

1 **SENATE FLOOR VERSION**

2 April 11, 2023

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 1979

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

9 and

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

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 -

17 **emergency]**

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

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

22 As used in this act:

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

2. "Covered services" means services for which reimbursement
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 plan limitations of
4 deductibles, copayments, or coinsurance, regardless of how the
5 benefits are listed in an enrollee's benefit plan's definition of
6 benefits;

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

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

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

23 6. "Eye Care Provider" means a licensed doctor of optometry
24 practicing under the authority of the applicable provisions of Title

1 59 of the Oklahoma Statutes or a licensed medical or osteopathic
2 doctor practicing under the authority of the applicable provisions
3 of Title 59 of the Oklahoma Statutes;

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

9 8. "Health benefit plan" means:

10 a. group hospital or medical insurance coverage, a not-
11 for-profit hospital or medical service or indemnity
12 plan, a prepaid health plan, a health maintenance
13 organization plan, a preferred provider organization
14 plan, the State and Education Employees Group Health
15 Insurance Plan, and coverage provided by a Multiple
16 Employer Welfare Arrangement or employee self-insured
17 plan as permitted under Employee Retirement Income
18 Security Act of 1974.

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

20 (1) a plan that provides coverage:

- 21 (a) only for a specified disease or diseases or
22 under an individual limited benefit policy,
23 (b) only for accidental death or dismemberment,
24 (c) only for dental or vision care,

1 (d) a hospital confinement indemnity policy,

2 (e) disability income insurance or a combination
3 of accident-only and disability income
4 insurance, or

5 (f) as a supplement to liability insurance,

6 (2) a Medicare supplemental policy as defined by
7 Section 1882(g)(1) of the Social Security Act (42
8 U.S.C., Section 1395ss),

9 (3) workers' compensation insurance coverage,

10 (4) medical payment insurance issued as part of a
11 motor vehicle insurance policy,

12 (5) a long-term care policy, including a nursing home
13 fixed indemnity policy, unless a determination is
14 made that the policy provides benefit coverage so
15 comprehensive that the policy meets the
16 definition of a health benefit plan, or

17 (6) short-term health insurance issued on a
18 nonrenewable basis with a duration of six (6)
19 months or less;

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

23 10. "Subcontractor" means any company, group or third-party
24 entity including agents, servants, partially or wholly owned

1 subsidiaries and controlled organizations contracted by the insurer,
2 vision care plan or vision care discount plan to supply services or
3 materials for an eye care provider or enrollee to fulfill the
4 benefit plan of an insurer, vision care plan or vision care discount
5 plan; and

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

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

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

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

23 C. Reimbursements paid by an insurer, vision care plan, or
24 vision care discount plan for covered services and covered

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

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

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

17 F. Vision plans shall provide standard reimbursements for all
18 lenses with the same design, quality and composition. The period of
19 time prescribed by a contract between any vision service plan and a
20 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 G. Insurers, vision care plans and vision care discount plans
2 shall not publish, disseminate or falsely represent the benefits
3 that are provided to groups, employers or individual enrollees as a
4 means of selling coverage to or communicating benefit coverage to
5 enrollees.

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

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

23 A. No agreement between an insurer, vision care plan or vision
24 care discount plan and a vision care provider shall require that an

1 eye care provider must participate with or be credentialed by any
2 specific vision care plan or vision care discount plan as a
3 condition for participation in the health care network of the
4 insurer to provide covered medical services to its enrollees.

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

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

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

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

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

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

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

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

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

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

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

14 4. A new agreement is required to be established and agreed
15 upon after three or more material changes are made to an existing
16 agreement from an insurer, vision care plan or vision care discount
17 plan; and

18 5. Any amendment to a proposed contract that is being reviewed
19 by a service provider prior to its execution and any amendment to an
20 existing contract with a service provider shall be underlined to
21 clearly indicate the contract modification.

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

1 No agreement between an insurer, vision care plan or vision care
2 discount plan and an eye care provider shall restrict or limit,
3 either directly or indirectly, the vision care provider's choice of
4 sources and suppliers of services or materials or use of optical
5 labs provided by the eye care provider to an enrollee.

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

9 No insurer, vision care plan or vision care discount plan shall
10 change the terms, discounts or reimbursement rates contained
11 therein, regardless of supplier or fabricating lab used to supply
12 materials.

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

16 Any person adversely affected by a violation of this act may
17 bring action in a court of competent jurisdiction for injunctive
18 relief against the insurer, vision care discount plan or vision care
19 plan and, upon prevailing, in addition to such injunctive relief,
20 may recover monetary damages of equal to three (3) times the actual
21 damages caused by the insurer, vision care discount plan or vision
22 care plan plus attorney fees and costs.

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1 SECTION 9. 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. The Insurance Commissioner shall:

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

7 2. Be entitled to seek an injunction against an insurer, vision
8 care plan or vision care discount plan in a court of competent
9 jurisdiction.

10 B. The Insurance Commissioner shall fine vision plans in a
11 range from Ten Thousand Dollars (\$10,000.00) to One Hundred Thousand
12 Dollars (\$100,000.00) for each violation of the provisions of this
13 act.

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

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

20 A. The requirements of this section apply to insurer, vision
21 care plan and vision care discount plan policies, contracts,
22 addendums and certificates executed, delivered, issued for delivery,
23 continued or renewed in this state.

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

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

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
20 April 11, 2023 - DO PASS AS AMENDED

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