

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

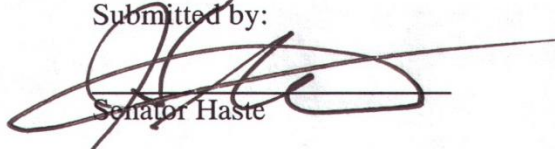
No. 1

COMMITTEE AMENDMENT

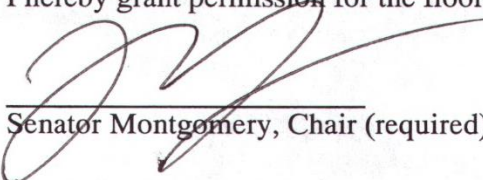
(Date)

I move to amend House Bill No. 1979 by the attached floor substitute (Request No. 2140) for the title, enacting clause, and entire body of the measure.

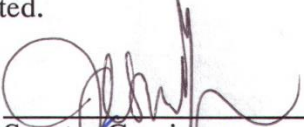
Submitted by:

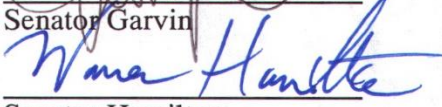

Senator Haste

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



Senator Montgomery, Chair (required)

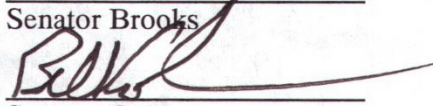


Senator Garvin


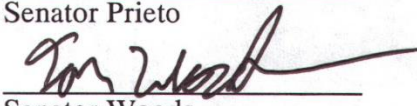
Senator Hamilton

Senator Jett

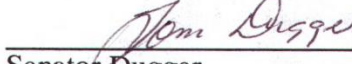
Senator Matthews

Senator Brooks


Senator Coleman

Senator Prieto


Senator Woods



Senator Dugger

Senator Treat, President Pro Tempore

Senator McCortney, Majority Floor Leader

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

Haste-RD-FS-HB1979
4/18/2023 10:09 AM

(Floor Amendments Only) Date and Time Filed: 4-18-23 4:20 pm *jd*

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

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

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

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

8 and

9 Haste, Hicks, Weaver, and
10 Stanley of the Senate

11 FLOOR SUBSTITUTE

12 [vision care services - charges - reimbursement
13 rates - subcontractors - terms and conditions -
14 unfair trade practice - agreements - procedures -
15 limitations - fines - applicability of act -
16 codification -

emergency]

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

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

21 As used in this act:

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

1 2. "Covered services" means services for which reimbursement
2 from the insurer, vision care plan, or vision care discount plan is
3 provided to a vision care provider by an enrollee's plan contract,
4 or for which a reimbursement would be available but for the
5 application of the enrollee's contractual plan limitations of
6 deductibles, copayments, or coinsurance, regardless of how the
7 benefits are listed in an enrollee's benefit plan's definition of
8 benefits;

9 3. "Covered materials" means materials for which reimbursement
10 from the insurer, vision care plan, or vision care discount plan is
11 provided to a vision care provider by an enrollee's plan contract,
12 or for which a reimbursement would be available but for the
13 application of the enrollee's contractual limitations of
14 deductibles, copayments, or coinsurance;

15 4. "Eye care provider" means a licensed doctor of optometry
16 practicing under the authority of the applicable provisions of Title
17 59 of the Oklahoma Statutes or a licensed medical or osteopathic
18 doctor practicing under the authority of the applicable provisions
19 of Title 59 of the Oklahoma Statutes;

20 5. "Enrollee" means any individual enrolled in a health care
21 plan, vision care plan, or vision care discount plan provided by a
22 group, employer, or other entity that purchases or supplies coverage
23 for a vision care plan or vision care discount plan;

1 6. a. "Health benefit plan" means group hospital or medical
2 insurance coverage, a not-for-profit hospital or medical service or
3 indemnity plan, a prepaid health plan, a health maintenance
4 organization plan, a preferred provider organization plan, the State
5 and Education Employees Group Health Insurance Plan, and coverage
6 provided by a Multiple Employer Welfare Arrangement or employee
7 self-insured plan as permitted under Employee Retirement Income
8 Security Act of 1974.

