization for a period of at least six months.

B. This section shall not apply to the following insurance policies, subscription contracts or plans:

1. Short-term travel;

2. Accident-only;

3. Disability income;

4. Limited or specified disease contracts;

5. Long-term care insurance; and

6. Short term nonrenewable policies or contracts of not more than six months' duration which are subject to no medical underwriting or minimal underwriting.

§ 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, 38.2-3405.1, 38.2-3407.1 through 38.2-3407.6, 38.2-3407.9, 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, 38.2-3514.1, 38.2-3514.2, 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 (§ 38.2-5300 et seq.) 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 38.2-1309, Article 4 (§ 38.2-1317 et seq.) of Chapter 13, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6, 38.2-3407.9, 38.2-3411.2, 38.2-3418.1, 38.2-3418.1:1, 38.2-3418.2, 38.2-3419.1, 38.2-3431, 38.2-3432, 38.2-3433, 38.2-3500, 38.2-3514.1, 38.2-3514.2,

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 et seq.) 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.

2. That the Joint Commission on Health Care, in cooperation with the State Corporation Commission's Bureau of Insurance, shall study additional reforms in the individual health insurance market including, but not limited to, guaranteed issue and modified community rating for the essential and standard health benefit plans as defined in § 38.2-3431. The Joint Commission also shall evaluate: (i) whether the Commonwealth has the authority to apply individual health insurance reforms to fully insured and not fully insured multiple employer welfare arrangements and out-of-state group trusts and associations; and (ii) the impact of guaranteed issue reforms on the taxation of open enrollment carriers. The Joint Commission shall report its findings and recommendations to the Governor and the 1997 Session of the General Assembly by October 1, 1996.