

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 1392]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 32.1-325.2. of the Code of Virginia is amended and reenacted as follows:**

8 § 32.1-325.2. Department is payor of last resort.

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

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

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

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

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

ENROLLED

HB1392ER