

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT


No. 2

COMMITTEE AMENDMENT

(Date)

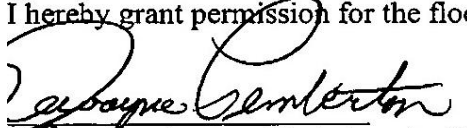
I move to amend House Bill No. 1979 by the attached floor substitute (Request No. 3435) for the title, enacting clause, and entire body of the measure.

Submitted by:




Senator Haste

I hereby grant permission for the floor substitute to be adopted.

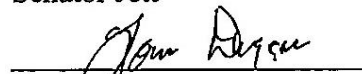


Senator Pemberton, Chair (required)


Senator Jett



Senator Coleman




Senator Dugger



Senator Garvin

Senator Hamilton



Senator Matthews



Senator Prieto



Senator Woods

Senator Young

Senator Treat, President Pro Tempore

Senator McCortney, Majority Floor Leader

Note: Retirement and Insurance committee majority requires six (6) members' signatures.

Haste-RD-FS2-HB1979
2/5/2024 10:15 AM

(Floor Amendments Only)

Date and Time Filed: 2-7-24 3:22 pm *fd*

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1979

By: Hilbert, Fetgatter, Lawson,
Johns, and Bashore of the
House

6 and

7 Haste, Hicks, Weaver, and
8 Stanley of the Senate

9
10 FLOOR SUBSTITUTE

11 [vision care - agreements - requirements - notice -
12 terms and conditions - certification - application -
13 securities - policy - report - plans - participation
14 - codification -
15 emergency]

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

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6972 of Title 36, unless there
19 is created a duplication in numbering, reads as follows:

20 As used in this act:

21 1. "Contractual discount" means a reduction from a provider's
22 usual and customary rate for covered services and materials required
23 under a prepaid vision plan agreement with a provider;

24 2. "Covered materials" means materials for which reimbursement
from the insurer, vision plan, or vision care discount plan is

1 provided to a vision care provider by an enrollee's plan contract,
2 or for which a reimbursement would be available but for the
3 application of the enrollee's contractual limitations of
4 deductibles, copayments, or coinsurance;

5 3. "Covered services" means services eligible for reimbursement
6 from the insurer or vision plan to a provider, or services that
7 would be eligible for reimbursement but for the application of the
8 enrollee's contractual plan limitations of deductibles, copayments,
9 or coinsurance, regardless of how the benefits are listed in the
10 explanation of benefits provided in the vision plan of the enrollee;

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

15 5. "Extrapolation" means a mathematical process or technique
16 used by a vision plan in the process of auditing a vision care
17 provider to estimate audit results for a larger batch of group
18 claims not reviewed in the audit by the plan;

19 6. "Health benefit plan" means a health benefit plan as defined
20 pursuant to Section 6060.4 of Title 36 of the Oklahoma Statutes;

21 7. "Materials" means ophthalmic devices including but not
22 limited to lenses, devices containing lenses, artificial intraocular
23 lenses, ophthalmic frames and other lens mounting apparatus, prisms,
24 lens treatments and coatings, contact lenses, and prosthetic devices

1 to correct, relieve, or treat defects or abnormal conditions of the
2 human eye or its adnexa, or any material allowed to be utilized by
3 the Board of Examiners in Optometry and optometry's scope of
4 practice as provided by law;

5 8. "Net equity" means the excess of total assets over total
6 liabilities, excluding liabilities which have been subordinated in a
7 manner acceptable to the Insurance Commissioner;

8 9. "Prepaid vision plan" means any contractual agreement
9 whereby any prepaid vision plan organization undertakes to provide
10 full payment or a discount of vision services directly, to arrange
11 for prepaid vision services, or to pay or make reimbursement for any
12 vision service not provided for by other insurance;

13 10. "Prepaid vision plan organization" means any person who, or
14 organization or entity that, undertakes to conduct one or more
15 prepaid vision plans providing only vision services;

16 11. "Services" means the professional work performed by a
17 vision care provider;

18 12. "Subcontractor" means any company, group, or third-party
19 entity including agents, servants, partially or wholly owned
20 subsidiaries, and controlled organizations contracted by the
21 insurer, vision plan, or vision care discount plan to supply
22 services or materials for a vision care provider or enrollee to
23 fulfill the benefit plan of an insurer, vision plan, or vision care
24 discount plan;

1 13. "Tangible net equity" means net equity reduced by the value
2 assigned to intangible assets including, but not limited to,
3 goodwill, going concern value, organizational expenses, start-up
4 costs, long-term prepayments of deferred charges, nonreturnable
5 deposits, and obligations of officers, directors, owners, or
6 affiliates, except short-term obligations of affiliates for goods or
7 services arising in the normal course of business that are payable
8 on the same term as equivalent transactions with nonaffiliates and
9 that are not past due;

10 14. "Uncovered expense" means the cost of health care services
11 that are the obligation of a prepaid vision plan organization for
12 which:

- 13 a. an enrollee may be liable in the event of the
14 insolvency of the organization, and
- 15 b. alternative arrangements acceptable to the
16 Commissioner have not been made to cover the costs;
17 and

18 15. "Vision care provider" or "provider" means a licensed
19 doctor of optometry or a licensed medical or osteopathic doctor
20 practicing under the authority of the applicable provisions of Title
21 59 of the Oklahoma Statutes.

