

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0448.01 Yelana Love x2295

HOUSE BILL 18-1012

HOUSE SPONSORSHIP

Becker J. and Lontine, Gray, Singer, Valdez

SENATE SPONSORSHIP

Lundberg and Aguilar, Crowder, Kefalas, Sonnenberg

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING VISION CARE PLANS FOR EYE CARE SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a carrier or entity that offers a vision care plan from requiring an eye care provider with whom the carrier or entity contracts to:

- ! Provide services or materials to a covered person at a fee set by, or subject to the approval of, the carrier or entity unless certain conditions are met;
- ! Charge a covered person for noncovered services or noncovered materials in any amount less than the usual and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

customary amount that the eye care provider charges individuals who do not have coverage for such materials and services; or

! Participate, as a condition of participation in a vision plan, in any of the carrier's or entity's other vision plans.

The bill prohibits a carrier or entity from changing the terms of a contract between the carrier or entity and an eye care provider without communication with, and agreement from, the eye care provider.

The bill requires the commissioner of insurance to institute a corrective action plan or use any of the commissioner's enforcement powers against a carrier or entity that is not in compliance with the above requirements.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-121.7 as
3 follows:

4 **10-16-121.7. Prohibited contract provisions in contracts**
5 **between carriers and eye care providers - definitions.** (1) A CARRIER
6 OR ENTITY THAT OFFERS A VISION CARE PLAN SHALL NOT REQUIRE,
7 DIRECTLY OR INDIRECTLY, THAT AN EYE CARE PROVIDER WITH WHOM THE
8 CARRIER OR ENTITY CONTRACTS:

9 (a) PROVIDE SERVICES OR MATERIALS TO A COVERED PERSON AT
10 A FEE SET BY, OR SUBJECT TO THE APPROVAL OF, THE CARRIER OR ENTITY
11 UNLESS:

12 (I) THE SERVICES OR MATERIALS ARE COVERED SERVICES OR
13 COVERED MATERIALS UNDER THE COVERED PERSON'S VISION CARE PLAN;
14 AND

15 (II) THE CARRIER OR ENTITY PROVIDES PAYMENT FOR THE
16 SERVICES OR MATERIALS UNDER THE COVERED PERSON'S VISION CARE
17 PLAN IN AN AMOUNT THAT IS REASONABLE AND NOT NOMINAL OR DE
18 MINIMIS;

19 (b) CHARGE A COVERED PERSON FOR A NONCOVERED SERVICE OR

1 NONCOVERED MATERIALS IN AN AMOUNT LESS THAN THE USUAL AND
2 CUSTOMARY AMOUNT THAT THE EYE CARE PROVIDER CHARGES
3 INDIVIDUALS WHO DO NOT HAVE COVERAGE FOR SUCH MATERIALS AND
4 SERVICES; OR

5 (c) PARTICIPATE, AS A CONDITION OF PARTICIPATION IN A VISION
6 CARE PLAN, IN ANY OF THE CARRIER'S OR ENTITY'S OTHER VISION PLANS.

7 (2) A CARRIER OR ENTITY SHALL NOT CHANGE THE TERMS OF THE
8 CONTRACT BETWEEN THE CARRIER OR ENTITY AND AN EYE CARE PROVIDER
9 WITHOUT COMMUNICATION WITH AND AGREEMENT FROM THE EYE CARE
10 PROVIDER.

11 (3) A CARRIER OR ENTITY SHALL NOT RESTRICT OR LIMIT THE EYE
12 CARE PROVIDER'S CHOICE OF SOURCES AND SUPPLIER OF SERVICES OR
13 MATERIALS OR USE OF OPTICAL LABS PROVIDED BY THE EYE CARE
14 PROVIDER TO A COVERED PERSON.

