INTRODUCED

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SENATE BILL NO. 1102

Offered January 20, 1997

A BILL to amend and reenact § 38.2-226.1 of the Code of Virginia, and to amend the Code of Virginia by adding in Article 1 of Chapter 10 of Title 32.1 a section numbered 32.1-330.3, relating to health insurance; exemption from insurance regulation for certain long-term care prepaid health plans.

Patrons—Schrock, Bolling, Gartlan, Lambert, Walker and Woods; Delegates: Baker, Brickley, Connally, Hall, Heilig, Melvin and Morgan

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-226.1 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Article 1 of Chapter 10 of Title 32.1 a section numbered 32.1-330.3 as follows:

§ 38.2-226.1. Provisions of title not applicable to certain long-term care prepaid health plans.

A. This title shall not apply to pre-PACE, long-term care prepaid health plans (i) authorized by the United States Health Care Financing Administration pursuant to § 1903 (m) (2) (B) of Title XIX of the United States Social Security Act and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 and (ii) which have signed agreements with the Department of Medical Assistance Services as long-term care prepaid health plans.

B. The pre-PACE, long-term care prepaid health plans identified in subsection A may include coverage for individuals ~~who have made application for medical assistance services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1. Such coverage shall not extend beyond ninety days after the date of such application unless (i) such individuals' applications are approved or (ii) any disapproval thereof is pending appeal conforming to the procedures established for the same by the Department of Medical Assistance Services, and then only for the duration of such appeal~~ *eligible for medical assistance services and those whose coverage is paid from private sources including commercial coverage.*

§ 32.1-330.3. Operation of a pre-PACE plan; oversight by Department of Medical Assistance Services.

A. 1. Operation of a pre-PACE plan that participates in the medical assistance services program must be in accordance with a prepaid health plan contract with the Department of Medical Assistance Services.

2. As used in this section, "pre-PACE plans" mean long-term care prepaid health plans (i) authorized by the United States Health Care Financing Administration pursuant to § 1903 (m) (2) (B) of Title XIX of the United States Social Security Act and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 and (ii) which have signed agreements with the Department of Medical Assistance Services as long-term care prepaid health plans.

B. All contracts and subcontracts shall contain an agreement to hold harmless the Department of Medical Assistance Services and pre-PACE participants in the event that a pre-PACE provider cannot or will not pay for services performed by the subcontractor pursuant to the contract or subcontract.

C. During the pre-PACE period, the program shall have a fiscally sound operation as demonstrated by total assets being greater than total unsubordinated liabilities, sufficient cash flow and adequate liquidity to meet obligations as they become due, and a plan for handling insolvency approved by the Department of Medical Assistance Services.

D. The pre-PACE plan must demonstrate that it has arrangements in place in the amount of, at least, the sum of the following to cover expenses in the event of insolvency:

1. One month's total capitation revenue to cover expenses the month prior to insolvency; and

2. One month's average payment of operating expenses to cover potential expenses the month after the date of insolvency has been declared or operations cease.

Appropriate arrangements to cover expenses must include one or more of the following: reasonable and sufficient net worth, insolvency insurance, letters of credit or parental guarantees.

E. Pre-PACE plans which contract with private pay participants shall, at all times hold in a segregated escrow account an amount at least equal to two months' capitation payment for each private pay participant of the pre-PACE site. Such amounts shall be in addition to any amounts or other arrangements required under subsection D and shall be used to assist the private pay participants in obtaining substitute services in the case of insolvency or other failure of the pre-PACE site.

1. Enrollment at any one pre-PACE site of private pay participants shall be limited to a maximum of five percent.

2. For the purposes of this section, "private pay participants" means those persons who do not participate in programs authorized pursuant to Title XVIII of the United States Social Security Act, or Title XIX of the United States Social Security Act and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

F. Full disclosure shall be made to all private pay participants, and to those individuals in the process of enrolling in the pre-PACE site, that the pre-PACE program is not insurance and should not be considered a substitute for insurance. In addition, disclosure shall include a statement that services are not guaranteed beyond a thirty-day day period.

G. The Board of Medical Assistance Services shall establish a Transitional Advisory Group to determine license requirements, regulations and ongoing oversight. The Advisory Group shall include representatives from each of the following organizations: Department of Medical Assistance Services, Department of Social Services, Department of Health, Bureau of Insurance, Board of Medicine, Board of Pharmacy, Department for the Aging and a pre-PACE provider.