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HOUSE BILL NO. 1822

House Amendments in [ ] - February 3, 2021

A BILL to amend the Code of Virginia by adding a section numbered 38.2-3407.15:6, relating to health insurance; cost-sharing payments for prescription asthma inhalers.

Patron Prior to Engrossment—Delegate Askew

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-3407.15:6 as follows:

§ 38.2-3407.15:6. Limit on cost-sharing payments for asthma inhalers.

A. As used in this section:

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Cost-sharing payment" means the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person's health plan.

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

"Health plan" means any individual or group health plan, as defined in § [~~38.2-3407.15~~ 38.2-3438] , that provides coverage for a prescription asthma inhaler.

"Pharmacy benefits manager" [~~*means an entity that engages in the administration or management of prescription drug benefits provided by a carrier for the benefit of its covered persons*~~ *has the same meaning as provided in § 38.2-3465*] .

"Prescription asthma inhaler" means a prescribed inhaler device that delivers medications used to treat asthma and includes metered dose inhalers, nebulizers, and dry powder inhalers. "Prescription asthma inhaler" does not include inhalers available over-the-counter without a prescription to provide temporary relief from asthma symptoms.

"Provider contract" has the same meaning as provided in subsection A of § 38.2-3407.15.

B. Every health plan offered by a carrier shall set the cost-sharing payment that a covered person is required to pay for a covered [*tier one or tier two*] *prescription asthma inhaler at an amount that does not exceed $50 per* [*30-day supply of the*] *prescription asthma inhaler, regardless of the* [~~*amount or*~~] *type of medication needed to fill the covered person's prescription and regardless of the type of* [*covered*] *prescription asthma inhaler needed* [*, unless the carrier is prohibited from providing the additional benefits under 26 U.S.C. § 223(c)(2) or any other state or federal law*] .

C. Nothing in this section shall prevent a carrier from setting a covered person's cost-sharing payment for a covered prescription asthma inhaler at an amount that is less than the maximum amount permitted pursuant to subsection B.

D. No provider contract between a carrier or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision (i) authorizing the carrier's pharmacy benefits manager or the pharmacy to charge, (ii) requiring the pharmacy to collect, or (iii) requiring a covered person to make a cost-sharing payment for a prescription asthma inhaler in an amount that exceeds the amount of the cost-sharing payment for the covered prescription asthma inhaler established by the carrier pursuant to subsection B.

E. This section shall apply with respect to health plans and provider contracts entered into, amended, extended, or renewed on or after January 1, 2022.