

COMMONWEALTH OF VIRGINIA

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Letter Withdrawn By Administrative Letter 2015-08

February 2, 2015

Administrative Letter 2015-01

To: All Companies Licensed to Write Accident and Sickness Insurance in Virginia, All Health Services Plans and Health Maintenance Organizations Licensed in Virginia (Collectively Referred to as “Carriers” in this Letter)

Re: Section 38.2-3418.17 of the Code of Virginia – Coverage for Autism Spectrum Disorder – Section 38.2-3432.2 – Guaranteed Availability

The 2011 Virginia General Assembly enacted § 38.2-3418.17 of the Code of Virginia (Code), known as the autism mandate, which provides for the diagnosis and treatment of autism spectrum disorder in children from age 2 through age 6, including the treatment known as applied behavior analysis (ABA). Among other things, subsection F as written specifically exempts “plans issued in the individual market or small group markets *to employers with 50 or fewer employees....*” (emphasis added). Further, subsection L specifically exempts a Qualified Health Plan (QHP) from providing coverage for specific benefits that exceed essential health benefits (i.e., ABA) in the SHOP Exchange.

The Bureau of Insurance (Bureau) has been approached by several carriers who have asked for advice concerning this provision’s applicability to health plans that will be issued in the small group market on or after January 1, 2016, when the definition of “small employer” increases from a maximum of 50 employees to 100 employees pursuant to § 38.2-3431. This issue is further complicated by guaranteed availability requirements.

Section 38.2-3432.2 A 2 provides:

All products that are approved for sale in the small group market that the health insurance issuer is actively marketing must be offered to all small employers, and the health insurance issuer must accept any employer that applies for any of those products.

While the plain language of the autism mandate applies only to health plans sold to employers with more than 50 employees, the guaranteed availability requirements of the Code require that any plan approved for sale and actively marketed must be offered

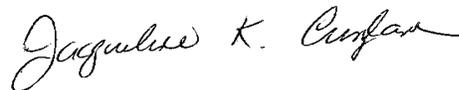
to all small employers. Therefore, unless and until clarifying language is adopted by the Virginia General Assembly, the Bureau will expect carriers to provide autism spectrum disorder coverage to all employers in the small group market on or after January 1, 2016. Further, carriers will not be able to renew current plans on or after January 1, 2016 that do not provide coverage as stated in this letter, unless an exception applies.

A plan filed as a QHP for use on the SHOP Exchange may apply the exemption contained in subsection L of § 38.2-3418.17. Related forms may contain variable language showing inclusion or exclusion of the ABA benefit for QHPs.

Questions relating to this matter should be referred to:

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Sincerely,



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