

VIRGINIA ACTS OF ASSEMBLY -- CHAPTER

An Act 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 in Article 1 of Chapter 34 of Title 38.2 a section numbered [38.2-3407.17](#), relating to dental services provided by dentists and oral surgeons and to amend the Code of Virginia by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered [38.2-3407.18](#), relating to limitations by a dental plan on reimbursements for certain services provided by dentists and oral surgeons

[S 622]

Approved

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 the Code of Virginia is amended by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered [38.2-3407.17](#) which reads as follows:

§ [38.2-3407.17](#). *Payment for services by dentists and oral surgeons.*

A. *As used in this section:*

"Covered services" means the health care services for which benefits under a policy, contract, or evidence of coverage are payable by a dental plan, including services paid by the insureds, subscribers, or enrollees when the annual or periodic payment maximum established by the dental plan has been met.

"Dental plan" includes (i) an insurer proposing to issue individual or group accident and sickness insurance providing hospital, medical, and surgical or major medical coverage on an expense-incurred basis, (ii) an insurer providing individual or group accident and sickness subscription contracts, (iii) a dental services plan or organization administering prepaid dental services, (iv) a health maintenance organization providing a health care plan or a dental plan organization.

B. *No contract between a dental plan and a dentist or oral surgeon may establish the fee or rate that the dentist or oral surgeon is required to accept for the provision of health care services, or require that a dentist or oral surgeon accept the reimbursement paid as payment in full, unless the services are covered services under the applicable dental plan.*

C. *This section shall apply with respect to any contract between a dental plan and a dentist or oral surgeon for the provision of health care to patients that is entered into, amended, extended, or renewed on or after July 1, 2010.*

D. *The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.*

§ [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, §§ [38.2-203](#), [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](#), [38.2-400](#), [38.2-402](#) through [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](#) through [38.2-904](#), [38.2-1017](#), [38.2-1018](#), [38.2-1038](#), [38.2-1040](#) through [38.2-1044](#), Articles [1300](#) et seq.) and 2 (§ [38.2-1306.2](#) et seq.) of Chapter 13, §§ [38.2-1312](#), [38.2-1314](#), [38.2-1315.1](#), [38.2-1316](#), [38.2-1328](#), [38.2-1334](#), [38.2-1340](#), [38.2-1400](#) through [38.2-1444](#), [38.2-1800](#) through [38.2-1836](#), [38.2-3400](#), [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](#), [38.2-3407.7](#), [38.2-3407.8](#), [38.2-3407.9](#), [38.2-3407.10](#), [38.2-3407.11](#), [38.2-3407.12](#), [38.2-3407.13](#), [38.2-3407.14](#), [38.2-3407.15](#), [38.2-3407.16](#), [38.2-3407.17](#), [38.2-3407.18](#), [38.2-3407.19](#), [38.2-3407.20](#), [38.2-3407.21](#), [38.2-3407.22](#), [38.2-3407.23](#), [38.2-3407.24](#), [38.2-3407.25](#), [38.2-3407.26](#), [38.2-3407.27](#), [38.2-3407.28](#), [38.2-3407.29](#), [38.2-3407.30](#), [38.2-3407.31](#), [38.2-3407.32](#), [38.2-3407.33](#), [38.2-3407.34](#), [38.2-3407.35](#), [38.2-3407.36](#), [38.2-3407.37](#), [38.2-3407.38](#), [38.2-3407.39](#), [38.2-3407.40](#), [38.2-3407.41](#), [38.2-3407.42](#), [38.2-3407.43](#), [38.2-3407.44](#), [38.2-3407.45](#), [38.2-3407.46](#), [38.2-3407.47](#), [38.2-3407.48](#), [38.2-3407.49](#), [38.2-3407.50](#), [38.2-3407.51](#), [38.2-3407.52](#), [38.2-3407.53](#), [38.2-3407.54](#), [38.2-3407.55](#), [38.2-3407.56](#), [38.2-3407.57](#), [38.2-3407.58](#), [38.2-3407.59](#), [38.2-3407.60](#), [38.2-3407.61](#), [38.2-3407.62](#), [38.2-3407.63](#), [38.2-3407.64](#), [38.2-3407.65](#), [38.2-3407.66](#), [38.2-3407.67](#), [38.2-3407.68](#), [38.2-3407.69](#), [38.2-3407.70](#), [38.2-3407.71](#), [38.2-3407.72](#), [38.2-3407.73](#), [38.2-3407.74](#), [38.2-3407.75](#), [38.2-3407.76](#), [38.2-3407.77](#), [38.2-3407.78](#), [38.2-3407.79](#), [38.2-3407.80](#), [38.2-3407.81](#), [38.2-3407.82](#), [38.2-3407.83](#), [38.2-3407.84](#), [38.2-3407.85](#), [38.2-3407.86](#), [38.2-3407.87](#), [38.2-3407.88](#), [38.2-3407.89](#), [38.2-3407.90](#), [38.2-3407.91](#), [38.2-3407.92](#), [38.2-3407.93](#), [38.2-3407.94](#), [38.2-3407.95](#), [38.2-3407.96](#), [38.2-3407.97](#), [38.2-3407.98](#), [38.2-3407.99](#), and [38.2-3408](#).

