

SENATE BILL REPORT

SB 5410

As of February 2, 2017

Title: An act relating to contracts between insurance carriers and vision care providers.

Brief Description: Addressing contracts between insurance carriers and vision care providers.

Sponsors: Senators Rivers, Cleveland, Bailey, Conway and Keiser.

Brief History:

Committee Activity: Health Care: 2/02/17.

Brief Summary of Bill

- Imposes requirements relating to insurance contracts with vision care providers.

SENATE COMMITTEE ON HEALTH CARE

Staff: Mich'l Needham (786-7442)

Background: Health insurance carriers or issuers enter into contracts with health care providers under which the providers agree to accept a specified reimbursement rate for their services. A health carrier must file all provider contracts and provider compensation agreements with the Insurance Commissioner (Commissioner) 30 days before use.

A health carrier must provide at least 60 days' notice to a health care provider of any proposed material amendments to the provider's contract, during which time the provider may reject the material amendment without affecting the terms of the existing contract. The material amendment must be clearly defined in a notice to the provider before the notice period begins. The notice must inform the provider that he or she may choose to reject the terms of the material amendment through written or electronic means at any time during the notice period and that such rejection will not affect the terms of the existing contract. The health carrier's failure to comply with the notice requirements voids the effectiveness of the material amendment.

Summary of Bill: The contracts between a vision care provider and vision care insurance or a vision care discount care plan must not:

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- limit or specify the fee that a vision care provider may charge for vision care services or materials that are not reimbursed, in whole or in part, by the insurance plan or discount plan;
- require a vision care provider to participate in one vision care insurance plan or discount care plan as a condition for participating in another plan;
- change the terms, the contractual discount, or the reimbursement rates, under vision care insurance or a vision care discount card, without a signed acknowledgment that the provider agrees to the changes; or
- directly or indirectly restrict or limit a vision care provider's choice of suppliers of materials, including optical labs.

If the Commissioner finds there have been any violations or restrictions of the contractual requirements, the Commissioner may impose a civil penalty between \$1,000 to \$10,000 for each violation. If it is a first violation and the Commissioner finds that it did not result in significant harm to human health, the Commissioner may issue a warning instead.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We want doctors to make the decisions about eye care not the insurance plan. We do not want to be forced to use certain labs, those owned by the vision care plan. They have delayed the production of specialized lenses for weeks and months. In a free market, I would move my business to another company to ensure better quality but I am forced to use the labs owned by the vision company. They force us to send the work out of state when there are better labs here in Washington. Providers cannot bargain for better rates or what parts of the contracts we will accept. We would like there to be some oversight of these contracts and unfair practices. Although vision discount plans were originally set up to help consumers, now the reverse is true. The plan dictates the materials and they do not allow us or consumers to choose better products. The doctor-patient relationship needs to be protected to ensure the doctor can recommend the best care for the patient and not be dictated to by a de-facto monopoly. We need to allow providers and consumers choice of products.

CON: Most vision care insurance is a voluntary product that is only purchased by those who will use it. We have over 3 million customers in Washington and they will be impacted by rate increases. We have 200,000 customers in Washington and we have concerns with impacting the discounts that are offered to customers. Those individuals with vision care insurance have more exams and buy more lenses so those customers with insurance are more profitable for the provider. The provider manuals are part of the contract and it would be difficult to obtain a signature every time we make a change to the manual. The discounts on non-covered services allow members to get discounts, which is an important feature in an industry that often has a 200-400 percent markup on eyewear. Allowing the plans to establish networks with certain labs helps control costs. We believe this will raise the cost of

vision care for our covered lives. Some of the changes in the bill impact all providers that provide eye care including surgeons. Section 1 (a) seems to allow balance billing of medical services, and there are other bills trying to address that. The language on multiple contracts is already addressed in law, as is some discussion of the discounts on non-covered services.

OTHER: We have some suggestions for technical amendments. Vision care plans fall under the OIC authority as limited service contractors. This bill moves the OIC into a position of negotiating with providers and issuers about their contracts and we are not comfortable with that role. We do need someplace to take the issues, perhaps the independent review organization model for consumer issues offers a possible structure.

Persons Testifying: PRO: Senator Ann Rivers, Prime Sponsor; Dr. Aaron Banta, citizen; Linda Medeski, OD, Optometric Physicians of WA; Ken White, OD/Optometric Physicians of WA.

CON: David Knutson, Association of Washington Healthcare Plans; Zach Snyder, Regence BlueShield; Wendy Hauteman, VSP Vision Service Plan; Julian Roberts, National Association of Vision Care Plans; Mike Austin, EyeMed Vision Care; Bill Stauffacher, National Association of Vision Care Plans.

OTHER: Lonnie Johns-Brown, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: No one.