22 SECTION 2. 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 or prepaid vision plan and a
2 vision care provider may require that a provider provide services or
3 materials at a fee limited or set by the insurer or prepaid vision
4 plan, unless the services or materials are reimbursed as covered
5 services or covered materials under the contract.

6 B. A provider shall not charge more for services and materials
7 that are not covered services or materials to an enrollee of a
8 prepaid vision plan or insurer than his or her usual and customary
9 rate for those services and materials.

10 C. Reimbursements paid by an insurer or prepaid vision plan for
11 covered services and covered materials, regardless of the supplier
12 or optical lab used to obtain materials, shall be at the usual,
13 customary, and reasonable rate and made available to the vision care
14 provider prior to the provider accepting a contract from the insurer
15 or prepaid vision plan. An insurer or prepaid vision plan shall not
16 provide nominal reimbursement or advertise services and materials to
17 be covered with additional copay or coinsurance in order to claim
18 that services and materials are covered services and materials if
19 the health benefit plan or prepaid vision plan does not reimburse
20 for the services or materials.

21 D. Prepaid vision plans shall not in any manner impact the
22 pricing of noncovered services or materials.

23 E. Prepaid vision plans shall provide standard reimbursements
24 for all lenses with the same design, quality, and composition. The

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

6 F. A prepaid vision plan shall not use extrapolation to
7 complete an audit of a vision care provider. Any additional payment
8 due to a provider or any refund to a prepaid vision plan shall be
9 based on actual overpayment or underpayment and shall not be based
10 on extrapolation.

11 G. A prepaid vision plan shall not incentivize patients to
12 receive vision care services at an entity owned wholly or in part by
13 the plan or subsidiaries of the plan. Any entity providing vision
14 care services shall provide notice to patients that an entity is
15 owned wholly or in part by the plan or subsidiaries of the plan.

16 H. No person or entity shall sell, solicit, or negotiate any
17 prepaid vision plan to an enrollee in this state without an approved
18 certificate of authority under Section 7 of this act.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6974 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A. 1. No agreement between an insurer or a prepaid vision plan
23 and a vision care provider shall require that a provider participate
24 with or be credentialed by any specific prepaid vision plan as a

1 condition for participation in the health care network of the
2 insurer to provide covered services to its enrollees.

3 2. In the event that a vision care provider is credentialed by
4 an insurer or vision care plan organization, no insurer or vision
5 care plan organization shall construe re-credentialing as re-
6 contracting with a vision care provider. All contracts shall be
7 distinct and separate documents from any credentialing materials.

8 B. Any insurer issuing or renewing a health benefit plan or
9 prepaid vision plan which provides coverage for services rendered by
10 a duly licensed physician or osteopath that are within the scope of
11 practice of a duly licensed optometrist shall provide the same
12 reimbursement for services to optometrists as allowed for those
13 services rendered by physicians or osteopaths.

14 C. No insurer or prepaid vision plan organization shall require
15 an optometrist to meet terms and conditions that are not required of
16 a physician or osteopath as a condition for participation in its
17 provider network for the provision of services that are within the
18 scope of practice of an optometrist.

19 D. If a vision care provider enters into any subcontract
20 agreement with another provider to provide his or her licensed
21 health care services to the enrollee, dependent of the enrollee, or
22 an enrollee of a managed care plan where the subcontracted provider
23 will bill the managed care plan or enrollee directly for the
24

1 subcontracted services, the subcontract agreement shall meet all
2 requirements of this act.

3 E. Any duly licensed vision care provider shall be allowed
4 participation in a prepaid vision plan network.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6975 of Title 36, unless there
7 is created a duplication in numbering, reads as follows:

8 A. An insurer or prepaid vision plan organization shall not
9 change or alter an agreement entered into with a vision care
10 provider unless the insurer or organization:

11 1. Provides notice of any proposed change to the provider
12 through a certified letter or an electronic communication requiring
13 an electronic signature proving receipt detailing proposed changes
14 to the vision care provider. A face-to-face or virtual meeting
15 shall be conducted if requested by the provider. If the changes in
16 the contract are not agreed to by the vision care provider within
17 ninety (90) days of the date of the provided notice, the agreement
18 shall terminate; and

19 2. Supplies the vision care provider with an explanation of
20 benefits and an explanation of payment for services and materials
21 rendered by the provider upon request, regardless of the provider's
22 network status with the vision plan.

23 B. 1. A new agreement is required to be established and agreed
24 upon after three or more material changes are made to an existing

1 agreement from an insurer, vision plan, or vision care discount
2 plan.

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

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

10 No agreement between an insurer or prepaid vision plan and a
11 vision care provider shall restrict or limit, either directly or
12 indirectly, the provider's choice of sources and suppliers of
13 services or materials or use of optical labs provided by the vision
14 care provider to an enrollee. Vision care providers shall not
15 receive reduced reimbursement for using labs and suppliers that the
16 provider chooses to best serve patient outcomes.

