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SENATE BILL NO. 518

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend the Code of Virginia by adding a section numbered 38.2-3406.3, relating to mandated health insurance benefits and the essential benefits package; coverage provided under health plans offered within and outside a health benefit exchange.

Patron—Wagner

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-3406.3 as follows:

§ 38.2-3406.3. Mandated health insurance benefits not applicable if exceed essential benefits package.

A. As used in this section, unless the context requires a different meaning:

"Coverage" means benefits consisting of coverage for costs of medical care, whether directly, through insurance or reimbursement, or otherwise, and including items and services paid for as medical care under a group policy of accident and sickness insurance, hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract, which coverage is subject to this title or is provided under a plan regulated under the Employee Retirement Income Security Act of 1974.

"Health insurer" means any insurance company that issues accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis or a corporation that provides accident and sickness subscription contracts, that is licensed to engage in such business in the Commonwealth, and that is subject to the laws of the Commonwealth that regulate insurance within the meaning of § 514(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1144(b)(2)).

"State-mandated health benefit" means coverage required under this title or other laws of the Commonwealth to be provided in a policy of accident and sickness insurance or a contract for a health-related condition that (i) includes coverage for specific health care services or benefits; (ii) places limitations or restrictions on deductibles, coinsurance, copayments, or any annual or lifetime maximum benefit amounts; or (iii) includes a specific category of licensed health care practitioners from whom an insured is entitled to receive care. "State-mandated health benefit" includes, without limitation, any coverage, or the offering of coverage, of a benefit or provider pursuant to §§ 38.2-3407.5 through 38.2-3407.6:1, 38.2-3407.9:01, 38.2-3407.9:02, 38.2-3407.11 through 38.2-3407.11:3, 38.2-3407.16, 38.2-3408, 38.2-3411 through 38.2-3414.1, 38.2-3418 through 38.2-3418.17, and 38.2-4221. For purposes of this chapter, "state-mandated health benefit" does not include a benefit that is mandated by federal law.

B. On and after January 1, 2014, and notwithstanding any provision of §§ 38.2-3407.5 through 38.2-3407.6:1, 38.2-3407.9:01, 38.2-3407.9:02, 38.2-3407.11 through 38.2-3407.11:3, 38.2-3407.16, 38.2-3408, 38.2-3411 through 38.2-3414.1, 38.2-3418 through 38.2-3418.17, and 38.2-4221 to the contrary, a health insurer shall not be required to provide coverage for, or offer to provide coverage for, any state-mandated health benefit to the extent that the state-mandated health benefit is not an essential benefit, as determined by the federal Secretary of Health and Human Services under § 1302(b) of the Patient Protection and Affordable Care Act (P.L. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) (the "federal act"), that the federal act requires to be covered under a qualified health plan offered within a health benefit exchange established pursuant to § 1311 of the federal act.

2. That if a health benefit exchange is established by or for the Commonwealth pursuant to § 1311 of the federal Patient Protection and Affordable Care Act (P.L. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) (the "federal act"), the entity operating the health benefit exchange shall not require that a health plan, as a condition for approval or certification to allow the health plan to be offered within the health benefit exchange, provide coverage for, or offer to provide coverage for, any state-mandated health benefit, as defined in § 38.2-3406.3 of the Code of Virginia, to the extent that the state-mandated health benefit is not an essential benefit, as determined by the federal Secretary of Health and Human Services under § 1302(b) of the federal act, that the federal act requires to be covered under a qualified health plan offered within the health benefit exchange.