

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1979

6 By: Hilbert

7 COMMITTEE SUBSTITUTE

8 An Act relating to vision care services; defining
9 terms; imposing requirements with respect to
10 agreements between vision care plans and service
11 providers; prohibiting charges in excess of certain
12 amount; imposing standard with respect to
13 reimbursement rates; prohibiting effect on certain
14 pricing of materials or services; providing for
15 adjustment based on inflation; prescribing method for
16 computation of adjustments; requiring certain
17 offerings relates to premium lenses; prohibiting
18 communication of certain information; prohibition
19 certain incentives; providing for application of
20 provisions to subcontractors; prohibiting agreements
21 from requiring participation or credentialing with
22 certain entities; providing for reimbursement using
23 certain standard; prohibiting insurer from requiring
24 certain terms and conditions with respect to eye care
service providers; imposing requirements with respect
to subcontractor agreements; providing for
applicability of requirements to agreements pursuant
to health care plans; defining certain actions to
constitute unfair trade practice; prohibiting
modification of agreements; requiring procedures
prior to modification; prescribing procedures related
to process for modification of agreements;
prohibiting limitations on choices by eye care
service providers; prohibiting certain changes in
terms, discounts or reimbursement rates without
agreement; authorizing civil remedies for violations;
authorizing treble damages; imposing duties on
Insurance Commissioner; providing for fines; imposing
duties on Attorney General; authorizing injunctive
relief; providing for applicability of act; providing

1 for applicability of act based on renewal of certain
2 plans; providing for codification; and declaring an
3 emergency.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6971 of Title 36, unless there
7 is created a duplication in numbering, reads as follows:

8 As used in this act:

9 1. "Contractual discount" means a reduction from a provider's
10 usual and customary rate for covered services and materials required
11 under a participating provider agreement;

12 2. "Covered services" means services for which reimbursement
13 from the insurer, vision care plan or vision care discount plan is
14 provided to a vision care provider by an enrollee's plan contract,
15 or for which a reimbursement would be available but for the
16 application of the enrollee's contractual plan limitations of
17 deductibles, copayments, or coinsurance, regardless of how the
18 benefits are listed in an enrollee's benefit plan's definition of
19 benefits;

20 3. "Covered materials" means materials for which reimbursement
21 from the insurer, vision care plan or vision care discount plan is
22 provided to a vision care provider by an enrollee's plan contract,
23 or for which a reimbursement would be available but for the
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1 application of the enrollee's contractual limitations of
2 deductibles, copayments, or coinsurance;

3 4. "Services" means the professional work performed by an eye
4 care provider as defined in this section;

5 5. "Materials" means ophthalmic devices including but not
6 limited to lenses, devices containing lenses, artificial intraocular
7 lenses, ophthalmic frames and other lens mounting apparatus, prisms,
8 lens treatments and coatings, contact lenses, and prosthetic devices
9 to correct, relieve, or treat defects or abnormal conditions of the
10 human eye or its adnexa, or any material allowed to be utilized by
11 Oklahoma Board of Examiners in Optometry and Optometry's Scope of
12 Practice as provided by law;

13 6. "Eye Care Provider" means a licensed doctor of optometry
14 practicing under the authority of the applicable provisions of Title
15 59 of the Oklahoma Statutes or a licensed medical or osteopathic
16 doctor practicing under the authority of the applicable provisions
17 of Title 59 of the Oklahoma Statutes;

18 7. "Vision Care Plan" means an entity that creates, promotes,
19 sells, provides, advertises or administers, an integrated or stand-
20 alone vision benefit plan, or a vision care insurance policy or
21 contract which provides vision benefits to an enrollee pertaining to
22 the provision of covered services or covered materials;

23 8. "Insurer" means a health plan as defined in Section 1161 of
24 this title of the Oklahoma Statutes;

1 9. "Vision care discount plan" means an entity which has been
2 specifically authorized by the vision care providers to provide
3 discounts to patients;

4 10. "Subcontractor" means any company, group or third party
5 entity including agents, servants, partially or wholly owned
6 subsidiaries and controlled organizations contracted by the insurer,
7 vision care plan or vision care discount plan to supply services or
8 materials for an eye care provider or enrollee to fulfill the
9 benefit plan of an insurer, vision care plan or vision care discount
10 plan; and

11 11. "Enrollee" means any individual enrolled in a health care
12 plan, vision care plan or vision care discount plan provided by a
13 group, employer or other entity that purchases or supplies coverage
14 for a vision care plan or vision care discount plan.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6972 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 A. No agreement between an insurer, vision care plan or vision
19 care discount plan and an eye care provider may seek to or require
20 that an eye care provider provide services or materials at a fee
21 limited or set by the insurer, vision care plan or vision care
22 discount plan unless the services or materials are reimbursed as
23 covered services or covered materials under the contract.