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6977 of Title 36, unless there
19 is created a duplication in numbering, reads as follows:

20 A. No person, organization, or entity, unless authorized
21 pursuant to an approved certificate of authority under Section 7 of
22 this act, shall establish or operate a prepaid vision plan
23 organization in this state or sell, offer to sell, solicit offers to
24 purchase, or receive advance or periodic consideration in

1 conjunction with a prepaid vision plan without obtaining and
2 maintaining a certificate of authority.

3 B. On or before February 1, 2025, every prepaid vision plan
4 organization operating in this state shall submit an application for
5 a certificate of authority to the Insurance Commissioner. Each
6 applicant may continue to operate as an organization until the
7 Commissioner acts upon the application.

8 C. An application for a certificate of authority to operate as
9 a prepaid vision plan organization shall be electronically filed
10 with the Insurance Commissioner in the form and manner prescribed by
11 the Commissioner, along with any transaction or other applicable
12 fees. The application shall be verified by an officer or authorized
13 representative of the applicant and shall set forth or be
14 accompanied by:

15 1. A copy of any documents of organization of the applicant
16 such as the articles of incorporation, articles of association,
17 partnership agreement, trust agreement, or other applicable
18 documents, with all amendments to the documents;

19 2. A copy of any bylaws, rules, regulations, or similar
20 documents regulating the conduct of the internal affairs of the
21 applicant;

22 3. A list of the names, addresses, and official positions of
23 the persons who are responsible for the conduct of the business
24 affairs of the applicant, including all members of the board of

1 directors, board of trustees, executive committee, or other
2 governing board or committee, and the principal officers, in the
3 case of a corporation, or the partners or members in the case of a
4 partnership or association;

5 4. A copy of the form of any contract made or to be made
6 between any providers of vision services or persons listed in
7 paragraph 3 of this subsection and the applicant;

8 5. A statement generally describing the prepaid vision plan
9 organization, the facilities, personnel of the organization, and
10 prepaid vision plans offered by the organization;

11 6. A copy of the form of individual or group coverage or a copy
12 of any form of evidence of coverage to be issued to enrollees;

13 7. Financial statements showing assets, liabilities, and
14 sources of financial support of the applicant. If the financial
15 affairs of the applicant are audited by independent certified public
16 accountants, a copy of the most recent regular certified financial
17 statement for the applicant shall satisfy the requirement of this
18 paragraph, unless the Commissioner determines that additional or
19 more recent financial information is required;

20 8. A description of the proposed method of marketing the
21 prepaid vision plan, a financial prospectus which includes a three-
22 year projection of the initial operating results anticipated, and a
23 statement as to the sources of working capital available for the
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1 operation of the prepaid vision plan and any other source of
2 funding;

3 9. A power of attorney, duly executed by the applicant if not
4 domiciled in this state, appointing the Commissioner as the true and
5 lawful representative for service of process for the applicant in
6 this state upon whom all lawful process in any legal action or
7 proceeding against the prepaid vision plan organization on a cause
8 of action arising in this state may be served;

9 10. A fee of One Hundred Dollars (\$100.00) for issuance of a
10 certificate of authority; and

11 11. Any other information as the Commissioner may require.

12 D. Within ten (10) days following any modification of
13 information previously furnished as required by subsection C of this
14 section, a prepaid vision plan organization shall file a notice of
15 the modification with the Commissioner, in the form and manner
16 prescribed by the Commissioner, along with any applicable fees.

17 E. Any service of legal process against a prepaid vision plan
18 organization served upon the Commissioner shall comply with all
19 requirements set forth pursuant to Section 622 of Title 36 of the
20 Oklahoma Statutes for legal processes against a foreign or alien
21 insurer.

22 SECTION 7. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 6978 of Title 36, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Issuance of a certificate of authority for a prepaid vision
2 plan organization shall be granted by the Insurance Commissioner if
3 the Commissioner is satisfied that the following conditions are met:

4 1. The requirements of Section 6 of this act have been
5 fulfilled;

6 2. The persons, organization, or entity responsible for
7 conducting the business affairs of the prepaid vision plan
8 organization are competent, trustworthy, and professionally capable
9 of providing or arranging for the provision of services offered;

10 3. The prepaid vision plan organization constitutes an
11 appropriate mechanism to achieve an effective prepaid vision plan;

12 4. The prepaid vision plan organization has filed with the
13 Commissioner a fidelity bond that is in its own name on its officers
14 and employees in an amount not less than Fifty Thousand Dollars
15 (\$50,000.00) and is subject to the approval of the Commissioner;

16 5. The financial structure of the prepaid vision plan
17 organization may reasonably be expected to meet obligations for
18 payment of services for enrollees and prospective enrollees. In
19 making this determination, the Commissioner may consider:

20 a. the financial soundness of the arrangements made
21 pursuant to the provisions of the prepaid vision plan
22 for services and the schedule of charges used,

23

24

1 b. any agreement with an insurer, hospital, medical
2 service corporation, or any other organization for
3 ensuring the payment of prepaid vision services,

4 c. provisions in the plan for automatic coverage of
5 vision service if the prepaid plan is discontinued,
6 and

7 d. the sufficiency of the agreement for prepaid vision
8 services with providers of vision services; and

9 6. The Commissioner has not made a determination that the
10 prepaid vision plan organization is incompetent, untrustworthy, or
11 financially irresponsible, and the organization has not had any
12 insurance license denied for cause by any state.

