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SENATE BILL NO. 1156

Offered January 21, 1999

A *BILL to amend the Code of Virginia by adding in Title 38.2 a chapter numbered 59, consisting of sections numbered 38.2-5900 through 38.2-5904, relating to establishing the Office of the State Managed Care Consumer Advocate.*

Patrons—Colgan, Couric, Edwards, Gartlan, Houck, Howell, Lambert, Lucas, Marsh, Marye, Miller, Y.B., Puckett, Saslaw and Ticer; Delegates: Armstrong, Barlow, Christian, Cranwell, Crittenden, Diamonstein, Grayson, Hull, Johnson, Moss, Phillips, Robinson, Tate, Thomas, Van Yahres and Watts

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 38.2 a chapter numbered 59, consisting of sections numbered 38.2-5900 through 38.2-5904 as follows:

CHAPTER 59.

OFFICE OF THE STATE MANAGED CARE CONSUMER ADVOCATE.

§ 38.2-5900. Office of the State Managed Care Consumer Advocate established.

A. The Commissioner of Insurance shall establish the Office of the State Managed Care Consumer Advocate by contract with any nonprofit organization.

B. The Office of the State Managed Care Consumer Advocate shall:

1. Assist health insurance consumers with health insurance plan selection by providing information, referral and assistance to individuals about means of obtaining health insurance coverage and services;

2. Assist health insurance consumers to understand their rights and responsibilities under health insurance plans;

3. Provide information to the public, agencies, legislators and others regarding problems and concerns of health insurance consumers and make recommendations for resolving those problems and concerns;

4. Identify, investigate and resolve complaints on behalf of individual health insurance consumers (including complaints of denial of care or discriminatory treatment or service on the basis of race, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment), and assist those consumers with the filing and pursuit of complaints and appeals;

5. Analyze and monitor the development and implementation of federal, state and local laws, regulations and policies relating to health insurance consumers, and recommend changes it deems necessary;

6. Facilitate public comment on laws, regulations and policies, including policies and actions of health insurers;

7. Ensure that health insurance consumers have timely access to the services provided by the office;

8. Coordinate with other entities which provide information and advocacy for Virginia health care consumers;

9. Submit to the General Assembly and to the Governor on or before January 1 of each year a report on the activities, performances and fiscal accounts of the office during the preceding year.

C. The Office of the State Managed Care Consumer Advocate may:

1. Hire or contract with persons to fulfill the purposes of this chapter;

2. Review the health insurance records of a consumer who has provided written consent. Based on the written consent of the consumer or the consumer's guardian or legal representative, a health insurer shall provide the State Managed Care Consumer Advocate access to records relating to that consumer;

3. Pursue administrative, judicial and other remedies on behalf of any individual health insurance consumer or group of consumers;

4. Delegate to employees and contractors of the consumer advocate any part of the state consumer advocate's authority;

5. Adopt policies and procedures necessary to carry out the provisions of this chapter;

6. Take any other actions necessary to fulfill the purposes of this chapter.

D. All state agencies shall comply with reasonable requests from the Office of the State Managed Care Consumer Advocate for information and assistance. The Commissioner of Insurance may adopt rules necessary to assure the cooperation of state agencies under this subsection.

E. In the absence of written consent by a complainant or an individual utilizing the services of the

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60 Office, or his or her guardian or legal representative, or court order, the Office of the State Managed
61 Care Consumer Advocate, its employees and contractors, shall not disclose the identity of the
62 complainant or individual.

63 § 38.2-5901. Conflicts of interest.

64 The Office of the State Managed Care Consumer Advocate, and its employees and contractors, shall
65 not have any conflict of interest relating to the performance of their responsibilities under this chapter.
66 For the purposes of this section, a conflict of interest exists whenever the Office of the State Managed
67 Care Consumer Advocate, its employees or contractors, or a person affiliated with the Office of the
68 State Managed Care Consumer Advocate, or its employees and contractors;

69 1. Have direct involvement in the licensing, certification, or accreditation of a health care facility,
70 health insurer, or a health care provider;

71 2. Have direct ownership interest or investment interest in a health care facility, health insurer, or a
72 health care provider;

73 3. Are employed by, or participating in the management of a health care facility, health insurer, or a
74 health care provider; or

75 4. Receive or have the right to receive, directly or indirectly, remuneration under a compensation
76 arrangement with a health care facility, health insurer or health care provider.

77 § 38.2-5902. Advocacy; annual reports.

78 A. The Office of the State Managed Care Consumer Advocate shall be able to speak on behalf of the
79 interests of health care and health insurance consumers and to carry out all duties prescribed in this
80 chapter without being subject to any disciplinary or retaliatory action. Nothing in this subsection shall
81 limit the authority of personnel or other action.

82 B. The Office of the State Managed Care Consumer Advocate shall report to the Joint Commission
83 on Health Care on or before December 1 of each year. The report shall provide the Commission with
84 an update on the status of implementation of the Office of the State Managed Care Consumer Advocate
85 program, together with a description of the manner in which the Office of the State Managed Care
86 Consumer Advocate is, and will in the future, be coordinating its activities with other existing health
87 care information and advocacy programs within the Commonwealth.

88 § 38.2-5903. Funding.

89 A. The Office of the State Managed Care Consumer Advocate shall be funded through an annual
90 assessment of up to 0.01 percent of the net direct premiums of insurers, health services plans and health
91 maintenance organizations licensed pursuant to Chapters 34 (§ 38.2-3400, et seq.), 42 (§ 38.2-4200 et
92 seq.), and 43 (§ 38.2-4300, et seq.) of this title, as reported to the Virginia State Corporation
93 Commission.

94 B. For purposes of this section "net direct premiums" means gross direct premiums written in this
95 Commonwealth by such insurers, health services plans and health maintenance organizations, less (i) all
96 return premiums, (ii) dividends paid or credited, and (iii) the unused or unabsorbed portions of
97 premium deposits.

98 C. All assessments collected by the Virginia State Corporation Commission pursuant to this section
99 shall be transferred to a special fund known as the "State Managed Care Consumer Advocate Fund"
100 established herewith, which fund shall be administered by the State Insurance Commissioner and utilized
101 to fund the operations of the Office of the State Managed Care Consumer Advocate.

102 § 38.2-5904. State Managed Care Consumer Advocate Fund established.

103 A. There is hereby established a special, nonreverting fund in the state treasury to be known as the
104 State Managed Care Consumer Advocate Fund, hereafter referred to as the Fund, to be used for
105 operations of the Office of the State Managed Care Consumer Advocate as provided in this chapter.

106 B. The Fund shall be a nonlapsing fund consisting of moneys from the assessments provided in
107 § 38.2-5903. Interest earned on the Fund shall be credited to the Fund. The Fund shall be established
108 on the books of the State Comptroller. Any money remaining in the Fund at the end of the biennium
109 shall not revert to the general fund but shall remain in the Fund.

110 C. Disbursement of moneys from the Fund shall be made by the Commissioner of Insurance for the
111 purposes set forth in this chapter.