

1 HOUSE BILL NO. 773  
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
 3 (Proposed by the House Committee on Commerce and Energy  
 4 on February 1, 2022)  
 5 (Patron Prior to Substitute--Delegate Hodges)

6 A BILL to amend and reenact § 38.2-3407.10:1 of the Code of Virginia, relating to health insurance;  
 7 provider credentialing; receipt of application.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 38.2-3407.10:1 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 38.2-3407.10:1. Reimbursement for services rendered during pendency of a participating**  
 11 **provider's credentialing application.**

12 A. As used in this section:

13 "Carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and  
 14 subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange  
 15 for, pay for, or reimburse any of the costs of health care services or mental health services, including an  
 16 insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health  
 17 services plan, or any other entity providing a plan of health insurance, health benefits, health care services,  
 18 or mental health services.

19 "Covered person" means a policyholder, subscriber, enrollee, participant, or other individual  
 20 covered by a health benefit plan.

21 "Health benefit plan" means a policy, contract, certificate, or agreement offered by a carrier to  
 22 provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

23 "Mental health professional" has the meaning ascribed thereto in § 54.1-2400.1.

24 "Mental health services" means benefits with respect to items or services provided by mental health  
 25 professionals for mental health conditions as defined under the terms of a health benefit plan.

26 "Network" means a group of participating providers who provide health care services under the  
27 carrier's health benefit plan that requires or creates incentives for a covered person to use the participating  
28 providers.

29 "New provider applicant" means a physician, mental health professional, or other provider who  
30 has submitted a completed credentialing application to a carrier.

31 "Other provider" means a person, corporation, facility, or institution licensed by the  
32 Commonwealth under Title 32.1 or 54.1 to provide health care or professional health-related services on  
33 a fee basis.

34 "Participating mental health professional" means a mental health professional who is managed,  
35 under contract with, or employed by a carrier and who has agreed to provide health care services to covered  
36 persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles,  
37 directly or indirectly from the carrier.

38 "Participating other provider" means an other provider who is managed, under contract with, or  
39 employed by a carrier and who has agreed to provide such health care or professional services to covered  
40 persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles,  
41 directly or indirectly from the carrier.

42 "Participating physician" means a physician who is managed, under contract with, or employed by  
43 a carrier and who has agreed to provide health care services or mental health services to covered persons  
44 with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly  
45 or indirectly from the carrier.

46 "Participating provider" means a participating physician, participating mental health professional,  
47 or participating other provider.

48 "Physician" means a doctor of medicine or osteopathic medicine holding an active license from  
49 the Board of Medicine.

50 B. A carrier that credentials the physicians, mental health professionals, or other providers in its  
51 network shall establish reasonable protocols and procedures for reimbursing new provider applicants,  
52 within 30 days of being credentialed by the carrier, for health care services or mental health services

53 provided to covered persons during the period in which the applicant's completed credentialing application  
54 is pending. At a minimum, the protocols and procedures shall:

55 1. Apply only if the new provider applicant's credentialing application is approved by the carrier;

56 2. Permit reimbursement to a new provider applicant for services rendered from the date the new  
57 provider applicant's completed credentialing application is received for consideration by the carrier;

58 3. Notwithstanding the provisions of subdivision 1 or 4, if the carrier accepts applications through  
59 an online credentialing system, require the carrier to recognize notification to a new provider applicant  
60 through the online credentialing system that the provider has submitted and attested to the application as  
61 notice by the carrier that the application is received. If the carrier does not accept applications through an  
62 online credentialing system, the carrier shall be required, within 10 days of receiving an application, to  
63 provide notification to the new provider applicant either by mail or electronic mail, as selected by the  
64 applicant, that the application was received;

65 4. Apply only if a contractual relationship exists between the carrier and the new provider applicant  
66 or entity for whom the new provider applicant is employed or engaged; and

67 ~~4.5.~~ Require that any reimbursement be paid at the in-network rate that the new provider applicant  
68 would have received had he been, at the time the covered health care services were provided, a credentialed  
69 participating provider in the network for the applicable health benefit plan.

70 C. Nothing in this section shall require reimbursement of the new provider applicant-rendered  
71 services that are not benefits or services covered by the carrier's health benefit plan.

72 D. Nothing in this section requires a carrier to pay reimbursement at the contracted in-network rate  
73 for any covered health care services or mental health services provided by the new provider applicant if  
74 the new provider applicant's credentialing application is not approved or the carrier is otherwise not willing  
75 to contract with the new provider applicant.

76 E. Payments made or retroactive denials of payments made under this section shall be governed  
77 by § 38.2-3407.15.

78 F. If a payment is made by the carrier to a new provider applicant or any entity that employs or  
79 engages such new provider applicant under this section for a covered service, the patient shall only be

80 responsible for any coinsurance, copayments, or deductibles permitted under the insurance contract with  
81 the carrier or participating provider agreement with the physician, mental health professional, or other  
82 provider. If the new provider applicant is not credentialed by the carrier, the new provider applicant or  
83 any entity that employs or engages such physician, mental health professional, or other provider shall not  
84 collect any amount from the patient for health care services or mental health services provided from the  
85 date the completed credentialing application was submitted to the carrier until the applicant received  
86 notification from the carrier that credentialing was denied.

87 G. New provider applicants, in order to submit claims to the carrier pursuant to this section, shall  
88 provide written or electronic notice to covered persons in advance of treatment that they have submitted  
89 a credentialing application to the carrier of the covered person, stating that the carrier is in the process of  
90 obtaining and verifying the following pursuant to credentialing regulations:

91 "Notice of Provider credentialing and re-credentialing.

92 Your health insurance carrier is required to establish and maintain a comprehensive credentialing  
93 verification program to ensure that its physicians, mental health professionals, and other providers meet  
94 the minimum standards of professional licensure or certification. Written supporting documentation for  
95 (i) physicians, (ii) mental health professionals who have completed their residency or fellowship  
96 requirements for their specialty area more than 12 months prior to the credentialing decision, or (iii) other  
97 providers shall include:

- 98 1. Current valid license and history of licensure or certification;
- 99 2. Status of hospital privileges, if applicable;
- 100 3. Valid U.S. Drug Enforcement Administration certificate, if applicable;
- 101 4. Information from the National Practitioner Data Bank, as available;
- 102 5. Education and training, including postgraduate training, if applicable;
- 103 6. Specialty board certification status, if applicable;
- 104 7. Practice or work history covering at least the past five years; and
- 105 8. Current, adequate malpractice insurance and malpractice history covering at least the past five  
106 years.

**107** Your health insurance carrier is in the process of obtaining and verifying the above information in  
**108** order to determine if your physician, mental health professional, or other provider will be credentialed or  
**109** not."

**110** H. The provisions of this section shall not apply to coverages issued by a Medicare Advantage  
**111** plan, but shall apply to health maintenance organizations that issue coverage pursuant to Title XIX of the  
**112** Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid).

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

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