13 B. A certificate of authority shall expire at midnight on June
14 30 following the date of issuance or the most recent renewal date,
15 and annually on June 30 thereafter. If the prepaid vision plan
16 organization remains in compliance with the provisions of this act
17 and pays a renewal fee of One Hundred Dollars (\$100.00), the
18 certificate of authority may be renewed.

19 C. Every prepaid vision plan organization, upon receipt of any
20 inquiry from the Insurance Commissioner, shall furnish the
21 Commissioner with an adequate response to the inquiry within twenty
22 (20) days from the receipt of inquiry.

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6979 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. 1. Except as approved in accordance with subsection B of
5 this section, each prepaid vision plan organization shall at all
6 times have and maintain tangible net equity equal to the greater of:

- 7 a. Fifty Thousand Dollars (\$50,000.00), or
- 8 b. two percent (2%) of the organization's annual gross
9 premium income, up to a maximum of the required
10 capital and surplus of an accident and health insurer.

11 2. A prepaid vision plan organization that has uncovered
12 expenses in excess of Fifty Thousand Dollars (\$50,000.00), as
13 reported on the most recent annual financial statement filed with
14 the Insurance Commissioner, shall maintain tangible net equity equal
15 to twenty-five percent (25%) of the uncovered expenses in excess of
16 Fifty Thousand Dollars (\$50,000.00) in addition to the tangible net
17 equity required by paragraph 1 of this subsection.

18 B. 1. Each prepaid vision plan organization shall deposit in
19 trust with the Commissioner cash, securities eligible for the
20 investment of capital funds under the Oklahoma Insurance Code, other
21 measures deemed acceptable by the Commissioner, or any combination
22 thereof in an amount equal to Twenty-five Thousand Dollars
23 (\$25,000.00) plus twenty-five percent (25%) of the tangible net
24 equity required in subsection A of this section; provided, however,

1 that the deposit shall not be required to exceed One Hundred
2 Thousand Dollars (\$100,000.00). Any securities deposited under this
3 subsection shall be issued to the Commissioner and the prepaid
4 vision plan organization and shall not be released by any company
5 holding such security without the signatures of the Commissioner and
6 the authorized prepaid vision plan organization's personnel.

7 2. The deposit shall be an admitted asset of the prepaid vision
8 plan organization in the determination of tangible net equity.

9 3. All income from deposits shall be an asset of the prepaid
10 vision plan organization. A prepaid vision plan organization may
11 withdraw a deposit or any part thereof after making a substitute
12 deposit of an equal amount and value. Any securities shall be
13 approved by the Commissioner before being substituted.

14 4. The deposit shall be used to protect the interests of the
15 members of the prepaid vision plan organization and to assure
16 continuation of vision plan services to members of a prepaid vision
17 plan organization that is in rehabilitation or conservation. If a
18 prepaid vision plan organization is placed in receivership or
19 liquidation, the deposit shall be an asset subject to the provisions
20 of Article 19 of the Oklahoma Insurance Code pursuant to Section
21 1901 et seq. of Title 36 of the Oklahoma Statutes, provided the
22 deposit shall not be subject to attachment by any creditors of the
23 prepaid vision plan organization.

24

1 5. The deposit shall not apply to a prepaid vision plan
2 organization that is funded by the United States government, this
3 state, or a political subdivision thereof.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6980 of Title 36, unless there
6 is created a duplication in numbering, reads as follows:

7 The Insurance Commissioner may increase the amounts required
8 under this act for tangible net equity, capital maintained, fidelity
9 bond, and deposit to any amount the Commissioner determines to be
10 appropriate if the Commissioner determines that such an increase is
11 necessary to:

12 1. Assist the Commissioner in the performance of his or her
13 regulatory duties;

14 2. Ensure the prepaid vision plan organization complies with
15 the requirements of this act; or

16 3. Ensure the solvency of the prepaid vision plan organization.

17 SECTION 10. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6981 of Title 36, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Every enrollee of a prepaid vision plan shall be issued a
21 coverage policy by the prepaid vision plan organization. No policy
22 for coverage or amendment to the policy shall be issued or delivered
23 to any person in this state until a copy of the policy for coverage
24

1 or amendment to the policy has been filed with and approved by the
2 Insurance Commissioner.

3 B. A policy for coverage shall contain a statement of:

4 1. The prepaid vision services or other benefits to which the
5 enrollee is entitled under the prepaid vision plan;

6 2. Any limitations of the services or benefits to which the
7 enrollee is entitled under the prepaid vision plan;

8 3. Information as to how services may be obtained; and

9 4. The obligation of the enrollee for charges for the prepaid
10 vision plan.