9 b. The term "health benefit plan" shall not include:

- 10 (1) a plan that provides coverage:
 - 11 (a) only for a specified disease or diseases or
 - 12 under an individual limited benefit policy,
 - 13 (b) only for accidental death or dismemberment,
 - 14 (c) only for dental or vision care,
 - 15 (d) a hospital confinement indemnity policy,
 - 16 (e) disability income insurance or a combination
 - 17 of accident-only and disability income
 - 18 insurance, or
 - 19 (f) as a supplement to liability insurance,
- 20 (2) a Medicare supplemental policy as defined by
- 21 Section 1882(g)(1) of the Social Security Act (42
- 22 U.S.C., Section 1395ss),
- 23 (3) workers' compensation insurance coverage,

24

1 (4) medical payment insurance issued as part of a
2 motor vehicle insurance policy,

3 (5) a long-term care policy, including a nursing home
4 fixed indemnity policy, unless a determination is
5 made that the policy provides benefit coverage so
6 comprehensive that the policy meets the
7 definition of a health benefit plan, or

8 (6) short-term health insurance issued on a
9 nonrenewable basis with a duration of six (6)
10 months or less;

11 7. "Materials" means ophthalmic devices including but not
12 limited to lenses, devices containing lenses, artificial intraocular
13 lenses, ophthalmic frames and other lens mounting apparatus, prisms,
14 lens treatments and coatings, contact lenses, and prosthetic devices
15 to correct, relieve, or treat defects or abnormal conditions of the
16 human eye or its adnexa, or any material allowed to be utilized by
17 the Board of Examiners in Optometry and Optometry's scope of
18 practice as provided by law;

19 8. "Services" means the professional work performed by an eye
20 care provider as defined in this section;

21 9. "Subcontractor" means any company, group, or third-party
22 entity including agents, servants, partially or wholly owned
23 subsidiaries, and controlled organizations contracted by the
24 insurer, vision care plan, or vision care discount plan to supply

1 services or materials for an eye care provider or enrollee to
2 fulfill the benefit plan of an insurer, vision care plan, or vision
3 care discount plan;

4 10. "Vision care discount plan" means an entity which has been
5 specifically authorized by the vision care providers to provide
6 discounts to patients; and

7 11. "Vision care plan" means an entity that creates, promotes,
8 sells, provides, advertises, or administers an integrated or stand-
9 alone vision benefit plan, or a vision care insurance policy, or
10 other contract which provides vision benefits to an enrollee
11 pertaining to the provision of covered services or covered
12 materials, including a prepaid vision plan organization, as defined
13 pursuant to paragraph 5 of Section 13 of this act.

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

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

23 B. An eye care provider shall not charge more for services and
24 materials that are noncovered services or noncovered materials to an

1 enrollee of a vision care plan or insurer than his or her usual and
2 customary rate for those services and materials.

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

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

17 E. Vision plans shall provide standard reimbursements for all
18 lenses with the same design, quality, and composition. The period
19 of time prescribed by a contract between any vision service plan and
20 a provider of vision care services for the vision service plan to
21 recover any reimbursement amount from a vision care service provider
22 shall be the same period of time allowed or required for any vision
23 service provider to recover any reimbursement amount from a vision
24 service plan.

1 F. Insurers, vision care plans, and vision care discount plans
2 shall not publish or disseminate information that falsely represents
3 the benefits that are provided to groups, employers, or individual
4 enrollees as a means of selling coverage to or communicating benefit
5 coverage to enrollees.

6 G. Vision plans shall not incentivize patients in order to move
7 them to entities owned in part or in whole by the vision plans or
8 subsidiaries of the plans.