1 B. An eye care provider shall not charge more for services and
2 materials that are noncovered services or noncovered materials to an
3 enrollee of a vision care plan or insurer than his or her usual and
4 customary rate for those services and materials.

5 C. Reimbursements paid by an insurer, vision care plan, or
6 vision care discount plan for covered services and covered
7 materials, regardless of supplier or optical lab used to obtain
8 materials, shall be reasonable, shall be clearly listed on a fee
9 schedule that is made available to the vision care provider prior to
10 accepting a contract from the insurer, vision care plan or vision
11 discount plan and shall not provide nominal reimbursement or
12 advertise services and materials to be covered with additional copay
13 or coinsurance if the health plan, vision care plan or vision care
14 discount plan do not reimburse for the services or materials in
15 order to claim that services and materials are covered services and
16 materials.

17 D. Vision plans shall not in any manner impact the pricing of
18 noncovered services or materials.

19 E. Vision care plans shall calculate an annual adjustment,
20 using the increase if any in the Consumer Price Index for All Urban
21 Consumers (CPI-U), and cause reimbursement rates to reflect such
22 increases.

23 F. Vision plans shall provide standard reimbursements for all
24 lenses with the same design, quality and composition. The period of

1 time prescribed by a contract between any vision service plan and a
2 provider of vision care services for the vision service plan to
3 recover any reimbursement amount from a vision care service provider
4 shall be the same period of time allowed or required for any vision
5 service provider to recover any reimbursement amount from a vision
6 service plan.

7 G. Insurers, vision care plans and vision care discount plans
8 shall not publish, disseminate or falsely represent the benefits
9 that are provided to groups, employers or individual enrollees as a
10 means of selling coverage to or communicating benefit coverage to
11 enrollees.

12 H. Vision plans shall not incentivize patients in order to move
13 them to entities owned in part or in whole by the vision plans or
14 subsidiaries of the plans.

15 I. All provisions in this act shall apply to any subcontractors
16 that are used by an insurer, vision care plan or vision care
17 discount plan to supply materials or services to an eye care
18 provider or enrollee and be subject to all applicable penalties as
19 referenced in this section.

20 J. Vision plans shall not entice or market to influence a
21 patient's choice of eye care providers.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 6973 of Title 36, unless there
24 is created a duplication in numbering, reads as follows:

1 A. No agreement between an insurer, vision care plan or vision
2 care discount plan and a vision care provider shall require that an
3 eye care provider must participate with or be credentialed by any
4 specific vision care plan or vision care discount plan as a
5 condition for participation in the health care network of the
6 insurer to provide covered medical services to its enrollees.

7 B. Any insurer issuing or renewing a health benefit plan,
8 vision care plan or vision care discount plan issued or renewed
9 which provides coverage for services rendered by a physician or
10 osteopath duly licensed pursuant to law that are within the scope of
11 practice of an optometrist duly licensed under the applicable
12 provisions of Title 59 of the Oklahoma Statutes shall provide the
13 same reimbursement for services to optometrists as allowed for those
14 services rendered by physicians or osteopaths.

15 C. An insurer shall not require an optometrist to meet terms
16 and conditions that are not required of a physician or osteopath as
17 a condition for participation in its provider network for the
18 provision of services that are within the scope of practice of an
19 optometrist.

20 D. A clause requiring that if a provider enters into any
21 subcontract agreement with another provider to provide their
22 licensed health care services to the subscriber, dependent of the
23 subscriber, or enrollee of a managed care plan where the
24 subcontracted provider will bill the managed care plan or subscriber

1 or enrollee directly for the subcontracted services, the subcontract
2 agreement must meet all requirements of this act and that all such
3 subcontract agreements shall be filed with the Insurance
4 Commissioner in accordance with this subsection.

