S-0787.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5474**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Rivers, Conway, Angel, and Frockt

AN ACT Relating to enhancing the relationship between a health insurer and a contracting health care provider; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.39 RCW; adding a new section to chapter 48.44 RCW; and adding a new section to chapter 48.46 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 48.20 RCW to read as follows:

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

(a) "Covered vision materials or services" means vision materials or vision services that:

(i) Are reimbursable under a health benefit plan; or

(ii) Would be reimbursable under the health benefit plan but for the application 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; or

(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.

(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.

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

(a) Require a vision care provider to provide vision materials or vision services at a fee limited or set by the insurer, unless the vision materials or vision services are covered vision materials or services;

(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

(c) Restrict or limit, directly or indirectly, the vision care provider's choice of sources and suppliers of vision services or vision materials, including, but not limited to, optical labs.

(3) Reimbursement amounts paid by an insurer for covered vision materials or services must be at least 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 may not change the terms of any contract or participating provider agreement with a vision care provider, including, but not limited to, discounts or reimbursement rates, unless the vision care provider agrees to the change in writing.

(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) This section applies to contracts entered into or renewed on or after the effective date of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 48.21 RCW to read as follows:

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

(a) "Covered vision materials or services" means vision materials or vision services that:

(i) Are reimbursable under a health benefit plan; or

(ii) Would be reimbursable under the health benefit plan but for the application 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; or

(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.

(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.

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

(a) Require a vision care provider to provide vision materials or vision services at a fee limited or set by the insurer, unless the vision materials or vision services are covered vision materials or services;

(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

(c) Restrict or limit, directly or indirectly, the vision care provider's choice of sources and suppliers of vision services or vision materials, including, but not limited to, optical labs.

(3) Reimbursement amounts paid by an insurer for covered vision materials or services must be at least 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 may not change the terms of any contract or participating provider agreement with a vision care provider, including, but not limited to, discounts or reimbursement rates, unless the vision care provider agrees to the change in writing.

(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) This section applies to contracts entered into or renewed on or after the effective date of this section.

NEW SECTION. **Sec.**  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.

NEW SECTION. **Sec.**  A new section is added to chapter 48.44 RCW to read as follows:

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

(a) "Covered vision materials or services" means vision materials or vision services that:

(i) Are reimbursable under a health benefit plan; or

(ii) Would be reimbursable under the health benefit plan but for the application 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; or

(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.

(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.

(2) A health care services contractor, or any contract or participating provider agreement between the health care services contractor and a vision care provider, may not:

(a) Require a vision care provider to provide vision materials or vision services at a fee limited or set by the health care services contractor, unless the vision materials or vision services are covered vision materials or services;

(b) Require a vision care provider to participate with, or be credentialed by, another health care services contractor, health carrier, or health benefit plan as a condition to join one of the health care services contractor's provider panels; or

(c) Restrict or limit, directly or indirectly, the vision care provider's choice of sources and suppliers of vision services or vision materials, including, but not limited to, optical labs.

(3) Reimbursement amounts paid by a health care services contractor for covered vision materials or services must be at least the usual and customary rate for those materials or services. A health care services contractor 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) A health care services contractor may not change the terms of any contract or participating provider agreement with a vision care provider, including, but not limited to, discounts or reimbursement rates, unless the vision care provider agrees to the change in writing.

(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) This section applies to contracts entered into or renewed on or after the effective date of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 48.46 RCW to read as follows:

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

(a) "Covered vision materials or services" means vision materials or vision services that:

(i) Are reimbursable under a health benefit plan; or

(ii) Would be reimbursable under the health benefit plan but for the application 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; or

(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.

(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.

(2) A health maintenance organization, or any contract or participating provider agreement between the health maintenance organization and a vision care provider, may not:

(a) Require a vision care provider to provide vision materials or vision services at a fee limited or set by the health maintenance organization, unless the vision materials or vision services are covered vision materials or services;

(b) Require a vision care provider to participate with, or be credentialed by, another health maintenance organization, health carrier, or health benefit plan as a condition to join one of the health maintenance organization's provider panels; or

(c) Restrict or limit, directly or indirectly, the vision care provider's choice of sources and suppliers of vision services or vision materials, including, but not limited to, optical labs.

(3) Reimbursement amounts paid by a health maintenance organization for covered vision materials or services must be at least the usual and customary rate for those materials or services. A health maintenance organization 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) A health maintenance organization may not change the terms of any contract or participating provider agreement with a vision care provider, including, but not limited to, discounts or reimbursement rates, unless the vision care provider agrees to the change in writing.

(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) This section does not apply to vision materials or vision services provided directly by a health maintenance organization.

(8) This section applies to contracts entered into or renewed on or after the effective date of this section.

**--- END ---**