9 H. All provisions in this act shall apply to any entity acting
10 in whole or in part of vision plans and shall be subject to all
11 applicable penalties as referenced in this section. Any member of a
12 prepaid vision plan shall be free to select any licensed vision
13 practitioner to provide vision services and prepayment or
14 reimbursement determinations shall be made without regard to whether
15 the practitioner is a participating or nonparticipating member of
16 the plan. The provisions of this subsection shall be printed on the
17 policy for membership coverage.

18 I. Vision plans shall not entice a non-network patient's choice
19 of eye care providers.

20 J. No person or entity shall sell, solicit, or negotiate any
21 prepaid vision plan to an enrollee in this state without being
22 licensed under Sections 12 through 24 of this act.

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

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

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

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

23 D. A clause requiring that if a provider enters into any
24 subcontract agreement with another provider to provide their

1 licensed health care services to the subscriber, dependent of the
2 subscriber, or enrollee of a managed care plan where the
3 subcontracted provider will bill the managed care plan or subscriber
4 or enrollee directly for the subcontracted services, the subcontract
5 agreement must meet all requirements of this act.

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

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

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

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

24

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 the vision care
12 plan;

13 3. It is required that an eye care provider either agree or not
14 agree to proposed changes. If the changes in the contract are not
15 agreed to by the eye care provider then the current agreement shall
16 continue until its expiration after two (2) years and the insurer,
17 vision care plan, or vision care discount may not remove the eye
18 care provider from a panel or plan for not accepting the changes to
19 a contract for the remainder of the two-year contract;

20 4. A new agreement is required to be established and agreed
21 upon after three or more material changes are made to an existing
22 agreement from an insurer, vision care plan, or vision care discount
23 plan; and
24

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

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

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

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

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

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

23 Any person adversely affected by a violation of this act may
24 bring action in a court of competent jurisdiction for injunctive

1 relief against the insurer, vision care discount plan, or vision
2 care plan and, upon prevailing, in addition to such injunctive
3 relief, may recover monetary damages equal to three (3) times the
4 actual damages caused by the insurer, vision care discount plan, or
5 vision care plan plus attorney fees and costs.

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

9 A. The Insurance Commissioner shall:

10 1. Enforce the state's insurance laws and the provisions of
11 this act using powers granted to the Commissioner by law; and

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

15 B. The Insurance Commissioner may fine vision plans in a range
16 from One Hundred Dollars (\$100.00) to Ten Thousand Dollars
17 (\$10,000.00) for each violation of the provisions of this act.

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

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

24

1 A. The requirements of this section apply to insurer, vision
2 care plan, and vision care discount plan policies, contracts,
3 addendums, and certificates executed, delivered, issued for
4 delivery, continued, or renewed in this state.

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

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

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

15 The provisions of this act shall include all vision care plans
16 and discount card plans upon renewal of an enrollee's current plan
17 or upon issue of a new plan to any enrollee. No contract provision
18 shall violate the letter of the law.

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

22 This act shall be known and may be cited as the "Prepaid Vision
23 Plan Act".

24

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6983 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Member" means an individual who is enrolled in an
6 individual or group prepaid vision plan as a principal subscriber
7 and any dependents entitled to vision care services under the plan
8 solely because of their status as a dependent of the principal
9 subscriber;

10 2. "Membership coverage" means any certificate or contract
11 issued to a member specifying the vision coverage to which the
12 member is entitled;

13 3. "Net equity" means the excess of total assets over total
14 liabilities, excluding liabilities which have been subordinated in a
15 manner acceptable to the Insurance Commissioner;

16 4. "Prepaid vision plan" means any contractual agreement
17 whereby any prepaid vision plan organization undertakes to provide
18 payment of vision services directly, to arrange for prepaid vision
19 services, or to pay or make reimbursement for any vision service not
20 provided for by other insurance;

21 5. "Prepaid vision plan organization" means any person who, or
22 organization or entity that, undertakes to conduct one or more
23 prepaid vision plans providing only vision services;

24

1 6. "Prepaid vision services" means services included in the
2 practice of optometry in all of its branches as defined pursuant to
3 Section 581 of Title 59 of the Oklahoma Statutes;

4 7. "Provider" means any person licensed or otherwise authorized
5 to furnish prepaid vision services in this state other than an
6 authorized insurer;

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

16 9. "Uncovered expense" means the cost of health care services
17 that are the obligation of a prepaid vision plan organization for
18 which:

- 19 a. a member may be liable in the event of the insolvency
20 of the organization, and
- 21 b. alternative arrangements acceptable to the
22 Commissioner have not been made to cover the costs.

