

CHAPTER 462

An Act to amend and reenact § 38.2-3418.13 of the Code of Virginia, relating to accident and sickness insurance; coverage for the treatment of morbid obesity.

[S 1081]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3418.13 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3418.13. Coverage for the treatment of morbid obesity.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall offer and make available coverage under any such policy, contract or plan for the treatment of morbid obesity through gastric bypass surgery or such other methods as may be recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. The provisions of this section shall apply to any such policy, contract or plan delivered, issued for delivery, or renewed in this Commonwealth on and after July 1, 2000.

B. The reimbursement for the treatment of morbid obesity shall be determined according to the same formula by which charges are developed for other medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally. ~~Insurers may not~~ *Standards and criteria, including those related to diet, used by insurers to approve or restrict access to surgery for morbid obesity shall be based upon dietary or any other criteria not approved current clinical guidelines recognized by the National Institutes of Health.*

C. For purposes of this section, "morbid obesity" means (i) a weight that is at least 100 pounds over or twice the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables, (ii) a body mass index (BMI) equal to or greater than 35 kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes, or (iii) a BMI of 40 kilograms per meter squared without such comorbidity. As used herein, BMI equals weight in kilograms divided by height in meters squared.

D. The provisions of this section shall not apply to short-term travel, accident-only, limited or specified disease policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or governmental plans or to short-term nonrenewable policies of not more than six months' duration.

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