~~38.2-3407.16~~ [38.2-3407.17](#), [38.2-3409](#), [38.2-3411](#) through [38.2-3419.1](#), [38.2-3430.1](#) through [38.2-3437](#), [38.2-3502](#), subdivision 13 of § [38.2-3503](#), subdivision 8 of § [38.2-3504](#), §§ [38.2-3514.1](#), [38.2-3514.2](#), §§ [38.2-3522.1](#) through [38.2-3523.4](#), [38.2-3540.1](#), [38.2-3541](#), [38.2-3541.1](#), [38.2-3542](#), [38.2-3543.2](#), Article 5 (§ [38.2-3551](#) et seq.) of Chapter 3: [3600](#) through [38.2-3607](#), Chapter 52 (§ [38.2-5200](#) et seq.), Chapter 55 (§ [38.2-5500](#) et seq.), Chapter 58 (§ [38.2-5800](#) et seq.) and § [38.2-5903](#) of this title 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](#) through [38.2-225](#), [38.2-232](#), [38.2-305](#), [38.2-316](#), [38.2-322](#), [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](#), Article 2 (§ [38.2-1306.1](#) et seq.), § [38.2-1306.1](#), § [38.2-1315.1](#), Articles 3.1 (§ [38.2-1316.1](#) et seq.), 4 (§ [38.2-1317](#) et seq.) and 5 (§ [38.2-1322](#) et seq.) of Chapter 13, Articles 1 (§ [38.2-1400](#) et seq.) and 2 (§ [38.2-1412](#) et seq.) of Chapter 14, §§ [38.2-1836](#), [38.2-3401](#), [38.2-3405](#), [38.2-3405.1](#), [38.2-3407.2](#) through [38.2-3407.6:1](#), [38.2-3407.9](#) through [38.2-3407.17](#), [38.2-3411.2](#), [38.2-3411.3](#), [38.2-3411.4](#), [38.2-3412.1:01](#), [38.2-3414.1](#), [38.2-3418.1](#) through [38.2-3419.1](#), [38.2-3430.1](#) through [38.2-3437](#), [38.2-3500](#), subdivision 13 of § [38.2-3503](#), subdivision 8 of § [38.2-3514.1](#), [38.2-3514.2](#), [38.2-3522.1](#) through [38.2-3523.4](#), [38.2-3525](#), [38.2-3540.1](#), [38.2-3541.1](#), [38.2-3543.2](#), Article 5 (§ [38.2-3551](#) et seq.) of Chapter 35, Chapter 52 (§ [38.2-5200](#) et seq.), Chapter 55 (§ [38.2-5500](#) et seq.), Chapter 58 (§ [38.2-5800](#) et seq.) and § [38.2-5903](#) of this title shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ [38.2-4200](#) et seq.) of this title with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, 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 [38.2-216](#), [38.2-218](#) through [38.2-225](#), [38.2-229](#), [38.2-232](#), [38.2-322](#), [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.) and 5 (§ [38.2-1322](#) et seq.) of Chapter 13, Articles 1 (§ [38.2-1400](#) et seq.) and 2 (§ [38.2-1412](#) et seq.) of Chapter 14, §§ [38.2-3401](#), [38.2-3405](#), [38.2-3407.2](#) through [38.2-3407.5](#), [38.2-3407.6](#) and [38.2-3407.9](#), [38.2-3407.9:01](#), and [38.2-3407.9:02](#), subdivisions 1, 2, and 3 of subsection F of § [38.2-3407.10](#), [38.2-3407.11](#), [38.2-3407.11:3](#), [38.2-3407.13](#), [38.2-3407.13:1](#), and [38.2-3407.14](#), [38.2-3411.2](#), [38.2-3418.1](#), [38.2-3419.1](#), [38.2-3430.1](#) through [38.2-3437](#), [38.2-3500](#), subdivision 13 of § [38.2-3503](#), subdivision 8 of § [38.2-3514.1](#), [38.2-3514.2](#), [38.2-3522.1](#) through [38.2-3523.4](#), [38.2-3525](#), [38.2-3540.1](#), [38.2-3542](#), [38.2-3543.2](#), Article 5 (§ [38.2-3551](#) et seq.) of Chapter 35, Chapter 52 (§ [38.2-5200](#) et seq.), Chapter 55 (§ [38.2-5500](#) et seq.), Chapter 58 (§ [38.2-5800](#) et seq.) and § [38.2-5903](#) of this title shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ [38.2-4200](#) et seq.) of this title except with respect to the activities of its health maintenance organization.

