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**SUBSTITUTE HOUSE BILL 1762**

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

**By** House Health Care & Wellness (originally sponsored by Representatives Riccelli, Schmick, Jinkins, Harris, Cody, Van De Wege, Robinson, and Tharinger)

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 48.44 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;

(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.

(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) 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 amendments to a vision care provider's contract with the insurer, and provide no less than thirty days for the vision care provider to accept or reject such amendments. 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 thirty days allocated for response.

(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;

(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.

(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) 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 amendments to a vision care provider's contract with the insurer, and provide no less than thirty days for the vision care provider to accept or reject such amendments. 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 thirty days allocated for response.

(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 48.44 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;

(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.

(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) 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 must provide no less than sixty days' notice to the vision care provider of any proposed amendments to a vision care provider's contract with the health care services contractor, and provide no less than thirty days for the vision care provider to accept or reject such amendments. A vision care provider's rejection of the amendment does not affect the terms of the vision care provider's existing contract with the health care services contractor. 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 thirty days allocated for response.

(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;

(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.

(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) 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 must provide no less than sixty days' notice to the vision care provider of any proposed amendments to a vision care provider's contract with the health maintenance organization, and provide no less than thirty days for the vision care provider to accept or reject such amendments. A vision care provider's rejection of the amendment does not affect the terms of the vision care provider's existing contract with the health maintenance organization. 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 thirty days allocated for response.

(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.

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