

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the*
3 *Code of Virginia by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered*
4 *38.2-3407.20, relating to health plans; calculation of enrollee's contribution to out-of-pocket*
5 *maximum or cost-sharing requirement.*

6 [H 2515]

7 Approved

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 38.2-4214 and 38.2-4319 of the Code of Virginia are amended and reenacted and that**
10 **the Code of Virginia is amended by adding in Article 1 of Chapter 34 of Title 38.2 a section**
11 **numbered 38.2-3407.20 as follows:**

12 **§ 38.2-3407.20. Calculation of enrollee's contribution to out-of-pocket maximum or cost-sharing**
13 **requirement.**

14 *A. As used in this section:*

15 *"Carrier" shall have the meaning set forth in § 38.2-3407.10; however, "carrier" also includes any*
16 *person required to be licensed under this title that offers or operates a managed care health insurance*
17 *plan subject to Chapter 58 (§ 38.2-5800 et seq.) or that provides or arranges for the provision of health*
18 *care services, health plans, networks, or provider panels that are subject to regulation as the business of*
19 *insurance under this title.*

20 *"Cost sharing" means any coinsurance, copayment, or deductible.*

21 *"Enrollee" means any person entitled to health care services from a carrier.*

22 *"Health care services" means items or services furnished to any individual for the purpose of*
23 *preventing, alleviating, curing, or healing human illness, injury, or physical disability.*

24 *"Health plan" means any individual or group health care plan, subscription contract, evidence of*
25 *coverage, certificate, health services plan, medical or hospital services plan, accident and sickness*
26 *insurance policy or certificate, managed care health insurance plan, or other similar certificate, policy,*
27 *contract, or arrangement, and any endorsement or rider thereto, to cover all or a portion of the cost of*
28 *persons receiving covered health care services, that is subject to state regulation and that is required to*
29 *be offered, arranged, or issued in the Commonwealth by a carrier licensed under this title. "Health*
30 *plan" does not mean (i) coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C.*
31 *§ 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid) or*
32 *Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal*
33 *employees), or 10 U.S.C. § 1071 et seq. (TRICARE); or (ii) accident only, credit or disability insurance,*
34 *long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation*
35 *coverages.*

36 *B. To the extent permitted by federal law and regulation, when calculating an enrollee's overall*
37 *contribution to any out-of-pocket maximum or any cost-sharing requirement under a health plan, a*
38 *carrier shall include any amounts paid by the enrollee or paid on behalf of the enrollee by another*
39 *person.*

40 *C. This section shall apply with respect to health plans that are entered into, amended, extended, or*
41 *renewed on or after January 1, 2020.*

42 *D. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and*
43 *regulations as it may deem necessary to implement this section.*

44 **§ 38.2-4214. Application of certain provisions of law.**

45 *No provision of this title except this chapter and, insofar as they are not inconsistent with this*
46 *chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230,*
47 *38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through*
48 *38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900*
49 *through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1*
50 *(§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1,*
51 *38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446,*
52 *38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1,*
53 *38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19*
54 *38.2-3407.20, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3501,*
55 *38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2,*
56 *§§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through*

57 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551
 58 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52
 59 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title
 60 shall apply to the operation of a plan.

61 **§ 38.2-4319. Statutory construction and relationship to other laws.**

62 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
 63 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
 64 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326,
 65 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
 66 (§ 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
 67 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et
 68 seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400
 69 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et
 70 seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405,
 71 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19
 72 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1
 73 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision 13 of
 74 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through
 75 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, Article 5
 76 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et
 77 seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any
 78 health maintenance organization granted a license under this chapter. This chapter shall not apply to an
 79 insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter
 80 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

81 B. For plans administered by the Department of Medical Assistance Services that provide benefits
 82 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
 83 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
 84 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,
 85 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600
 86 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,
 87 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
 88 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et
 89 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.)
 90 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,
 91 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,
 92 §§ 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,
 93 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,
 94 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,
 95 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.),
 96 Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health
 97 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer
 98 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42
 99 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

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

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

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

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