1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6984 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. No person, organization, or entity, unless authorized
5 pursuant to an approved application under Sections 15 and 16 of this
6 act, shall establish or operate a prepaid vision plan organization
7 in this state or sell, offer to sell, solicit offers to purchase, or
8 receive advance or periodic consideration in conjunction with a
9 prepaid vision plan without obtaining and maintaining a certificate
10 of authority.

11 B. On or before February 1, 2024, every prepaid vision plan
12 organization operating in this state shall submit an application for
13 a certificate of authority to the Insurance Commissioner. Each
14 applicant may continue to operate as an organization until the
15 Commissioner acts upon the application.

16 SECTION 15. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6985 of Title 36, unless there
18 is created a duplication in numbering, reads as follows:

19 A. An application for a certificate of authority to operate as
20 a prepaid vision plan organization shall be electronically filed
21 with the Insurance Commissioner in the form and manner prescribed by
22 the Commissioner, along with any transaction or other applicable
23 fees. The application shall be verified by an officer or authorized
24

1 representative of the applicant and shall set forth or be
2 accompanied by:

3 1. A copy of any basic organizational document of the applicant
4 such as the articles of incorporation, articles of association,
5 partnership agreement, trust agreement, or other applicable
6 documents, with all amendments to the documents;

7 2. A copy of any bylaws, rules, regulations, or similar
8 documents regulating the conduct of the internal affairs of the
9 applicant;

10 3. A list of the names, addresses, and official positions of
11 the persons who are responsible for the conduct of the business
12 affairs of the applicant, including all members of the board of
13 directors, board of trustees, executive committee, or other
14 governing board or committee, and the principal officers, in the
15 case of a corporation, or the partners or members in the case of a
16 partnership or association;

17 4. A copy of any contract made or to be made between any
18 providers of vision services or persons listed in paragraph 3 of
19 this subsection and the applicant;

20 5. A statement generally describing the prepaid vision plan
21 organization, the facilities, personnel of the organization, and
22 prepaid vision plans offered by the organization;

23

24

1 6. A copy of the form of individual or group membership
2 coverage or a copy of any form of evidence of coverage to be issued
3 to the members;

4 7. Financial statements showing assets, liabilities, and
5 sources of financial support of the applicant. If the financial
6 affairs of the applicant are audited by independent certified public
7 accountants, a copy of the most recent regular certified financial
8 statement for the applicant shall satisfy the requirement of this
9 paragraph, unless the Commissioner determines that additional or
10 more recent financial information is required;

11 8. A description of the proposed method of marketing the
12 prepaid vision plan, a financial prospectus which includes a three-
13 year projection of the initial operating results anticipated, and a
14 statement as to the sources of working capital available for the
15 operation of the prepaid vision plan and any other source of
16 funding;

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

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

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

2 B. Within ten (10) days following any modification for
3 information previously furnished as required by subsection A of this
4 section, a prepaid vision plan organization shall file a notice of
5 the modification with the Commissioner, along with any applicable
6 fees.

7 C. Any service of legal process against a prepaid vision plan
8 organization served upon the Commissioner shall comply with all
9 requirements set forth pursuant to Section 622 of Title 36 of the
10 Oklahoma Statutes for legal processes against a foreign or alien
11 insurer.

