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SENATE BILL 5474

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Rivers, Conway, Angel, and Frockt

Read first time 01/22/15. Referred to Committee on Health Care.

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

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

7            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 48.20  
8 RCW to read as follows:

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

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

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

14            (ii) Would be reimbursable under the health benefit plan but for  
15 the application of plan or contract limitations, such as benefit  
16 maximums, deductibles, coinsurance, waiting periods, or frequency  
17 limitations.

18            (b) "Vision care provider" means:

19            (i) An optometrist licensed under chapter 18.53 RCW; or

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

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

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

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

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

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

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

24 (3) Reimbursement amounts paid by an insurer for covered vision  
25 materials or services must be at least the usual and customary rate  
26 for those materials or services. An insurer may not provide nominal  
27 reimbursement for vision materials or vision services in order to  
28 claim that the vision materials and vision services are covered  
29 vision materials or services.

30 (4) An insurer may not change the terms of any contract or  
31 participating provider agreement with a vision care provider,  
32 including, but not limited to, discounts or reimbursement rates,  
33 unless the vision care provider agrees to the change in writing.

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

38 (6) The legislature finds that the practices covered by this  
39 section are matters vitally affecting the public interest for the  
40 purpose of applying the consumer protection act, chapter 19.86 RCW. A

1 violation of this chapter is not reasonable in relation to the  
2 development and preservation of business and is an unfair or  
3 deceptive act in trade or commerce and an unfair method of  
4 competition for the purpose of applying the consumer protection act,  
5 chapter 19.86 RCW.

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

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.21  
9 RCW to read as follows:

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

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

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

15 (ii) Would be reimbursable under the health benefit plan but for  
16 the application of plan or contract limitations, such as benefit  
17 maximums, deductibles, coinsurance, waiting periods, or frequency  
18 limitations.

19 (b) "Vision care provider" means:

20 (i) An optometrist licensed under chapter 18.53 RCW; or

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

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

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

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

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

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

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

7 (3) Reimbursement amounts paid by an insurer for covered vision  
8 materials or services must be at least the usual and customary rate  
9 for those materials or services. An insurer may not provide nominal  
10 reimbursement for vision materials or vision services in order to  
11 claim that the vision materials and vision services are covered  
12 vision materials or services.

13 (4) An insurer may not change the terms of any contract or  
14 participating provider agreement with a vision care provider,  
15 including, but not limited to, discounts or reimbursement rates,  
16 unless the vision care provider agrees to the change in writing.

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

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

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

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.39  
32 RCW to read as follows:

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

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

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 48.44  
2 RCW to read as follows:

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

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

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

8            (ii) Would be reimbursable under the health benefit plan but for  
9 the application of plan or contract limitations, such as benefit  
10 maximums, deductibles, coinsurance, waiting periods, or frequency  
11 limitations.

12        (b) "Vision care provider" means:

13            (i) An optometrist licensed under chapter 18.53 RCW; or

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

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

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

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

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

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

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

39        (3) Reimbursement amounts paid by a health care services  
40 contractor for covered vision materials or services must be at least

1 the usual and customary rate for those materials or services. A  
2 health care services contractor may not provide nominal reimbursement  
3 for vision materials or vision services in order to claim that the  
4 vision materials and vision services are covered vision materials or  
5 services.

6 (4) A health care services contractor may not change the terms of  
7 any contract or participating provider agreement with a vision care  
8 provider, including, but not limited to, discounts or reimbursement  
9 rates, unless the vision care provider agrees to the change in  
10 writing.

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

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

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

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.46  
26 RCW to read as follows:

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

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

- 31 (i) Are reimbursable under a health benefit plan; or
- 32 (ii) Would be reimbursable under the health benefit plan but for  
33 the application of plan or contract limitations, such as benefit  
34 maximums, deductibles, coinsurance, waiting periods, or frequency  
35 limitations.

36 (b) "Vision care provider" means:

- 37 (i) An optometrist licensed under chapter 18.53 RCW; or

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

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

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

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

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

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

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

26 (3) Reimbursement amounts paid by a health maintenance  
27 organization for covered vision materials or services must be at  
28 least the usual and customary rate for those materials or services. A  
29 health maintenance organization may not provide nominal reimbursement  
30 for vision materials or vision services in order to claim that the  
31 vision materials and vision services are covered vision materials or  
32 services.

33 (4) A health maintenance organization may not change the terms of  
34 any contract or participating provider agreement with a vision care  
35 provider, including, but not limited to, discounts or reimbursement  
36 rates, unless the vision care provider agrees to the change in  
37 writing.

38 (5) The commissioner shall respond to all complaints alleging  
39 violations of this section using the same standards, timelines, and

1 procedures, regardless of the identity of the person or entity making  
2 the complaint.

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

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

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

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