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SENATE BILL NO. 405

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Commerce and Energy
on February 24, 2022)

(Patron Prior to Substitute—Senator Barker)

A BILL to amend the Code of Virginia by adding a section numbered 38.2-3418.15:1, relating to health insurance; coverage for prosthetic devices.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-3418.15:1 as follows:

§ 38.2-3418.15:1. Coverage for prosthetic devices and components.

A. As used in this section:

"Component" means the materials and equipment needed to ensure the comfort and functioning of a prosthetic device.

"Limb" means an arm, a hand, a leg, a foot, or any portion of an arm, a hand, a leg, or a foot.

"Medically necessary prosthetic device" includes any myoelectric, biomechanical, or microprocessor-controlled prosthetic device that peer-reviewed medical literature has determined to be medically appropriate on the basis of the clinical assessment of the enrollee's rehabilitation potential.

"Prosthetic device" means an artificial device to replace, in whole or in part, a limb.

B. Notwithstanding the provisions of § 38.2-3418.15 or 38.2-3419, each insurer proposing to issue group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis, each corporation providing group accident and sickness subscription contracts, and each health maintenance organization providing a health care plan for health care services shall provide coverage for medically necessary prosthetic devices and their repair, fitting, replacement, and components.

C. The coverage required under subsection B shall be subject to the following:

1. Coverage for medically necessary prosthetic devices does not include:

a. The cost of repair and replacement due to enrollee neglect, misuse, or abuse; or

b. Prosthetic devices designed primarily for an athletic purpose.

2. An insurer shall not impose any annual or lifetime dollar maximum on coverage for prosthetic devices other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy. The coverage may be made subject to, and no more restrictive than, the provisions of a health insurance policy that apply to other benefits under the policy.

3. An insurer, corporation, or health maintenance organization shall not apply amounts paid for prosthetic devices to any annual or lifetime dollar maximum applicable to other durable medical equipment covered under the policy other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy.

4. An insurer, corporation, or health maintenance organization shall not impose upon any person receiving benefits pursuant to this section any coinsurance in excess of 30 percent of the carrier's allowable charge for such prosthetic device or service when such device or service is provided by an in-network provider.

5. An insurer, corporation, or health maintenance organization may require preauthorization to determine medical necessity and the eligibility of benefits for prosthetic devices and components in the same manner that prior authorization is required for any other covered benefit.

D. 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, 2023, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

E. The provisions of this section shall not apply to (i) short-term travel, accident-only, or limited or specified disease policies; (ii) policies, contracts, or plans issued in the individual market or small group markets; (iii) contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, Title XIX of the Social Security Act, known as Medicaid, Title XXI of the Social Security Act, or any other similar coverage under state or federal governmental plans; or (iv) short-term nonrenewable policies of not more than six months' duration.