12 SECTION 16. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6986 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

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

18 1. The requirements of Section 15 of this act have been
19 fulfilled;

20 2. The persons, organization, or entity responsible for
21 conducting the business affairs of the prepaid vision plan
22 organization are competent, trustworthy, and are professionally
23 capable of providing or arranging for the provision of services
24 offered;

1 3. The prepaid vision plan organization constitutes an
2 appropriate mechanism to achieve an effective prepaid vision plan;

3 4. The prepaid vision plan organization has filed with the
4 Commissioner a fidelity bond that is in its own name on its officers
5 and employees in an amount not less than Fifty Thousand Dollars
6 (\$50,000.00) and is subject to the approval of the Commissioner;

7 5. The financial structure of the prepaid vision plan
8 organization may reasonably be expected to meet obligations for
9 payment of services for members and prospective members. In making
10 this determination, the Commissioner may consider:

11 a. the financial soundness of the arrangements made
12 pursuant to the provisions of the prepaid vision plan
13 for services and the schedule of charges used,

14 b. any agreement with an insurer, hospital, medical
15 service corporation, or any other organization for
16 ensuring the payment of prepaid vision services,

17 c. provisions in the plan for automatic coverage of
18 vision service if the prepaid plan is discontinued,
19 and

20 d. the sufficiency of the agreement for prepaid vision
21 services with providers of vision services; and

22 6. The Commissioner has not made a determination that the
23 prepaid vision plan organization is not competent, trustworthy, or
24

1 financially responsible, and the organization has not had any
2 insurance license denied for cause by any state.

3 B. A certificate of authority shall expire at midnight on June
4 30 following the date of issuance or last renewal date. If the
5 prepaid vision plan organization remains in compliance with the
6 provisions of this act and pays a renewal fee of One Hundred Dollars
7 (\$100.00), the certificate of authority may be renewed.

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

12 SECTION 17. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6987 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

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

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

22 2. A prepaid vision plan organization that has uncovered
23 expenses in excess of Fifty Thousand Dollars (\$50,000.00), as
24 reported on the most recent annual financial statement filed with

1 the Insurance Commissioner, shall maintain tangible net equity equal
2 to twenty-five percent (25%) of the uncovered expenses in excess of
3 Fifty Thousand Dollars (\$50,000.00) in addition to the tangible net
4 equity required by paragraph 1 of this subsection.

5 B. 1. Each prepaid vision plan organization shall deposit in
6 trust with the Commissioner cash, securities eligible for the
7 investment of capital funds under the Insurance Code, other measures
8 deemed acceptable by the Commissioner, or any combination thereof in
9 an amount equal to Twenty-five Thousand Dollars (\$25,000.00) plus
10 twenty-five percent (25%) of the tangible net equity required in
11 subsection A of this section; provided, however, that the deposit
12 shall not be required to exceed One Hundred Thousand Dollars
13 (\$100,000.00). Any securities deposited under this subsection shall
14 be issued to the Commissioner and the prepaid vision plan
15 organization and shall not be released by any company holding such
16 security without the signatures of the Commissioner and the
17 authorized prepaid vision plan organization's personnel.

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

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

1 4. The deposit shall be used to protect the interests of the
2 members of the prepaid vision plan organization and to assure
3 continuation of vision plan services to members of a prepaid vision
4 plan organization that is in rehabilitation or conservation. If a
5 prepaid vision plan organization is placed in receivership or
6 liquidation, the deposit shall be an asset subject to the provisions
7 of Article 19 of the Oklahoma Insurance Code pursuant to Section
8 1901 et seq. of Title 36 of the Oklahoma Statutes, provided the
9 deposit shall not be subject to attachment by any creditors of the
10 prepaid vision plan organization.

11 5. The deposit shall not apply to a prepaid vision plan
12 organization that is funded by the United States government, the
13 state, or a political subdivision thereof.

14 SECTION 18. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 6988 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 The Insurance Commissioner may increase the amounts required
18 under this act for tangible net equity, capital maintained, fidelity
19 bond, and deposit to any amount the Commissioner determines to be
20 appropriate if the Commissioner determines that such an increase is
21 necessary to:

22 1. Assist the Commissioner in the performance of his or her
23 regulatory duties;

24

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

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

4 SECTION 19. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6989 of Title 36, unless there
6 is created a duplication in numbering, reads as follows:

7 A. Every member of a prepaid vision plan shall be issued a
8 membership coverage policy by the prepaid vision plan organization.
9 No policy for membership coverage or amendment to the policy shall
10 be issued or delivered to any person in this state until a copy of
11 the policy for membership coverage or amendment to the policy has
12 been filed with and approved by the Insurance Commissioner.

