

2012 SESSION

LEGISLATION NOT PREPARED BY DLS
INTRODUCED

12104507D

HOUSE BILL NO. 1273

Offered January 20, 2012

A *BILL to amend and reenact § 38.2-4319 of the Code of Virginia, as it is currently effective and as it may become effective, and to amend the Code of Virginia by adding a section numbered 38.2-3418.18, relating to access to oral chemotherapy medications; classification.*

Patrons—Peace, BaCote, Dance, Englin, Garrett, Greason, Helsel, Hodges, Hope, Howell, A.T., Hugo, Ingram, Keam, Morrissey, O'Bannon, Poindexter, Ransone, Sickles, Spruill, Stolle, Surovell, Tata and Ware, O.

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, as it is currently effective and as it may become effective, is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.18 as follows:

§ 38.2-3418.18. *Access to oral chemotherapy medications; classification.*

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services, if the policy, contract, or plan provides coverage for cancer chemotherapy treatment, (i) shall provide coverage under such policy, contract, or plan for a prescribed, orally administered anticancer medication on a basis no less favorable than that on which it provides coverage for intravenously administered or injected anticancer medications and (ii) shall not require a higher copayment, deductible, or coinsurance amount for a prescribed, orally administered anticancer medication that is used to kill or slow the growth of cancerous cells than what the policy, contract, or plan requires for an intravenously administered or injected anticancer medication that is provided, regardless of formulation or benefit category determination by the insurer, corporation, or health maintenance organization.

B. An insurer, corporation, or health maintenance organization shall not achieve compliance with this section by imposing an increase in copayment, deductible, or coinsurance amount for an intravenously administered or injected anticancer chemotherapy agent covered under the policy, contract, or plan.

C. Nothing in this section shall be interpreted to (i) prohibit an insurer, corporation, or health maintenance organization from requiring prior authorization or imposing other appropriate utilization controls in approving coverage for any chemotherapy or (ii) require coverage in a policy, contract, or plan for cancer chemotherapy treatment.

D. No insurer, corporation, or health maintenance organization shall impose any policy-year or calendar-year dollar or durational benefit limitations or maximums for benefits or services provided under this section.

E. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after July 1, 2012, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

F. 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.

G. Pursuant to the provisions of § 2.2-2818.2, this section shall apply to health coverage offered to state employees pursuant to § 2.2-2818 and to health insurance coverage offered to employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, local officers, teachers, and retirees pursuant to § 2.2-1204.

§ 38.2-4319. (Effective until July 1, 2014) 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, 38.2-1306.1, 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 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800

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57 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1,
58 38.2-3407.9 through 38.2-3407.17, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1,
59 38.2-3418.1 through 38.2-3418.17, 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through 38.2-3446,
60 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2,
61 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2,
62 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et
63 seq.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et
64 seq.) shall be applicable to any health maintenance organization granted a license under this chapter.
65 This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance
66 with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its
67 health maintenance organization.

68 B. For plans administered by the Department of Medical Assistance Services that provide benefits
69 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
70 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
71 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,
72 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
73 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,
74 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
75 seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et
76 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 and
77 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of
78 § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14,
79 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,
80 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
81 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter
82 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be
83 applicable to any health maintenance organization granted a license under this chapter. This chapter shall
84 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance
85 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance
86 organization.

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

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

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

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

100 § 38.2-4319. (Effective July 1, 2014) Statutory construction and relationship to other laws.

101 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
102 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
103 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
104 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.),
105 §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.),
106 § 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
107 Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800
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109 38.2-3407.9 through 38.2-3407.17, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1,
110 38.2-3418.1 through 38.2-3418.17, 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through 38.2-3437,
111 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2,
112 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2,
113 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 52 (§ 38.2-5200 et seq.),
114 Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to
115 any health maintenance organization granted a license under this chapter. This chapter shall not apply to
116 an insurer or health services plan licensed and regulated in conformance with the insurance laws or
117 Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance
118 organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, 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, 38.2-322, 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, 38.2-1306.1, 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 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 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, 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, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

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