15 (4) IF THE COMMISSIONER DETERMINES THAT A CARRIER OR ENTITY
16 HAS NOT COMPLIED WITH THIS SECTION, THE COMMISSIONER SHALL DO ONE
17 OR BOTH OF THE FOLLOWING:

18 (a) INSTITUTE A CORRECTIVE ACTION PLAN FOR THE CARRIER TO
19 FOLLOW;

20 (b) USE ANY OF THE COMMISSIONER'S ENFORCEMENT POWERS TO
21 OBTAIN THE CARRIER'S OR ENTITY'S COMPLIANCE WITH THIS SECTION.

22 (5) FOR PURPOSES OF THIS SECTION:

23 (a) "COVERED MATERIALS" MEANS MATERIALS FOR WHICH
24 REIMBURSEMENT IS AVAILABLE UNDER A COVERED PERSON'S VISION CARE
25 PLAN, OR FOR WHICH REIMBURSEMENT WOULD BE AVAILABLE BUT FOR THE
26 APPLICATION OF CONTRACTUAL LIMITATIONS SUCH AS DEDUCTIBLES,
27 COPAYMENTS, COINSURANCE, WAITING PERIODS, ANNUAL OR LIFETIME

1 MAXIMUMS, FREQUENCY LIMITATIONS, ALTERNATIVE BENEFIT PAYMENTS,
2 OR ANY OTHER CONTRACTUAL LIMITATIONS.

3 (b) "COVERED SERVICES" MEANS EYE CARE PROVIDER SERVICES
4 FOR WHICH REIMBURSEMENT IS AVAILABLE UNDER A COVERED PERSON'S
5 VISION CARE PLAN, OR FOR WHICH A REIMBURSEMENT WOULD BE
6 AVAILABLE BUT FOR THE APPLICATION OF CONTRACTUAL LIMITATIONS
7 SUCH AS DEDUCTIBLES, COPAYMENTS, COINSURANCE, WAITING PERIODS,
8 ANNUAL OR LIFETIME MAXIMUMS, FREQUENCY LIMITATIONS, ALTERNATIVE
9 BENEFIT PAYMENTS, OR ANY OTHER CONTRACTUAL LIMITATIONS.

10 (c) "EYE CARE PROVIDER" MEANS:

11 (I) AN OPTOMETRIST LICENSED TO PRACTICE UNDER ARTICLE 40 OF
12 TITLE 12; OR

13 (II) AN OPHTHALMOLOGIST LICENSED TO PRACTICE UNDER
14 ARTICLE 36 OF TITLE 12.

15 (d) "MATERIALS" MEANS OPHTHALMIC DEVICES INCLUDING
16 LENSES, DEVICES CONTAINING LENSES, ARTIFICIAL INTRAOCULAR LENSES,
17 OPHTHALMIC FRAMES AND OTHER LENS MOUNTING APPARATUS, PRISMS,
18 LENS TREATMENTS AND COATINGS, CONTACT LENSES, AND PROSTHETIC
19 DEVICES TO CORRECT, RELIEVE, OR TREAT DEFECTS OR ABNORMAL
20 CONDITIONS OF THE HUMAN EYE.

21 (e) "VISION CARE PLAN" MEANS:

22 (I) A VISION CARE INSURANCE POLICY OR CONTRACT THAT
23 PROVIDES VISION BENEFITS TO A COVERED PERSON; AND

24 (II) A VISION DISCOUNT PLAN THAT PROVIDES DISCOUNTS TO
25 VISION BENEFITS TO A COVERED PERSON.

26 **SECTION 2. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly (August 8, 2018, if adjournment sine die is on May 9,
3 2018); except that, if a referendum petition is filed pursuant to section 1
4 (3) of article V of the state constitution against this act or an item, section,
5 or part of this act within such period, then the act, item, section, or part
6 will not take effect unless approved by the people at the general election
7 to be held in November 2018 and, in such case, will take effect on the
8 date of the official declaration of the vote thereon by the governor.

9 (2) This act applies to vision care plans issued or renewed on or
10 after the applicable effective date of this act.