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HOUSE BILL NO. 1375

Offered January 22, 2010

A BILL to amend and reenact § 38.2-3407.5 of the Code of Virginia, relating to the denial of benefits for certain prescription drugs prohibited.

Patron—Garrett

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.5 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407.5. Denial of benefits for certain prescription drugs prohibited.

A. Each (i) 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, (ii) corporation providing individual or group accident and sickness subscription contracts, and (iii) health maintenance organization providing a health care plan for health care services, whose policy, contract or plan, including any certificate or evidence of coverage issued in connection with such policy, contract or plan, includes coverage for prescription drugs, whether on an inpatient basis, outpatient basis, or both, shall provide in each such policy, contract, plan, certificate, and evidence of coverage that such benefits will not be denied for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, provided the drug has been recognized as safe and effective for treatment of that specific type of cancer in any of the standard reference compendia.

B. Each (i) 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, (ii) corporation providing individual or group accident and sickness subscription contracts, and (iii) health maintenance organization providing a health care plan for health care services, whose policy, contract or plan, including any certificate or evidence of coverage issued in connection with such policy, contract or plan, includes coverage for prescription drugs, whether on an inpatient basis, outpatient basis, or both, shall provide in each such policy, contract, plan, certificate, and evidence of coverage that such benefits will not be denied for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

C. For the purposes of subsections A and B:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means*:* ~~the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopoeia Dispensing Information.~~

1. American Hospital Formulary Service - Drug Information;

2. National Comprehensive Cancer Network's Drugs & Biologics Compendium;

3. Thomson Micromedex's DrugDex;

4. Elsevier Gold Standard's Clinical Pharmacology; or

5. Other authoritative compendia as identified from time to time by the Federal Secretary of Health and Human Services or the State Commissioner of Insurance.

D. Coverage, as described in subsections A and B, includes medically necessary services associated with the administration of the drug.

E. Subsections A and B shall not be construed to do any of the following:

1. Require coverage for any drug if the United States Food and Drug Administration has determined its use to be contraindicated for the treatment of the specific type of cancer or indication for which the drug has been prescribed;

2. Require coverage for experimental drugs not otherwise approved for any indication by the United States Food and Drug Administration;

3. Alter any law with regard to provisions limiting the coverage of drugs that have not been approved by the United States Food and Drug Administration;

4. Create, impair, alter, limit, modify, enlarge, abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease or condition; or

5. Require coverage for prescription drugs in any contract, policy or plan that does not otherwise provide such coverage.

F. The provisions of this section shall not apply to short-term travel, or accident-only policies, or to short-term nonrenewable policies of not more than six months' duration.

G. The provisions of subsection A are applicable to contracts, policies or plans delivered, issued for delivery or renewed in this Commonwealth on and after July 1, 1994, and the provisions of subsection B are applicable to contracts, policies or plans delivered, issued for delivery or renewed in this Commonwealth on and after July 1, 1997.