

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 38.2-3540.1 of the Code of Virginia, relating to health insurance; claims experience information.

[H 1450]

Approved

Be it enacted by the General Assembly of Virginia:
1. That § 38.2-3540.1 of the Code of Virginia is amended and reenacted as follows:
§ 38.2-3540.1. Claims experience.

A. As used in this section, "employee welfare benefit plan" has the same meaning as provided in 29 U.S.C. § 1002(1).

B. Each group accident and sickness insurance policy and health care employee welfare benefit plan shall contain a provision which that provides that the insurer, third-party administrator, or pharmacy benefits manager with respect to pharmacy claims, upon request, shall provide a policyholder that employed an average of at least 100 individuals who were insureds, subscribers, or enrollees on business days during the preceding 12-month period with a complete record of the policyholder's medical claims experience or medical costs incurred, including pharmacy benefits claims experience or pharmacy costs under the group policy, contract or employee welfare benefit plan. This record shall include all claims incurred for the lesser of (i) the period of time since the policy, contract or employee welfare benefit plan was issued or issued for delivery or (ii) the period of time since the policy, contract, or employee welfare benefit plan was last renewed, reissued, or extended, if already issued. This record shall be made available promptly to the policyholder upon request made not less than 30 days prior to the date upon which the premiums or contractual terms of the policy, contract or employee welfare benefit plan may be amended. Nothing in this section shall require the disclosure of personal or privileged information about an individual that is protected from disclosure under Chapter 6 (§ 38.2-600 et seq.) of this title, or under any other applicable federal or state law or regulation. No policyholder shall be required to pay for information requested pursuant to this section.

C. A policyholder that employed an average of at least 100 individuals who were insureds, subscribers, or enrollees on business days during the preceding 12-month period shall receive from its insurer, third-party administrator, or pharmacy benefits manager with respect to pharmacy claims, upon request, at the time that the insurer, third-party administrator, or pharmacy benefits manager provides a record of medical claims experience or medical costs, including pharmacy benefits claims experience or pharmacy costs, under subsection A of this section B (i) a summary of medical claims charges or medical costs incurred and the amount paid with respect to those claims for the most recently available 24-month period; (ii) a listing of the number of insured, subscribers, or enrollees for whom combined medical claims payments or medical costs exceed \$100,000 for the most recently available 12-month period, and for the preceding 12 months if not previously provided, with information as to whether these enrollees from the most recently available 12-month period remain enrolled under the policy, and provided that a policyholder and insurer, third-party administrator, or pharmacy benefits manager may agree by contract to provide the listing for amounts less than \$100,000; and (iii) total enrollment in each membership type as of the end of the most recently available 12-month period. This record shall be made available to the policyholder within 20 business days upon written request made not less than 45 days prior to the date upon which the premiums or contractual terms of the policy may be amended. Nothing in this section shall require the disclosure of personal or privileged information about an individual that is protected from disclosure under Chapter 6 (§ 38.2-600 et seq.) of this title, or under any other applicable federal or state law or regulation. No policyholder shall be required to pay for information requested pursuant to this section.

D. With respect to group accident and sickness insurance policies, the requirements of this section shall apply to all policies, contracts, and plans delivered, issued for delivery, reissued or extended on and after July 1, 2003, or at any time after the effective date hereof when any term of any such policy, contract or plan is changed or any premium adjustment is made. With respect to health care plans, the requirements of this section shall apply to all contracts delivered, issued for delivery, reissued or extended on and after January 1, 2005, or at any time after the effective date hereof when any term of any such contract or plan is changed or any premium adjustment is made.

2. That the provisions of this act shall apply to all employee welfare benefit plans, as defined in § 38.2-3540.1 of the Code of Virginia, as amended by this act, delivered, issued for delivery, reissued, or extended on or after January 1, 2027

3. That the provisions of this act shall not become effective unless reenacted by the 2027 Session of the General Assembly.