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HOUSE BILL NO. 2643

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Corporations, Insurance, and Banking
on February 6, 1999)

(Patron Prior to Substitute—Delegate Griffith)

A *BILL to amend and reenact §§ 38.2-3407.1 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3407.1:1, relating to interest on accident and sickness claims proceeds; escrow accounts.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3407.1 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- 3407.1:1 as follows:

§ 38.2-3407.1. Interest on accident and sickness claim proceeds.

A. If an action to recover the claim proceeds due under an individual or group accident and sickness policy results in a judgment against an insurer, interest on the judgment at the legal rate of interest shall be paid from the date of presentation to the insurer of proof of loss to the date judgment is entered.

B. ~~If no action is brought, interest upon the claim proceeds paid to the policyholder, insured, claimant, or assignee entitled thereto shall be computed daily at the legal rate of interest from the date of fifteen working days from the insurer's receipt of proof of loss to the date of claim payment.~~

C. This section shall not apply to individual policies issued prior to July 1, 1990, but shall apply to any renewals or reissues of group accident and sickness policies occurring after that date.

~~D~~ C. This section shall not apply to claims for which payment has been or will be made directly to health care providers pursuant to a negotiated reimbursement arrangement requiring uniform or periodic interim payments to be applied against the insurer's obligation on such claims.

~~E~~ D. For purposes of this section, "proof of loss" means all necessary documentation reasonably required by the insurer to make a determination of benefit coverage.

§ 38.2-3407.1:1. *Interest on accident and sickness claim proceeds; escrow accounts.*

A. *Within thirty working days from the insurer's receipt of proof of loss, an insurer shall (i) pay the claim or (ii) place into an interest-bearing demand escrow account, an amount equal to the insurer's usual and customary payment for the services for which the proof of loss is submitted. For purposes of this section, proof of loss shall include the identity of the patient and the health care provider, the service provided, and the date, place and cost of such service.*

B. *This section shall not apply to claims for which payment has been or will be made directly to health care providers pursuant to a negotiated reimbursement arrangement requiring uniform or periodic interim payments to be applied against the insurer's obligation on such claims.*

C. *All interest earned from the money placed in escrow pursuant to subsection A shall be paid annually to the Virginia Indigent Health Care Trust Fund established pursuant to Chapter 11 (§ 32.1-332 et seq.) of Title 32.1. Contributions to the Fund by insurers shall be made once annually in January of each calendar year beginning in January 2000. The policy and details relating to receipt of contributions shall be prescribed by the Board.*

D. *Any person who knowingly and willfully fails to pay in a timely manner the contribution to the Fund required by this section shall be civilly liable in an amount not to exceed \$500 per incident. All penalties collected under this subsection shall be collected and remitted to the Virginia Indigent Health Care Trust Fund. The Commissioner of Insurance shall be responsible for enforcing the provisions of this section.*

§ 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, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 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, Articles 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.1:1, 38.2-3407.2 through 38.2-3407.6, 38.2-3407.9, 38.2-3407.10, 38.2-3407.11, 38.2-3407.12, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.7, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, Chapter 53 (§ 38.2-5300 et seq.) and Chapter 58 (§ 38.2-5800 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.

60 B. Solicitation of enrollees by a licensed health maintenance organization or by its representatives
61 shall not be construed to violate any provisions of law relating to solicitation or advertising by health
62 professionals.

63 C. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful
64 practice of medicine. All health care providers associated with a health maintenance organization shall
65 be subject to all provisions of law.

66 D. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health
67 maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to
68 offer coverage to or accept applications from an employee who does not reside within the health
69 maintenance organization's service area.

70 **2. That the provisions of this act shall become effective on July 1, 2000.**