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HOUSE BILL NO. 2447

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact § 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.15, relating to health insurance coverage for formulas necessitated by inborn metabolic disorders.

Patron—Frederick (By Request)

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4319 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.15 as follows:

§ 38.2-3418.15. Coverage for enteral formulas necessitated by inborn metabolic disorders.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall, under any policy, contract, or plan that provides coverage for prescription drugs, provide coverage for the cost of enteral formulas for home use by covered individuals who suffer from inborn metabolic disorders that, if left untreated, cause chronic physical disability, mental retardation, or death.

B. Coverage under this section shall apply to enteral formulas for which the covered individual's physician has issued a written order stating that the enteral formula is clearly medically necessary and has been proven effective as a disease-specific treatment regimen for the covered individual, and that the enteral formula is the primary source of nutrition as certified by the physician by diagnosis. Coverage under this section shall not apply to nutritional supplements taken electively.

C. Coverage for enteral formulas shall include modified solid food products that are low protein or that contain modified protein that are medically necessary, provided that coverage for such modified solid food products for any calendar year or for any continuous period of 12 months for any insured individual shall not exceed \$5,000.

D. For the purposes of this section, "inborn metabolic disorder" means an inherited, genetically determined biochemical disorder of amino acid or organic acid metabolism in which a specific enzyme deficiency produces a metabolic block, involving amino acid, carbohydrate, and fat metabolism, that, if left untreated, results in mental retardation or death.

E. A managed care health insurance plan, as defined in Chapter 58 (§ 38.2-5800 et seq.) of this title, may require the covered individual's prescribing physician to be a member of the plan's provider network, if such network includes sufficient health care professionals who are qualified by specific education, experience, and credentials to provide the covered benefits described in this section.

F. No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits pursuant to this section any copayment, fee, policy year or calendar year, or durational benefit limitation or maximum for benefits or services that is not equally imposed upon all individuals in the same benefit category.

G. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2008, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

H. This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

§ 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, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 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.), §§ 38.2-1017 through 38.2-1023, 38.2-1057, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1

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59 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836,
60 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through
61 38.2-3407.16, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1, 38.2-3418.1 through
62 ~~38.2-3418.14~~ 38.2-3418.15, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of
63 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through
64 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter
65 35, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.)
66 and § 38.2-5903 of this title shall be applicable to any health maintenance organization granted a license
67 under this chapter. This chapter shall not apply to an insurer or health services plan licensed and
68 regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) of this title except
69 with respect to the activities of its health maintenance organization.

70 B. For plans administered by the Department of Medical Assistance Services that provide benefits
71 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
72 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
73 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229,
74 38.2-232, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through
75 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1017 through 38.2-1023, 38.2-1057, Article 2
76 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.) and 5
77 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of
78 Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 through
79 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.09:02, subdivisions 1, 2, and 3 of subsection F of
80 § 38.2-3407.10, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13 through 38.2-3407.14, 38.2-3411.2,
81 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of
82 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through
83 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter
84 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to any
85 health maintenance organization granted a license under this chapter. This chapter shall not apply to an
86 insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter
87 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance
88 organization.

89 C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives
90 shall not be construed to violate any provisions of law relating to solicitation or advertising by health
91 professionals.

92 D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful
93 practice of medicine. All health care providers associated with a health maintenance organization shall
94 be subject to all provisions of law.

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

99 F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and
100 B of this section shall be construed to mean and include "health maintenance organizations" unless the
101 section cited clearly applies to health maintenance organizations without such construction.