

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1979

By: Newton

AS INTRODUCED

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

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

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

5 As used in this act:

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

9 2. "Covered services" means services 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 plan limitations of  
14 deductibles, copayments, or coinsurance, regardless of how the  
15 benefits are listed in an enrollee's benefit plan's definition of  
16 benefits;

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

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

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

9       6. "Eye Care Provider" means a licensed doctor of optometry  
10 practicing under the authority of the applicable provisions of Title  
11 59 of the Oklahoma Statutes or a licensed medical or osteopathic  
12 doctor practicing under the authority of the applicable provisions  
13 of Title 59 of the Oklahoma Statutes;

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

19       8. "Insurer" means a health plan as defined in Section 1161 of  
20 Title 36 of the Oklahoma Statutes;

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

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

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

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

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

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

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

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

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

19 F. Vision care plans shall offer at least two (2) premium lens  
20 offerings equal to or exceeding the quality of premium lenses  
21 offered by two (2) major wholesale lens producers. The period of  
22 time prescribed by a contract between any vision service plan and a  
23 provider of vision care services for the vision service plan to  
24 recover any reimbursement amount from a vision care service provider

1 shall be the same period of time allowed or required for any vision  
2 service provider to recover any reimbursement amount from a vision  
3 service plan.

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

9 H. Vision plans shall not incentivize patients in order to move  
10 them to entities owned in part or in whole by the vision plans or  
11 subsidiaries of the plans.

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

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

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

22 A. No agreement between an insurer, vision care plan or vision  
23 care discount plan and a vision care provider shall require that an  
24 eye care provider must participate with or be credentialed by any

1 specific vision care plan or vision care discount plan as a  
2 condition for participation in the health care network of the  
3 insurer to provide covered medical services to its enrollees.

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

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

17 D. A clause requiring that if a provider enters into any  
18 subcontract agreement with another provider to provide their  
19 licensed health care services to the subscriber, dependent of the  
20 subscriber, or enrollee of a managed care plan where the  
21 subcontracted provider will bill the managed care plan or subscriber  
22 or enrollee directly for the subcontracted services, the subcontract  
23 agreement must meet all requirements of this act and that all such  
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1 subcontract agreements shall be filed with the Insurance  
2 Commissioner in accordance with this subsection.

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

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

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

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

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

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1 1. A certified letter detailing proposed changes shall be sent  
2 to eye care providers and a face to face or virtual meeting shall be  
3 conducted if requested by the eye care provider;

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

8 3. It is required that an eye care provider to either agree or  
9 not agree to proposed changes. If the changes in the contract are  
10 not agreed to by the eye care provider then the current agreement  
11 shall continue and the insurer, vision care plan or vision care  
12 discount may not remove the eye care provider from a panel or plan  
13 for not accepting the changes to a 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 B. Vision plans annually shall publish a listing of the  
23 following information:

24 1. Number of covered lives per ZIP code; and

1        2. The number of providers participating in the plan per ZIP  
2 code.

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

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

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

14       No insurer, vision care plan or vision care discount plan shall  
15 change the terms, discounts or reimbursement rates contained  
16 therein, regardless of supplier or fabricating lab used to supply  
17 materials, without a signed acknowledgement of written agreement  
18 from the eye care provider.

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

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

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

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

8 A. The Insurance Commissioner shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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