13 B. A policy for membership coverage shall contain a statement
14 of:

15 1. The prepaid vision services or other benefits to which the
16 member is entitled under the prepaid vision plan;

17 2. Any limitations of the services or benefits to which the
18 member is entitled under the prepaid vision plan;

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

20 4. The obligation of the member for charges for the prepaid
21 vision plan.

22 C. Any member of a prepaid vision plan shall be free to select
23 any licensed vision practitioner to provide vision services and
24 prepayment or reimbursement determinations shall be made without

1 regard to whether the practitioner is a participating or
2 nonparticipating member of the plan. The provisions of this
3 subsection shall be printed on the policy for membership coverage.

4 D. Membership coverage shall contain no provisions or
5 statements which are unjust, unfair, untrue, inequitable,
6 misleading, deceptive, or which encourage misrepresentation as
7 determined by the Commissioner.

8 E. The Commissioner shall approve any policy of membership
9 coverage if the requirements of this section are complied with and
10 the prepaid vision plan, in the judgment of the Commissioner, is
11 able to meet its financial obligations for the membership coverage.
12 It shall be unlawful for a prepaid vision plan organization to issue
13 a policy until it is approved by the Commissioner. If the
14 Commissioner does not disapprove any policy within thirty (30) days
15 after filing, the policy shall be deemed approved. If the
16 Commissioner disapproves a policy of membership coverage, the
17 Commissioner shall notify the prepaid vision plan organization,
18 specifying the reasons for disapproval. The Commissioner shall
19 grant a hearing on any disapproval within thirty (30) days after a
20 request in writing for a hearing is received by the Commissioner
21 from the prepaid vision plan organization.

22 SECTION 20. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 6990 of Title 36, unless there
24 is created a duplication in numbering, reads as follows:

1 A. On or before March 1 of each calendar year, every prepaid
2 vision plan organization offering coverage in this state shall file
3 with the Insurance Commissioner a report of the business activities
4 of the organization for the preceding calendar year. The report
5 shall be signed by at least two principal officers of the
6 corporation and the signatures shall be notarized.

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

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

16 2. Any material changes in the information required to be
17 provided pursuant to Section 15 of this act;

18 3. The number of persons who have become members during the
19 preceding year, the total number of members of the plan as of the
20 end of the year, and the number of memberships terminated during the
21 year;

22 4. The costs of all care provided and the number of members who
23 received care pursuant to the provisions of the prepaid vision plan;
24 and

1 5. Any other information relating to the performance of the
2 prepaid vision plan organization deemed necessary by the
3 Commissioner.

4 SECTION 21. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6991 of Title 36, unless there
6 is created a duplication in numbering, reads as follows:

7 A. At the time of filing the annual report prescribed by
8 Section 20 of this act, each prepaid vision plan shall pay to the
9 State Treasurer through the Insurance Commissioner a tax for
10 transacting a prepaid vision plan. The obligation shall be two
11 percent (2%) of prepaid net charges received from members in this
12 state for both domestic and foreign organizations.

13 B. An organization may offset this tax in whole or in part by
14 payment of state corporate income tax as provided pursuant to
15 Section 2355 of Title 68 of the Oklahoma Statutes. However, an
16 organization is prohibited from carrying over to a succeeding year
17 any credit for paying corporate income tax not used during a year.

18 SECTION 22. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 6992 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Insurance Commissioner may suspend or revoke any
22 certificate of authority issued pursuant to this act if the
23 Commissioner finds that the prepaid vision plan organization:
24

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

5 2. Issues membership coverage which does not comply with the
6 requirements of Section 19 of this act;

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

9 4. Can no longer be expected to meet the obligations to members
10 or prospective members of the prepaid vision plan;

11 5. Uses fraudulent, coercive, or dishonest practices, or
12 demonstrates incompetence, untrustworthiness, or financial
13 irresponsibility in the conduct of business;

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

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

20 B. When the certificate of authority of a prepaid vision plan
21 organization is suspended, the organization shall not accept, during
22 the period of such suspension, any additional members except newly
23 acquired dependents of existing members and shall not engage in any
24 advertising or solicitation.