11 C. The Commissioner shall approve any policy of coverage if the
12 requirements of this section are complied with and the prepaid
13 vision plan, in the judgment of the Commissioner, is able to meet
14 its financial obligations for the membership coverage. It shall be
15 unlawful for a prepaid vision plan organization to issue a policy
16 until it is approved by the Commissioner.

17 D. 1. If the Commissioner does not disapprove any policy
18 within thirty (30) days after filing, the policy shall be deemed
19 approved.

20 2. If the Commissioner disapproves a policy of membership
21 coverage, the Commissioner shall notify the prepaid vision plan
22 organization, specifying the reasons for disapproval. The
23 Commissioner shall grant a hearing on any disapproval within thirty
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1 (30) days after a request in writing for a hearing is received by
2 the Commissioner from the prepaid vision plan organization.

3 SECTION 11. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6982 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. On or before March 1 of each calendar year, every prepaid
7 vision plan organization offering coverage in this state shall file
8 with the Insurance Commissioner a report of the business activities
9 of the organization for the preceding calendar year. The report
10 shall contain a notarized signature of at least two principal
11 officers of the corporation or members of the entity.

12 B. A report submitted under this section shall be in the form
13 and manner prescribed by the Commissioner and shall include:

14 1. A financial statement of the organization, including a copy
15 of the balance sheet, receipts, and disbursements of the
16 organization for the subject year certified by an independent
17 certified public accountant. The Commissioner may accept a full
18 report of the most recent examination of a foreign prepaid vision
19 plan, certified to by the appropriate examining official of another
20 state;

21 2. Any material changes in the information required to be
22 provided pursuant to Section 6 of this act;

23 3. The number of persons who have enrolled in plans offered by
24 the organization during the preceding year, the total number of

1 enrollees of each plan as of the end of the year, and the number of
2 enrollments terminated during the year;

3 4. The costs of all care provided and the number of enrollees
4 who received care pursuant to the provisions of the prepaid vision
5 plan; and

6 5. Any other information relating to the performance of the
7 prepaid vision plan organization deemed necessary by the
8 Commissioner.

9 SECTION 12. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6983 of Title 36, unless there
11 is created a duplication in numbering, reads as follows:

12 A. The Insurance Commissioner may suspend or revoke any
13 certificate of authority issued pursuant to this act if the
14 Commissioner finds that the prepaid vision plan organization:

15 1. Is operating contrary to the basic organizational documents
16 of the organization or in a manner contrary to that described in or
17 reasonably inferred from any information submitted pursuant to
18 Section 6 of this act;

19 2. Issues a coverage policy which does not comply with the
20 requirements of Section 10 of this act;

21 3. Does not provide or arrange for basic vision services
22 appropriate to a prepaid vision plan;

23 4. Can no longer be expected to meet the obligations to
24 enrollees or prospective enrollees of the prepaid vision plan;

1 5. Uses fraudulent, coercive, or dishonest practices, or
2 demonstrates incompetence, untrustworthiness, or financial
3 irresponsibility in the conduct of business;

4 6. Fails to deal equitably with any providers or other persons
5 or facilities which offer services covered within a contract or
6 policy issued pursuant to this act; or

7 7. Fails to substantially comply with the insurance laws of
8 this state or violates any regulation, rule, subpoena, or order of
9 the Commissioner.

10 B. When the certificate of authority of a prepaid vision plan
11 organization is suspended, the organization shall not accept, during
12 the period of such suspension, any additional enrollments for
13 coverage except newly acquired dependents of existing enrollees and
14 shall not engage in any advertising or solicitation.

15 C. When the certificate of authority of a prepaid vision plan
16 organization is revoked, the organization shall terminate operation
17 of the organization in this state immediately and shall conduct no
18 further business except as may be essential to the orderly
19 conclusion of the business affairs of the organization. The
20 Commissioner, by written order, may permit further operation of the
21 organization as the Commissioner finds to be in the best interest of
22 members of the organization.

23 D. In addition to or in lieu of any applicable suspension or
24 revocation of a certificate of authority, the Commissioner may

1 invoke a fine not to exceed One Thousand Dollars (\$1,000.00) for
2 each violation. The payment of the fine may be enforced in the same
3 manner as civil judgments may be enforced.

4 E. A prepaid vision plan organization which has had its
5 certificate of authority denied, suspended, or revoked, or has
6 suffered an adverse determination by the Commissioner shall be
7 entitled to a hearing pursuant to the provisions of the
8 Administrative Procedures Act under Section 250 et seq. of Title 75
9 of the Oklahoma Statutes.

10 SECTION 13. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 6984 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 A. 1. No advertising or sales material relating to a prepaid
14 vision plan organization shall be issued or delivered to any person
15 in this state until a copy of the material has been filed with and
16 approved by the Insurance Commissioner.

17 2. Within thirty (30) days after the submission of advertising
18 or material under this subsection, the Commissioner shall issue a
19 determination approving or disapproving of the material.