5 E. The provisions of subsections A, B, and C of this section
6 shall also apply to any agreements an insurer enters into to provide
7 services covered under the health benefit plan, vision care plan or
8 vision care discount plan.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6974 of Title 36, unless there
11 is created a duplication in numbering, reads as follows:

12 It is an unfair trade practice for an insurer that offers
13 multiple vision benefit plans or multiple vision discount plans to
14 require an eye care provider, as a condition of participation in a
15 vision benefit plan or vision discount plan of the insurer, to
16 participate in any of the insurer's other vision benefit plans or
17 vision discount plans. In addition to the proceedings and penalties
18 provided in this act for violation of this provision, a contract
19 provision violating this section is void.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6975 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

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1 An insurer, vision care plan or vision care discount plan shall
2 not change or alter an agreement entered into with an eye care
3 provider without performing the following steps:

4 1. A certified letter or an electronic communication requiring
5 an electronic signature proving receipt, detailing proposed changes
6 shall be sent to eye care providers and a face-to-face or virtual
7 meeting shall be conducted if requested by the eye care provider;

8 2. Vision care plans shall supply the eye care providers with
9 an explanation of benefits and/or explanation of payment for
10 services and materials rendered by the provider upon request,
11 regardless of the provider's network status with Vision Care Plan;

12 3. It is required that an eye care provider to either agree or
13 not agree to proposed changes. If the changes in the contract are
14 not agreed to by the eye care provider then the current agreement
15 shall continue and the insurer, vision care plan or vision care
16 discount may not remove the eye care provider from a panel or plan
17 for not accepting the changes to a contract;

18 4. A new agreement is required to be established and agreed
19 upon after three or more material changes are made to an existing
20 agreement from an insurer, vision care plan or vision care discount
21 plan; and

22 5. Any amendment to a proposed contract that is being reviewed
23 by a service provider prior to its execution and any amendment to an
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1 existing contract with a service provider shall be underlined to
2 clearly indicate the contract modification.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6976 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 No agreement between an insurer, vision care plan or vision care
7 discount plan and an eye care provider shall restrict or limit,
8 either directly or indirectly, the vision care provider's choice of
9 sources and suppliers of services or materials or use of optical
10 labs provided by the eye care provider to an enrollee.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 6977 of Title 36, unless there
13 is created a duplication in numbering, reads as follows:

14 No insurer, vision care plan or vision care discount plan shall
15 change the terms, discounts or reimbursement rates contained
16 therein, regardless of supplier or fabricating lab used to supply
17 materials.

18 SECTION 8. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 6978 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 Any person adversely affected by a violation of this act may
22 bring action in a court of competent jurisdiction for injunctive
23 relief against the insurer, vision care discount plan or vision care
24 plan and, upon prevailing, in addition to such injunctive relief,

1 may recover monetary damages of equal to three (3) times the actual
2 damages caused by the insurer, vision care discount plan or vision
3 care plan plus attorney's fees and costs.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6979 of Title 36, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The Insurance Commissioner shall:

8 1. Enforce the state's insurance laws and the provision of this
9 act using powers granted to the Commissioner by law; and

10 2. Be entitled to seek an injunction against an insurer, vision
11 care plan or vision care discount plan in a court of competent
12 jurisdiction.

13 B. The Insurance Commissioner shall fine vision plans One
14 Hundred Thousand Dollars (\$100,000.00) for each violation of the
15 provisions of this act.

16 C. The Insurance Commissioner shall have the authority to
17 prohibit the marketing of vision plans in Oklahoma that repeatedly
18 violate the provisions of this act.

19 SECTION 10. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6980 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 The Attorney General shall:
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1 1. Enforce the state's laws and this provision concerning
2 discount card plans using powers granted to the Attorney General by
3 law; and

4 2. Be entitled to seek an injunction against an insurer, vision
5 care plan or vision care discount plan in a court of competent
6 jurisdiction.

7 SECTION 11. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6981 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The requirements of this section apply to insurer, vision
11 care plan and vision care discount plan policies, contracts,
12 addendums and certificates executed, delivered, issued for delivery,
13 continued or renewed in this State.

14 B. No insurer, vision care plan contract or vision care
15 discount plan contract may be longer than two (2) years from the
16 date that it was first signed.

17 C. No insurer, vision care plan or vision care discount plan
18 shall construe re-credentialing as re-contracting with a vision care
19 provider. All contracts must be a distinctly separate document from
20 any credentialing materials and signed by the provider.

21 SECTION 12. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 6982 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:

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1 The provisions of this act shall include all vision care plans
2 and discount card plans upon renewal of enrollee's current plan or
3 upon issue of a new plan to any enrollee. No contract provision
4 shall violate the letter of the law.

5 SECTION 13. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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