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

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

E. Notwithstanding the definition of an eligible employee as set forth in § [38.2-3431](#), a health maintenance organization providing health care plans pursuant to § [38.2-3431](#) shall not be required to offer coverage to applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B of this section shall be construed to mean and include "health maintenance organizations" unless the section cited clearly indicates otherwise.

§ [38.2-4509](#). Application of certain laws.

A. No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter [200](#), [38.2-203](#), [38.2-209](#) through [38.2-213](#), [38.2-218](#) through [38.2-225](#), [38.2-229](#), [38.2-316](#), [38.2-400](#), [38.2-413](#), [38.2-500](#) through [38.2-515](#), [38.2-600](#) through [38.2-620](#), [38.2-900](#) through [38.2-904](#), [38.2-1038](#), [38.2-1044](#), Articles 1 (§ [38.2-1300](#) et seq.) and 2 (§ [38.2-1306.2](#) et seq.) of Chapter 13, §§ [38.2-1314](#), [38.2-1315.1](#), Article 4 (§ [38.2-1317](#) et seq.) of Chapter 13, §§ [38.2-1400](#) through [38.2-1444](#), [38.2-1836](#), [38.2-3401](#), [38.2-3404](#), [38.2-3405](#), [38.2-3407.10](#), [38.2-3407.13](#), [38.2-3407.14](#), [38.2-3407.15](#), [38.2-3415](#), [38.2-3541](#), Article 5 (§ [38.2-3551](#) et seq.) of Chapter 35, §§ [38.2-3600](#) through [38.2-3603](#), Chapter 57 (§ [38.2-5500](#) et seq.), Chapter 58 (§ [38.2-5800](#) et seq.) and § [38.2-5903](#) of this title shall apply to the operation of the plan.

B. The provisions of subsection A of § [38.2-322](#) shall apply to an optometric services plan. The provisions of subsection C of § [38.2-322](#) shall apply to a dental services plan.

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

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