20 3. Disapproval of the advertising or material shall be on the
21 basis that, in whole or in part, the material is false, deceptive,
22 or misleading. Written notification shall be issued to an
23 organization that has materials disapproved pursuant to this
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1 subsection. Thereafter, the disapproved advertising material shall
2 not be used.

3 4. Violation of the provisions of this subsection shall entitle
4 the Commissioner in his or her discretion and without additional
5 cause to withdraw approval of any coverage policy with respect to
6 which the advertising or sales material is used.

7 B. Advertisement and publication of material by a prepaid
8 vision plan organization or anyone acting on behalf of the
9 organization to inform enrollees or prospective enrollees of the
10 plan as to the coverage offered by the plan and the operation of the
11 organization shall not be a violation of any provisions of law
12 relating to solicitation of customers or advertising by prepaid
13 vision plan providers if the advertising or sales material:

14 1. Is approved prior to use by the Commissioner upon
15 determination by the Commissioner that the material is not
16 inaccurate, false, deceptive, or misleading;

17 2. Does not identify the providers of vision services nor
18 describe their professional qualifications, except upon request of
19 the enrollee or prospective enrollee;

20 3. Does not describe the professional experience or attainments
21 of providers individually or as a group, or contain language that
22 states, evaluates, or lauds the professional competence, skills, or
23 reputations of the providers; and

24

1 4. Shall not cause any providers to violate any professional
2 ethics or laws that prohibit the solicitation of patients.

3 SECTION 14. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6985 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Insurance Commissioner may conduct an examination of the
7 business affairs of any prepaid vision plan organization as often as
8 the Commissioner deems necessary for the protection of the interests
9 of the people of this state.

10 B. Any receivership, rehabilitation, liquidation, or
11 conservation of a prepaid vision plan organization shall be
12 conducted pursuant to the provisions for the receivership,
13 rehabilitation, liquidation, or conservation of an insurer provided
14 for by Articles 18 and 19 of Title 36 of the Oklahoma Statutes.

15 C. The Commissioner shall promulgate any rules necessary to
16 effectuate the provisions of this act.

17 SECTION 15. AMENDATORY 36 O.S. 2021, Section 1202, is
18 amended to read as follows:

19 Section 1202. When used in this article:

20 1. "Person" shall mean any individual, corporation,
21 association, partnership, reciprocal exchange, inter-insurer,
22 Lloyd's insurer, Lloyd's Name, Lloyd's Syndicate Name, fraternal
23 benefit society, and any other legal entity engaged in the business
24

1 of insurance, including agents, brokers ~~and~~, adjusters, and prepaid
2 vision plan organizations and insurers;

3 2. "Commissioner" shall mean the Insurance Commissioner of this
4 state; and

5 3. "Name" shall mean any individual or corporate entity
6 underwriting insurance for their own account through the Lloyd's of
7 London market and any agents or employees of any such individual or
8 corporate entity.

9 SECTION 16. AMENDATORY 36 O.S. 2021, Section 1204, is
10 amended to read as follows:

11 Section 1204. The following are hereby defined as unfair
12 methods of competition and unfair and deceptive acts or practices in
13 the business of insurance:

14 1. Misrepresentations and false advertising of policy
15 contracts. Making, issuing, circulating, or causing to be made,
16 issued or circulated, any estimate, illustration, circular or
17 statement misrepresenting the terms of any policy issued or to be
18 issued or the benefits or advantages promised thereby or the
19 dividends or share of the surplus to be received thereon, or making
20 any false or misleading statement as to the dividends or share of
21 surplus previously paid on similar policies, or making any
22 misleading representation or any misrepresentation as to the
23 financial condition of any insurer, or as to the legal reserve
24 system upon which any life insurer operates, or using any name or

1 title of any policy or class of policies misrepresenting the true
2 nature thereof, or making any misrepresentation to any policyholder
3 insured in any company for the purpose of inducing or tending to
4 induce such policyholder to lapse, forfeit, or surrender his or her
5 insurance-;

6 2. False information and advertising generally. Making,
7 publishing, disseminating, circulating, or placing before the
8 public, or causing, directly or indirectly, to be made, published,
9 disseminated, circulated, or placed before the public, in a
10 newspaper, magazine, or other publication, or in the form of a
11 notice, circular, pamphlet, letter or poster, or over any radio or
12 television station, or in any other way an advertisement,
13 announcement or statement containing any assertion, representation
14 or statement with respect to the business of insurance or with
15 respect to any person in the conduct of his or her insurance
16 business which is untrue, deceptive or misleading. No insurance
17 company shall issue, or cause to be issued, any policy of insurance
18 of any type or description upon life, or property, real or personal,
19 whenever such policy of insurance is to be furnished or delivered to
20 the purchaser or bailee of any property, real or personal, as an
21 inducement to purchase or bail ~~said~~ such property, real or personal,
22 and no other person shall advertise, offer or give free insurance,
23 insurance without cost or for less than the approved or customary
24 rate, in connection with the sale or bailment of real or personal

1 property, except as provided in Section 4101 of this title. No
2 person that is not an insurer shall assume or use any name which
3 deceptively infers or suggests that it is an insurer-;

