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SENATE BILL NO. 23

Offered January 10, 2018

Prefiled November 20, 2017

A *BILL to amend the Code of Virginia by adding a section numbered 38.2-3407.5:3, relating to health insurance coverage for refills of certain prescription drugs during limited periods following a crisis event.*

Patrons—Spruill; Delegate: Kory

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 38.2-3407.5:3 as follows:**
§ 38.2-3407.5:3. Reimbursements for dispensing prescription drugs after a crisis event.

A. As used in this section:

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Crisis event" means a disaster as defined in § 44-146.16 that results in the displacement of a covered person from his place of residence.

"Early refill" means a refill of a prescription of a Schedule VI drug prior to the expiration of the period for which the drug has been dispensed or furnished based on its prescribed dosage.

"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement (MEWA), or plan provided by another benefit arrangement. "Health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; Medicaid coverage; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; short-term limited duration coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Health carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide a health benefit plan.

"Limited refill" means an early refill of a Schedule VI drug that provides not more than a five days' supply of the drug.

"Prescriber" has the meaning ascribed to the term in § 54.1-3401.

B. Any health benefit plan that is amended, renewed, or delivered on or after January 1, 2019, that provides coverage for prescription drugs on an outpatient basis shall cover a limited refill of a Schedule VI drug that is dispensed or furnished by a licensed pharmacist for a covered person who is in need of an early refill of the drug because the covered person's dispensed drugs were lost, destroyed, or otherwise rendered unusable as a consequence of a crisis event.

C. The provisions of subsection B shall apply only if:

1. The pharmacist has on record a valid prescription from a prescriber regarding the dispensing or furnishing of the drug to the covered person that authorizes a refill that covers a period or periods extending beyond the period of the limited refill;

2. The pharmacist determines and, if requested by the health carrier, certifies that the covered person seeking the limited refill has satisfied the conditions and requirements of subsection B for dispensing or furnishing the limited refill; and

3. The pharmacist determines that dispensing or furnishing the drug pursuant to the limited refill will allow the covered person to continue receiving the drug without interruption during a period in which the pharmacist shall attempt to obtain any required (i) approval from the health carrier of an override that will enable the covered person to continue receiving the drug without interruption beyond the period of the limited refill or (ii) authorization from the prescriber for an early refill.

D. In determining whether a licensed pharmacist's limited refill was made in compliance with the conditions and requirements of subsection B, any statements or certifications of the pharmacist shall be accepted by the health carrier as true unless the health carrier has evidence that the pharmacist's

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59 *statements or certifications were made to further fraudulent or criminal activity.*

60 *E. The obligation of a health carrier to cover a claim for a limited refill of a Schedule VI drug that*
61 *is dispensed or furnished by a licensed pharmacist for a covered person shall not be affected by the*
62 *failure of the health carrier to approve an override that will enable the covered person to continue*
63 *receiving the drug beyond the period of the limited refill.*