

1 terms, discounts or reimbursement rates without
2 agreement; authorizing civil remedies for violations;
3 authorizing treble damages; imposing duties on
4 Insurance Commissioner; providing for fines; imposing
5 duties on Attorney General; authorizing injunctive
6 relief; providing for applicability of act; providing
7 for applicability of act based on renewal of certain
8 plans; providing for codification; and declaring an
9 emergency.

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

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

14 As used in this act:

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

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

26 3. "Covered materials" means materials for which reimbursement
27 from the insurer, vision care 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 4. "Services" means the professional work performed by an eye
6 care provider as defined in this section;

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

15 6. "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 7. "Vision Care Plan" means an entity that creates, promotes,
21 sells, provides, advertises or administers, an integrated or stand-
22 alone vision benefit plan, or a vision care insurance policy or
23 contract which provides vision benefits to an enrollee pertaining to
24 the provision of covered services or covered materials;

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

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

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

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

17 SECTION 2. 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 A. No agreement between an insurer, vision care plan or vision
21 care discount plan and an eye care provider may seek to or require
22 that an eye care provider provide services or materials at a fee
23 limited or set by the insurer, vision care plan or vision care
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1 discount plan unless the services or materials are reimbursed as
2 covered services or covered materials under the contract.

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

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

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

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

1 F. Vision plans shall provide standard reimbursements for all
2 lenses with the same design, quality and composition. The period of
3 time prescribed by a contract between any vision service plan and a
4 provider of vision care services for the vision service plan to
5 recover any reimbursement amount from a vision care service provider
6 shall be the same period of time allowed or required for any vision
7 service provider to recover any reimbursement amount from a vision
8 service plan.

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

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

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

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

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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 and that all such
6 subcontract agreements shall be filed with the Insurance
7 Commissioner in accordance with this subsection.

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

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

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

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

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

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

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

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

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

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 care
9 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 care
2 plan and, upon prevailing, in addition to such injunctive relief,
3 may recover monetary damages of equal to three (3) times the actual
4 damages caused by the insurer, vision care discount plan or vision
5 care plan plus attorney's 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 provision of this
11 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 shall fine vision plans One
16 Hundred Thousand Dollars (\$100,000.00) for each violation of the
17 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 The Attorney General shall:

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

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

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

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

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

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

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

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

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

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10 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/22/2023 - DO
11 PASS, As Amended and Coauthored.

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