4 3. Defamation. Making, publishing, disseminating, or
5 circulating, directly or indirectly, or aiding, abetting or
6 encouraging the making, publishing, disseminating or circulating of
7 any oral or written statement or any pamphlet, circular, article or
8 literature which is false, or maliciously critical of or derogatory
9 to the financial condition of an insurer, and which is calculated to
10 injure any person engaged in the business of insurance-;

11 4. Boycott, coercion and intimidation. Entering into any
12 agreement to commit, or by any concerted action committing, any act
13 of boycott, coercion or intimidation resulting in or tending to
14 result in unreasonable restraint of, or monopoly in, the business of
15 insurance-;

16 5. False financial statements. Filing with any supervisory or
17 other public official, or making, publishing, disseminating,
18 circulating or delivering to any person, or placing before the
19 public or causing directly or indirectly, to be made, published,
20 disseminated, circulated, delivered to any person or placed before
21 the public, any false statement of financial condition of an insurer
22 with intent to deceive.

23 Making any false entry in any book, report or statement of any
24 insurer with intent to deceive any agent or examiner lawfully

1 appointed to examine into its condition or into any of its affairs,
2 or any public official to whom such insurer is required by law to
3 report, or who has authority by law to examine into its condition or
4 into any of its affairs, or, with like intent, willfully omitting to
5 make a true entry of any material fact pertaining to the business of
6 such insurer in any book, report or statement of such insurer-; i

7 6. Stock operations and advisory board contracts. Issuing or
8 delivering or permitting agents, officers, or employees to issue or
9 deliver agency company stock or other capital stock, or benefit
10 certificates or shares in any common-law corporation, or securities
11 or any special or advisory board contracts or other contracts of any
12 kind promising returns and profits as an inducement to insurance-; i

13 7. Unfair discrimination.

14 (a) Making or permitting any unfair discrimination between
15 individuals of the same class and equal expectation of
16 life in the rates charged for any contract of life
17 insurance or of life annuity or in the dividends or
18 other benefits payable thereon, or in any other of the
19 terms and conditions of such contract.

20 (b) Making or permitting any unfair discrimination between
21 individuals of the same class and of essentially the
22 same hazard in the amount of premium, policy fees, or
23 rates charged for any policy or contract of accident
24 or health insurance or in the benefits payable

1 thereunder, or in any of the terms or conditions of
2 such contract, or in any other manner whatever.

3 (c) As to kinds of insurance other than life and accident
4 and health, no person shall make or permit any unfair
5 discrimination in favor of particular persons, or
6 between insureds or subjects of insurance having
7 substantially like insuring, risk, and exposure
8 factors, or expense elements, in the terms or
9 conditions of any insurance contract, or in the rate
10 or amount of premium charged therefor. This
11 ~~subsection~~ paragraph shall not apply as to any premium
12 rate in effect pursuant to Article 9 of the Oklahoma
13 Insurance Code~~;~~;

14 8. Rebates.

15 (a) Except as otherwise expressly provided by law,
16 knowingly permitting or offering to make or making any
17 contract of insurance or agreement as to such contract
18 other than as plainly expressed in the contract issued
19 thereon; or paying or allowing, or giving or offering
20 to pay, allow or give, directly or indirectly, as
21 inducement to any contract of insurance, any rebate of
22 premiums payable on the contract, or any special favor
23 or advantage in the dividends or other benefits
24 thereon, or any valuable consideration or inducement

1 whatever not specified in the contract; except in
2 accordance with an applicable rate filing, rating plan
3 or rating system filed with and approved by the
4 Insurance Commissioner; or giving or selling or
5 purchasing or offering to give, sell, or purchase as
6 inducement to such insurance, or in connection
7 therewith, any stocks, bonds or other securities of
8 any company, or any dividends or profits accrued
9 thereon, or anything of value whatsoever not specified
10 in the contract or receiving or accepting as
11 inducement to contracts of insurance, any rebate of
12 premium payable on the contract, or any special favor
13 or advantage in the dividends or other benefit to
14 accrue thereon, or any valuable consideration or
15 inducement not specified in the contract.

16 (b) Nothing in ~~subsection~~ paragraph 7 or ~~paragraph~~
17 subparagraph (a) of this subsection shall be construed
18 as including within the definition of discrimination
19 or rebates any of the following practices:

20 (1) ~~In~~ in the case of any contract of life insurance
21 or life annuity, paying bonuses to policyholders
22 or otherwise abating their premiums in whole or
23 in part out of surplus accumulated from
24 nonparticipating insurance, provided~~7~~ that any

1 such bonuses or abatement of premiums shall be
2 fair and equitable to policyholders and for the
3 best interest of the company and its
4 policyholders~~†~~†

5 (2) ~~In~~ in the case of life or accident and health
6 insurance policies issued on the industrial debit
7 or weekly premium plan, making allowance to
8 policyholders who have continuously for a
9 specified period made premium payments directly
10 to an office of the insurer in an amount which
11 fairly represents the saving in collection
12 expense~~†~~†

13 (3) ~~Making~~ making a readjustment of the rate of
14 premium for a policy based on the loss or expense
15 experience thereunder, at the end of the first or
16 any subsequent policy year of insurance
17 thereunder, which may be made retroactive only
18 for such policy year~~†~~†

19 (4) ~~In~~ in the case of life insurance companies,
20 allowing its bona fide employees to receive a
21 commission on the premiums paid by them on
22 policies on their own lives~~†~~†

23 (5) ~~Issuing~~ issuing life or accident and health
24 policies on a salary saving or payroll deduction

1 plan at a reduced rate commensurate with the
2 savings made by the use of such plan~~+~~l and
3 (6) ~~Paying~~ paying commissions or other compensation
4 to duly licensed agents or brokers, or allowing
5 or returning to participating policyholders,
6 members or subscribers, dividends, savings or
7 unabsorbed premium deposits.

