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HOUSE BILL NO. 2699

Offered January 20, 1997

A BILL to amend and reenact § 38.2-2201 of the Code of Virginia, relating to motor vehicle insurance; reimbursement of health care providers under medical expense coverage; monetary penalties.

Patrons—Armstrong and Johnson; Senator: Reynolds

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-2201 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-2201. Provisions for payment of medical expense and loss of income benefits.

A. Upon request of an insured, each insurer licensed in this Commonwealth issuing or delivering any policy or contract of bodily injury or property damage liability insurance covering liability arising from the ownership, maintenance or use of any motor vehicle shall provide on payment of the premium, as a minimum coverage (i) to persons occupying the insured motor vehicle; and (ii) to the named insured and, while resident of the named insured's household, the spouse and relatives of the named insured while in or upon, entering or alighting from or through being struck by a motor vehicle while not occupying a motor vehicle, the following health care and disability benefits for each accident:

1. All reasonable and necessary expenses for medical, chiropractic, hospital, dental, surgical, ambulance, prosthetic and rehabilitation services, and funeral expenses, resulting from the accident and incurred within three years after the date of the accident, up to \$2,000 per person; however, if the insured does not elect to purchase such limit the insurer and insured may agree to any other limit; and

2. If the person is usually engaged in a remunerative occupation, an amount equal to the loss of income incurred after the date of the accident resulting from injuries received in the accident up to \$100 per week during the period from the first workday lost as a result of the accident up to the date the person is able to return to his usual occupation. However, the period shall not extend beyond one year from the date of the accident.

B. The insured has the option of purchasing either or both of the coverages set forth in subdivisions 1 and 2 of subsection A of this section. Either or both of the coverages, as well as any other medical expense or loss of income coverage under any policy of automobile liability insurance, shall be payable to the covered injured person notwithstanding the failure or refusal of the named insured or other person entitled to the coverage to give notice to the insurer of an accident as soon as practicable under the terms of the policy, except where the failure or refusal prejudices the insurer in establishing the validity of the claim.

C. In any policy of personal automobile insurance in which the insured has purchased coverage under subsection A of this section, every insurer providing such coverage arising from the ownership, maintenance or use of no more than four motor vehicles shall be liable to pay up to the maximum policy limit available on every motor vehicle insured under that coverage if the health care or disability expenses and costs mentioned in subsection A of this section exceed the limits of coverage for any one motor vehicle so insured.

D. Each insurer providing coverages described in subsections A and B shall be deemed a fiduciary insofar as its relationship to persons insured thereunder.

1. No insurer shall arbitrarily deny reimbursement for the full amount of medical expenses incurred by persons insured under policies providing coverage pursuant to this section. Such reimbursement may be denied only if an insurer establishes by clear and convincing evidence that (i) such expenses were unreasonable or (ii) the medical treatments for which such expenses were incurred were unnecessary.

2. Any medical provider accepting reimbursement for less than his full charge for services covered by subsection A or B shall be (i) barred from proceeding against the insured for the difference between the full bill and the reduced amount accepted and (ii) conclusively presumed to have agreed that his charges were unreasonable or that his services were unnecessary.

3. No insurer shall deny full reimbursement to any health care provider for medical expenses incurred by any person insured under a policy providing coverage pursuant to this section without first consulting such provider.

4. Any insurer or health care provider violating this section shall be liable to any insured injured thereby for treble damages, attorney fees, and all costs incurred by such insured including any and all expert witness fees incurred in pursuing their claims.

INTRODUCED

HB2699