1 C. When the certificate of authority of a prepaid vision plan
2 organization is revoked, the organization shall terminate operation
3 of the organization in this state immediately and shall conduct no
4 further business except as may be essential to the orderly
5 conclusion of the business affairs of the organization. The
6 Commissioner, by written order, may permit further operation of the
7 organization as the Commissioner finds to be in the best interest of
8 members of the organization.

9 D. In addition to or in lieu of any applicable suspension or
10 revocation of a certificate of authority, the Commissioner may
11 invoke a fine not to exceed One Thousand Dollars (\$1,000.00) for
12 each violation. The payment of the fine may be enforced in the same
13 manner as civil judgments may be enforced.

14 E. A prepaid vision plan organization which has had its
15 certificate of authority denied, suspended, or revoked, or has
16 suffered an adverse determination by the Commissioner shall be
17 entitled to a hearing pursuant to the provisions of the
18 Administrative Procedures Act under Section 250 et seq. of Title 75
19 of the Oklahoma Statutes.

20 SECTION 23. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6993 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

23 A. No advertising or sales material relating to a prepaid
24 vision plan organization shall be issued or delivered to any person

1 in this state until a copy of the material has been filed with and
2 approved by the Insurance Commissioner. Within thirty (30) days
3 after the submission of advertising or material under this
4 subsection, the Commissioner shall issue a determination approving
5 or disapproving of the material. Disapproval of the advertising or
6 material shall be on the basis that, in whole or in part, the
7 material is false, deceptive, or misleading. Written notification
8 shall be issued to an organization that has materials disapproved
9 pursuant to this subsection. Thereafter, the disapproved
10 advertising material shall not be used. Violation of the provisions
11 of this subsection shall entitle the Commissioner in his or her
12 discretion and without additional cause to withdraw approval of any
13 membership coverage with respect to which advertising or sales
14 material is used.

15 B. Offers to sell prepaid vision insurance by advertising or
16 publication of material by a prepaid vision plan organization or
17 anyone acting on behalf of the organization to inform members or
18 prospective members of the plan as to the coverage offered by the
19 plan and the operation of the organization shall not be a violation
20 of any provisions of law relating to solicitation of customers or
21 advertising by prepaid vision plan providers if the advertising or
22 sales material:

23

24

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

4 2. Does not identify the providers of vision services nor
5 describe their professional qualifications, except upon request of
6 the member or prospective member;

7 3. Does not describe the professional experience or attainments
8 of providers of vision services individually or as a group, or
9 contain language that states, evaluates, or lauds the professional
10 competence, skills, or reputations of the providers; and

11 4. Shall not cause any providers of vision services to violate
12 any professional ethics or laws that prohibit the solicitation of
13 patients.

14 SECTION 24. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 6994 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Article 12 of Title 36 of the Oklahoma Statutes relating to
18 unfair trade practices and frauds shall apply to prepaid vision plan
19 organizations, except to the extent the Insurance Commissioner may
20 determine that particular provisions of the article shall not apply
21 to prepaid vision plan organizations.

22 B. The Commissioner may conduct an examination of the business
23 affairs of any prepaid vision plan organization as often as the
24

1 Commissioner deems necessary for the protection of the interests of
2 the people of this state.

3 C. Any receivership, rehabilitation, liquidation, or
4 conservation of a prepaid vision plan organization shall be
5 conducted pursuant to the provisions for the receivership,
6 rehabilitation, liquidation, or conservation of an insurer provided
7 for by Articles 18 and 19 of Title 36 of the Oklahoma Statutes.

8 D. The Commissioner shall promulgate any rules necessary to
9 effectuate the provisions of the Prepaid Vision Plan Act.

10 SECTION 25. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

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