8 (c) As used in this section, the word "insurance" includes
9 suretyship and the word "policy" includes bond~~+~~;

10 9. Coercion prohibited. Requiring as a condition precedent to
11 the purchase of, or the lending of money upon the security of, real
12 or personal property, that any insurance covering such property, or
13 liability arising from the ownership, maintenance or use thereof, be
14 procured by or on behalf of the vendee or by the borrower in
15 connection with such purchase or loan through any particular person
16 or agent or in any particular insurer, or requiring the payment of a
17 reasonable fee as a condition precedent to the replacement of
18 insurance coverage on mortgaged property at the anniversary date of
19 the policy; provided, however, that this provision shall not prevent
20 the exercise by any such vendor or lender of the right to approve or
21 disapprove any insurer selected to underwrite the insurance; but any
22 disapproval of any insurer shall be on reasonable grounds~~+~~;

23 10. Inducements. No insurer, agent, broker, solicitor, or
24 other person shall, as an inducement to insurance or in connection

1 with any insurance transaction, provide in any policy for or offer,
2 sell, buy, or offer or promise to buy, sell, give, promise, or allow
3 to the insured or prospective insured or to any other person in his
4 or her behalf in any manner whatsoever:

5 (a) ~~Any~~ any employment~~;~~,

6 (b) ~~Any~~ any shares of stock or other securities issued or
7 at any time to be issued or any interest therein or
8 rights thereto~~;~~,

9 (c) ~~Any~~ any advisory board contract, or any similar
10 contract, agreement or understanding, offering,
11 providing for, or promising any special profits~~;~~,

12 (d) ~~Any~~ any prizes, goods, wares, merchandise, or tangible
13 property of an aggregate value in excess of One
14 Hundred Dollars (\$100.00)~~;~~ or

15 (e) ~~Any~~ any special favor, advantage or other benefit in
16 the payment, method of payment or credit for payment
17 of the premium through the use of credit cards, credit
18 card facilities, credit card lists, or wholesale or
19 retail credit accounts of another person. The
20 provisions of this paragraph shall not apply to
21 individual policies insuring against loss resulting
22 from bodily injury or death by accident as defined by
23 Article 44 of the Oklahoma Insurance Code~~;~~;

24

1 11. Premature disposal of premium notes prohibited. No insurer
2 or agent thereof shall hypothecate, sell, or dispose of a promissory
3 note received in payment of any part of a premium on a policy of
4 insurance applied for prior to the delivery of the policy.;

5 12. Fraudulent statement in application; ~~penalty~~. Any
6 insurance agent, examining physician, or other person who knowingly
7 or willfully makes a false or fraudulent statement or representation
8 in or relative to an application for insurance, or who makes any
9 such statement to obtain a fee, commission, money, or benefit shall
10 be guilty of a misdemeanor.;

11 13. Deceptive use of financial institution's name in
12 notification or solicitation. Verbally or by any other means
13 notifying or soliciting any person in a manner that:

- 14 (a) mentions the name of an unrelated and unaffiliated
15 financial institution,
- 16 (b) mentions an insurance product or the possible lack of
17 insurance coverage,
- 18 (c) does not mention the actual or trade name of the
19 insurance agency or company on whose behalf the
20 notification or solicitation is provided, and
- 21 (d) thereby creates an impression or implication,
22 including by omission, that the financial institution
23 or a financial-institution-authorized entity is or may
24 be the one making the notification or solicitation.

1 Nothing in this paragraph shall be interpreted to prohibit the
2 reference to or use of the name of a financial institution made
3 pursuant to a contractual agreement between the insurer and the
4 financial institution~~;~~; and

5 14. No insurer or prepaid vision plan organization as defined
6 in Section 1 of this act which offers multiple prepaid vision plans
7 may require as a condition of participation in any one prepaid
8 vision plan that a vision care provider participate in any of the
9 other prepaid vision plans offered by the insurer or prepaid vision
10 plan organization.

11 SECTION 17. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15

16 59-2-3435 RD 3/27/2024 3:00:37 PM

17 STATE OF OKLAHOMA

18 2nd Session of the 59th Legislature (2024)

19 COMMITTEE SUBSTITUTE
20 FOR ENGROSSED
21 HOUSE BILL NO. 2687

By:

21

22

23 COMMITTEE SUBSTITUTE

24 An Act relating to .

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

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