BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3802.1/16

ATTY/TYPIST: LL:lel

BRIEF DESCRIPTION: Concerning the relationship between a health insurer and a contracting health care provider.

AN ACT Relating to enhancing the relationship between a health insurer and a contracting health care provider; adding a new section to chapter 48.43 RCW; and adding a new section to chapter 48.39 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section, unless the context clearly requires otherwise.

(a)(i) "Noncovered vision materials or services" means vision materials or vision services that:

(A) Excluded from coverage under the terms and conditions of the health benefit plan; or

(B) Ineligible for reimbursement under the health benefit plan.

(ii) Vision materials or vision services are not noncovered vision materials or vision services solely because they are not wholly or partially reimbursable due to the operation of plan or contract limitations, such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations.

(b) "Vision care provider" means:

(i) An optometrist licensed under chapter 18.53 RCW;

(ii) A physician licensed under chapter 18.71 RCW or osteopathic physician and surgeon licensed under chapter 18.57 RCW, who has completed a residency in ophthalmology; or

(iii) A dispensing optician licensed under chapter 18.34 RCW.

(c) "Vision materials" means ophthalmic devices, including, but not limited to, devices containing lenses, artificial intraocular lenses, ophthalmic frames and other lens mounting apparatuses, prisms, lens treatments and coating, contact lenses, or prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

(d) "Vision services" means professional work performed by a vision care provider within the scope of his or her practice.

(e) "Vision care plan" means an entity that creates, promotes, sells, provides, advertises, or administers an integrated or stand-alone vision benefit plan, or a vision care insurance policy or contract which provides vision benefits to an enrollee pertaining to the provision of covered services or covered materials.

(f) "Insurer" means a health carrier or carrier as defined in RCW 48.43.005.

(2) An insurer, or any contract or participating provider agreement between the insurer and a vision care provider, may not:

(a) Prohibit directly or indirectly an enrollee from contracting at any time to obtain noncovered vision materials or services outside the health benefit plan on any terms or conditions the enrollee and vision care provider may agree to. This subsection does not bind an insurer or vision care provider for any noncovered vision materials or services. This subsection does not prohibit a vision care provider from choosing to contractually opt in to a materials discount program sponsored by an insurer or vision care plan, provided that an insurer may not use promotional devices to steer patients to vision care providers who opt-in to such a program;

(b) Require a vision care provider to participate with, or be credentialed by, another insurer, health carrier, or health benefit plan as a condition to join one of the insurer's provider panels, or require a vision care provider to participate in all available vision care plans offered by an insurer or vision care plan as a condition of participating in a particular selected vision care plan; or

(c) Require a vision care provider to purchase vision services or vision materials from suppliers, including optical labs, in which the insurer has a financial interest.

(3) Reimbursement amounts paid by an insurer for covered vision materials or services must be reasonable in relation to the usual and customary rate for those materials or services. An insurer may not provide nominal reimbursement for vision materials or vision services in order to claim that the vision materials and vision services are covered vision materials or services.

(4) An insurer must provide no less than sixty days' notice to the vision care provider of any proposed changes to a vision care provider's contract with the insurer, which the vision care provider may accept or reject at any time within the notice period. A vision care provider's rejection of the amendment does not affect the terms of the vision care provider's existing contract with the insurer. If the notice of proposed amendment is delivered in writing to the vision care provider via certified mail, the amendment may be considered accepted in the absence of written notice of rejection by the vision care provider within the sixty-day notice period.

(5) The commissioner shall respond to all complaints alleging violations of this section using the same standards, timelines, and procedures, regardless of the identity of the person or entity making the complaint.

(6) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(7) The requirements of this section apply to insurer or vision care plan policies, contracts, addendum, and certificates executed, delivered, issued for delivery, continued, or renewed in this state effective June 30, 2016. No vision care plan contract may be longer than two years from the date that it was first signed.

(8) Any person adversely affected by a violation of this subchapter may bring action in a court of competent jurisdiction for injunctive relief against the insurer or vision care plan and upon prevailing, in addition to such injunctive relief, shall recover monetary damages of no more than one thousand dollars for each day found to be in violation plus attorneys' fees and costs.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.39 RCW to read as follows:

(1) The legislature finds that current industry practice is for participating provider agreements to run for an initial term followed by one or more finite renewal periods. The legislature intends to codify this current industry practice.

(2) A participating provider agreement between a payor and a health care provider may not be of indefinite length, but must expire after an initial term followed by one or more finite renewal periods.

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