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HOUSE BILL NO. 832

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact § 38.2-5904 of the Code of Virginia, relating to the Office of the Managed Care Ombudsman.

Patron—Welch

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 38.2-5904 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-5904. Office of the Managed Care Ombudsman established; responsibilities.

A. The Commission shall create within the Bureau of Insurance the Office of the Managed Care Ombudsman. The Office of the Managed Care Ombudsman shall promote and protect the interests of covered persons under managed care health insurance plans in the Commonwealth. All state agencies shall assist and cooperate with the Office of the Managed Care Ombudsman in the performance of its duties under this chapter. The definitions in § 32.1-137.7 shall have the same meanings ascribed to them in § 32.1-137.7 when used in this section.

B. The Office of the Managed Care Ombudsman shall:

1. Assist covered persons in understanding their rights and the processes available to them according to their managed care health insurance plan.

2. Answer inquiries from covered persons and other citizens by telephone, mail, electronic mail and in person.

3. Provide to covered persons and other citizens information concerning managed care health insurance plans and other utilization review entities upon request.

4. Develop information on the types of managed care health insurance plans available in the Commonwealth, including mandated benefits and utilization review procedures and appeals, and receive and analyze the annual complaint data required to be filed by each health carrier providing a managed care health insurance plan, as provided in subsection C of § 38.2-5804.

5. Make available, either separately or through an existing Internet Web site utilized by the Bureau of Insurance, information as set forth in subdivision 4 and such additional information as may be deemed appropriate.

6. In conjunction with complaint and inquiry data maintained by the Bureau of Insurance, maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

7. Upon request, assist covered persons in using the procedures and processes available to them from their managed care health insurance plan, including all utilization review appeals. Such assistance may require the review of insurance and health care records of a covered person, which shall be done only with that person's express written consent *and, upon such review, present a recommendation to the covered person and the health carrier regarding whether the managed care health insurance plan covers health care services or benefits for the covered person. If, after receiving a recommendation that the managed care health insurance plan covers the health care services or benefits for the covered person, the health carrier continues to deny coverage for such services or benefits, such denial may be considered by a court as evidence of bad faith for purposes of § 38.2-209.* The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

8. Ensure that covered persons have access to the services provided through the Office of the Managed Care Ombudsman and that the covered persons receive timely responses from the representatives of the Office of the Managed Care Ombudsman to the inquiries.

9. Upon request to the Commission by any of the standing committees of the General Assembly having jurisdiction over insurance or health or the Joint Commission on Health Care, provide to the Commission for dissemination to the requesting parties assessments of proposed and existing managed care health insurance laws and other studies of managed care health insurance plan issues.

10. Monitor changes in federal and state laws relating to health insurance.

11. Provide information to the Commission that will permit the Commission to report annually on the activities of the Office of the Managed Care Ombudsman to the standing committees of the General Assembly having jurisdiction over insurance and over health and to the Joint Commission on Health Care. The Commission's report shall be filed by December 1 of each year, and shall include a summary

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59 of significant new developments in federal and state laws relating to health insurance each year.
60 12. Carry out activities as the Commission determines to be appropriate.