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HOUSE BILL NO. 1132

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact §§ 38.2-4214, 38.2-4319, and 38.2-4509 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-316.2, relating to insurance; annual actual loss ratio report by dental carriers.

 Patron—Hayes

 Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4214, 38.2-4319, and 38.2-4509 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-316.2 as follows:

§ 38.2-316.2. Dental carriers; annual actual loss ratio report.

A. As used in this section:

"Actual loss ratio" means, for large employer coverage issued by a dental carrier, the ratio of incurred claims and other compensation paid or due to dental providers for the reporting period to earned premiums for dental services provided under a dental carrier contract issued in the Commonwealth, excluding, for the reporting period, (i) related state and federal taxes; (ii) related licensing and regulatory fee expenses; (iii) nonprofit community benefit expenditures, which have been disclosed to the public, to support dental services and improve dental care access and quality in the Commonwealth; (iv) the amounts or related claims payments identified through fraud reduction efforts; and (v) any other related payments required under state or federal law.

"Dental carrier" means (i) any carrier, as defined in § 38.2-3407.15, that offers separate or specific dental policies to large employers; (ii) any nonstock corporation that offers or administers dental services plans, as defined in § 38.2-4501, to large employers; or (iii) a dental plan organization, as defined in § 38.2-6101, that provides coverage to large employers.

"Large employer" means, with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

B. Beginning in 2025, each dental carrier shall annually, on or before April 30, file with the Commission a report that includes the actual loss ratio for the preceding calendar year and any such other information as the Commission may require. A dental carrier shall file such report in accordance with the format or forms prescribed by the Commission.

C. The Commission shall annually post such reports on a dedicated link or page on the Commission's website on or before June 15 after receipt of such reports.

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

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-316.2, 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 38.2-629, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, and 38.2-1040 through 38.2-1044, Articles 1 (§ 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, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 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, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.20, 38.2-3409, 38.2-3411 through 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, §§ 38.2-3501 and 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1 and 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607 and 38.2-3610, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall apply to the operation of a plan.

§ 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

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59 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-316.2, 38.2-322, 38.2-325,
 60 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-629,
 61 Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, and 38.2-1306.1, Article 2
 62 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, and Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.),
 63 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,
 64 Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14,
 65 Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836,
 66 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
 67 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
 68 through 38.2-3418.19, 38.2-3418.21, 38.2-3419.1, and 38.2-3430.1 through 38.2-3454, Articles 8
 69 (§ 38.2-3461 et seq.) and 9 (§ 38.2-3465 et seq.) of Chapter 34, § 38.2-3500, subdivision 13 of
 70 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through
 71 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, and 38.2-3543.2, Article 5
 72 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), § 38.2-3610, Chapter 52
 73 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.), Chapter 65
 74 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall be applicable to any health maintenance
 75 organization granted a license under this chapter. This chapter shall not apply to an insurer or health
 76 services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200
 77 et seq.) except with respect to the activities of its health maintenance organization.

78 B. For plans administered by the Department of Medical Assistance Services that provide benefits
 79 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
 80 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
 81 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,
 82 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, and
 83 38.2-600 through 38.2-629, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057,
 84 and 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
 85 (§ 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
 86 seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et
 87 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6,
 88 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions E 1, 2, and 3 of
 89 § 38.2-3407.10, §§ 38.2-3407.10:1, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1,
 90 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3418.16, 38.2-3419.1, 38.2-3430.1 through
 91 38.2-3437, and 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1,
 92 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,
 93 38.2-3542, and 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter
 94 58 (§ 38.2-5800 et seq.), Chapter 65 (§ 38.2-6500 et seq.), and Chapter 66 (§ 38.2-6600 et seq.) shall
 95 be applicable to any health maintenance organization granted a license under this chapter. This chapter
 96 shall not apply to an insurer or health services plan licensed and regulated in conformance with the
 97 insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health
 98 maintenance organization.

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

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

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

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

112 § 38.2-4509. Application of certain laws.

113 A. No provision of this title except this chapter and, insofar as they are not inconsistent with this
 114 chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229,
 115 38.2-316, 38.2-316.2, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515,
 116 38.2-600 through 38.2-629, 38.2-900 through 38.2-904, 38.2-1038, 38.2-1040 through 38.2-1044,
 117 Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314,
 118 38.2-1315.1, Articles 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), and 6 (§ 38.2-1335 et seq.) of
 119 Chapter 13, §§ 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836,
 120 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.1, 38.2-3407.4, 38.2-3407.10, 38.2-3407.10:1, 38.2-3407.13,

121 38.2-3407.14, 38.2-3407.15, 38.2-3407.17, 38.2-3407.17:1, 38.2-3407.19, 38.2-3415, 38.2-3541, Article 5
122 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3603, Chapter 55 (§ 38.2-5500 et seq.),
123 Chapter 58 (§ 38.2-5800 et seq.), and Chapter 65 (§ 38.2-6500 et seq.) shall apply to the operation of a
124 plan.

125 B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The
126 provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

127 C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to
128 either an optometric or dental services plan.

129 D. The provisions of § 38.2-3407.1 shall apply to claim payments made on or after January 1, 2014.
130 No optometric or dental services plan shall be required to pay interest computed under § 38.2-3407.1 if
131 the total interest is less than \$5.

132 **2. That the initial report required by § 38.2-316.2 of the Code of Virginia, as created by this act,**
133 **shall include actual loss ratios, as defined in § 38.2-316.2 of the Code of Virginia, as created by**
134 **this act, for calendar years 2023 and 2024.**

135 **3. That the Bureau of Insurance shall evaluate the effectiveness of informing the public on the**
136 **information being reported pursuant to § 38.2-316.2 of the Code of Virginia, as created by this act,**
137 **and make recommendations, if any, on the continuation or modification of the obligation of dental**
138 **carriers to report such information.**

139 **4. That the State Corporation Commission shall convene a work group of stakeholders that**
140 **includes dental carriers, representatives from the Virginia Dental Association, the Association of**
141 **Dental Support Organizations, and any other interested stakeholders to determine if any revisions**
142 **are necessary to § 38.2-3407.15 of the Code of Virginia regarding ethics and fairness in dental**
143 **carrier business practices and of health care providers of dental services. The work group shall**
144 **report its recommendations to the Chairs of the House Committee on Commerce and Energy and**
145 **the Senate Committee on Commerce and Labor on or before October 1, 2024.**