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HOUSE BILL NO. 83

Offered January 9, 2008

Prefiled December 11, 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 mandated coverage for habilitative services for children.

Patrons—Marshall, R.G. and Miller, J.H.

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 38.2-4318.15 as follows:

§38.2-3418.15. Coverage for habilitative services for children.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident or sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; corporation providing individual or group accident or sickness subscription contracts; and health maintenance organization providing a health care plan for health care services shall provide coverage under any such policy, contract, or plan delivered, issued for delivery, or renewed in the Commonwealth on and after July 1, 2008, for medically necessary habilitative services for persons younger than 19 years.

B. For the purposes of this section:

"Habilitative services" means health and social services directed toward increasing and maintaining the physical, intellectual, emotional, and social functioning of developmentally delayed individuals, including occupational, physical, and speech therapy; assistance, training, supervision, and monitoring in the areas of self-care, sensory and motor development, interpersonal skills, communication, and socialization; and reduction or elimination of maladaptive behavior. "Habilitative services" does not include services for which coverage is provided or required to be provided pursuant to § 38.2-3418.5.

"Medically necessary habilitative services" means habilitative services that are certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services as designed to help an individual attain or retain the capability to function age appropriately within the individual's environment and shall include habilitative services that enhance functional ability without effecting a cure.

C. An insurer, corporation, or health maintenance organization subject to this section shall not be required to provide coverage for medically necessary habilitative services to the extent that such services are provided through the individual's school; however, this exclusion from coverage shall not alter or diminish the obligation of an insurer, corporation, or health maintenance organization to provide coverage for medically necessary habilitative services that are not provided through the individual's school.

D. An insurer, corporation, or health maintenance organization subject to this section shall provide notice annually to its insured and enrollees about coverage required under this section.

E. The provisions of this section shall not apply to short-term travel, accident-only, limited or specified disease policies, contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, know as Medicare, or any other similar coverage under state or federal governmental plans, or to short-term nonrenewable policies of not more than six months' duration.

§ 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.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1306.1, § 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 (§ 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, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 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 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 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 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

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59 35, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.)
60 and § 38.2-5903 of this title shall be applicable to any health maintenance organization granted a license
61 under this chapter. This chapter shall not apply to an insurer or health services plan licensed and
62 regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) of this title except
63 with respect to the activities of its health maintenance organization.

64 B. For plans administered by the Department of Medical Assistance Services that provide benefits
65 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
66 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
67 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,
68 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
69 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, § 38.2-1306.1,
70 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
71 seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et
72 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 and
73 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions 1, 2, and 3 of subsection F
74 of § 38.2-3407.10, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, and 38.2-3407.14,
75 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,
76 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
77 through 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.),
78 Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to
79 any health maintenance organization granted a license under this chapter. This chapter shall not apply to
80 an insurer or health services plan licensed and regulated in conformance with the insurance laws or
81 Chapter 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health
82 maintenance organization.

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

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

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

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

96 § 38.2-4319. Statutory construction and relationship to other laws.

97 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
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