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HOUSE BILL NO. 300

AMENDMENT IN THE NATURE OF A SUBSTITUTE

PROPOSED BUDGET FOR THE FISCAL YEAR 2010
(Proposed by the House Committee on Health and Human Services)

on _____

(Patron Prior to Substitute—Delegate Hope)

A BILL to amend the Code of Virginia by adding sections numbered 15.2-5384.2, 15.2-5384.3, and 15.2-5384.4, relating to expiration of cooperative agreements; period of oversight by State Health Commissioner; transfer of records.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 15.2-5384.2, 15.2-5384.3, and 15.2-5384.4 as follows:

§ 15.2-5384.2. Expiration.

The conditions governing a cooperative agreement approved pursuant to this chapter shall automatically expire on June 30, 2028. Any managed care pricing restrictions that are part of the conditions governing a cooperative agreement that are in effect as of the expiration date shall remain in effect for a period of five years after the expiration date, and such restrictions shall be actively supervised by the Commissioner during this period pursuant to § 15.2-5384.3.

§ 15.2-5384.3. Additional active supervision of expired cooperative agreements.

A. The Commissioner shall have the authority and responsibility to supervise any managed care pricing restrictions in effect at the time conditions governing a cooperative agreement expire pursuant to § 15.2-5384.2. During the five-year period in which the managed care pricing restrictions are in effect after the expiration of the conditions governing a cooperative agreement, such restrictions may only be modified by the mutual written agreement of the entity subject to the restrictions and the Commissioner.

B. Within 90 days prior to the expiration of any conditions governing a cooperative agreement, the Commissioner and the entity subject to any managed care pricing restrictions in effect at that time shall enter into an agreement regarding such restrictions. Such agreement shall be based upon any managed care pricing restrictions in effect on June 30, 2028, pursuant to § 15.2-5384.2 and may include any other terms that the Commissioner and such entity mutually determine appropriate.

C. The Commissioner shall report annually to the Attorney General regarding the status of its active supervision pursuant to subsection A and the compliance of the entity subject to managed care pricing restrictions with the restrictions and agreements established pursuant to this section and § 15.2-5384.2.

D. Nothing in this section shall be construed to limit the authority of the Attorney General to enforce the provisions of the Virginia Antitrust Act (§ 59.1-9.1 et seq.).

§ 15.2-5384.4. Reimbursement for costs.

A. The Commissioner may seek reimbursement from the parties supervised pursuant to § 15.2-5384.3 for all reasonable and actual costs incurred directly related to his duty to supervise under § 15.2-5384.3. Such reimbursement shall not exceed \$200,000 annually. The costs incurred may include the retention of accounting, technical, and other qualified experts or consultants that the Commissioner determines are necessary to fulfill his duty of active supervision. Within 30 days after the end of each quarter, the Commissioner shall provide to the supervised parties a written quarterly report detailing all costs incurred by the Commissioner related to the supervision of the managed care pricing restrictions for which the Commissioner seeks reimbursement. The supervised parties shall remit payment within 30 days of receipt of such request for reimbursement. Any requested reimbursement shall be paid to the Department.

B. Nongeneral funds generated by the reimbursements collected in accordance with this section and accounted for and deposited into a special fund by the Department shall be held exclusively to cover the expenses of the Department in administering § 15.2-5384.3 and shall not be transferred to any other agency, except to cover expenses directly related to active supervision of managed care pricing restrictions pursuant to § 15.2-5384.2. The Commissioner shall maintain records sufficient to support the costs for which reimbursement is sought under this section.

2. That upon the first expiration of the conditions governing a cooperative agreement pursuant to § 15.2-5384.2 of the Code of Virginia, as created by this act, the Department of Health shall repeal the provisions of 12VAC5-221 of the Virginia Administrative Code.