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SENATE BILL NO. 423

Senate Amendments in [] - January 30, 2020

A *BILL to amend and reenact § 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.18, relating to health insurance coverage for hearing aids for children 18 years of age or younger.*

Patrons Prior to Engrossment—Senators DeSteph, Bell, Boysko, Chase, Cosgrove, Ebbin, Edwards, Kiggans, Lucas, Marsden, Mason, Morrissey, Norment, Spruill, Surovell, and Vogel; Delegates Cole, J.G. and Plum

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 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. Coverage for hearing aids and related services.**A. As used in this section:**

"Hearing aid" means any wearable, nondisposable instrument or device designed or offered to aid or compensate for impaired human hearing and any parts, attachments, or accessories, including earmolds, but excluding batteries and cords. Hearing aids are not to be considered durable medical equipment.

"Related services" includes earmolds, initial batteries, and other necessary equipment, maintenance, and adaptation training.

B. Notwithstanding the provisions of § 38.2-3419, each 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; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for hearing aids and related services for children 18 years of age or younger under any policy, contract, or plan delivered, issued for delivery, or renewed in the Commonwealth. The coverage shall include payment of the cost of one hearing aid per hearing-impaired ear every 24 months, up to \$1,500 per hearing aid. The insured may choose a higher-priced hearing aid and may pay the difference in cost above \$1,500, with no financial or contractual penalty to the insured or to the provider of the hearing aid.

C. No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits pursuant to this section any copayment or fee, and no condition may be applied to the person that is not equally imposed upon all individuals in the same benefit category.

D. Coverage shall be available under this section only for services and equipment [~~prescribed by a certified audiologist licensed to prescribe such services or equipment under Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1~~] [recommended by an otolaryngologist. Such recommended services and equipment may be provided or dispensed by an otolaryngologist, licensed audiologist, or licensed hearing aid specialist] .

E. The provisions of this section shall apply to any policy, contract, or plan delivered, issued for delivery, or renewed in the Commonwealth on and after January 1, 2021.

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

§ 38.2-4319. 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, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 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.), 5 (§ 38.2-1322 et 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 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 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, 38.2-3407.9 through 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 through

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57 ~~38.2-3418.17~~ 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, Article 8 (§ 38.2-3461 et seq.)
58 of Chapter 34, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1,
59 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,
60 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et
61 seq.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et
62 seq.) shall be applicable to any health maintenance organization granted a license under this chapter.
63 This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance
64 with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its
65 health maintenance organization.

66 B. For plans administered by the Department of Medical Assistance Services that provide benefits
67 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
68 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
69 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,
70 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
71 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,
72 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
73 (§ 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
74 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.)
75 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,
76 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,
77 §§ 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,
78 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,
79 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,
80 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.),
81 Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health
82 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer
83 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42
84 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

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

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

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

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