VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 851

An Act to amend and reenact § 32.1-325.2 of the Code of Virginia, relating to medical assistance services.

[H 1392]

Approved April 8, 1996

Be it enacted by the General Assembly of Virginia:
1. That § 32.1-325.2 of the Code of Virginia is amended and reenacted as follows:
§ 32.1-325.2. Department is payor of last resort.

A. Insurers, including group health plans as defined in § 607(1) of the Employee Retirement Income Security Act of 1974, health services plans, service benefit plans and health maintenance organizations, are prohibited from including any clause in health care contracts which would exclude enrolling an individual or in making any payment for benefits to the individual or on the individual's behalf for health care when the individual is eligible for medical assistance.

B. The Department of Medical Assistance Services ~~will~~ *shall* be the payor of last resort to any insurer, including a group health plan as defined in § 607(1) of the Employee Retirement Income Security Act of 1974, a health services plan, a service benefit plan and a health maintenance organization, which contracts to pay health care costs for persons eligible for medical assistance in the Commonwealth.

C. To the extent the Department of Medical Assistance Services has made payment for medical services where a third party has a legal obligation to make payment for such services, the Commonwealth shall automatically acquire all rights to such payment from the third party.

D. *To the extent the Department of Medical Assistance Services is permitted by law to obtain recoveries from third parties, actions at law for such recoveries shall be decided under the same laws, rules and standards including applicable bases of liability and defenses as would apply if the individual receiving the services had brought the action directly; provided that nothing herein shall affect the sovereign immunity of the Commonwealth.*

E. The term "insurer" as used herein shall be deemed to include without limitation "insurance carriers."