

CHAPTER 79

INSURANCE

HOUSE BILL 18-1012

BY REPRESENTATIVE(S) Becker J. and Lontine, Gray, Singer, Valdez, Arndt, Catlin, Coleman, Covarrubias, Danielson, Esgar, Exum, Garnett, Ginal, Hamner, Hansen, Herod, Lee, Liston, Melton, Michaelson Jenet, Pettersen, Reyher, Rosenthal, Saine, Van Winkle, Winter, Young, Duran, Bridges, Hooton, McLachlan, Pabon;
also SENATOR(S) Lundberg and Aguilar, Crowder, Kefalas, Sonnenberg, Court, Donovan, Garcia, Guzman, Hill, Jahn, Jones, Kerr, Martinez Humenik, Merrifield, Moreno, Todd, Williams A., Grantham.

AN ACT**CONCERNING VISION CARE PLANS FOR EYE CARE SERVICES.**

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

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

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

(a) PROVIDE SERVICES OR MATERIALS TO A COVERED PERSON AT A FEE SET BY, OR SUBJECT TO THE APPROVAL OF, THE CARRIER OR ENTITY UNLESS THE SERVICES OR MATERIALS ARE COVERED SERVICES OR COVERED MATERIALS UNDER THE COVERED PERSON'S VISION CARE PLAN AND THE AMOUNT OF COVERAGE IS NEITHER NOMINAL NOR DE MINIMIS;

(b) CHARGE A COVERED PERSON FOR A NONCOVERED SERVICE OR NONCOVERED MATERIALS IN AN AMOUNT LESS THAN THE USUAL AND CUSTOMARY AMOUNT THAT THE EYE CARE PROVIDER CHARGES INDIVIDUALS WHO DO NOT HAVE COVERAGE FOR SUCH MATERIALS AND SERVICES; OR

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

(2) A CARRIER OR ENTITY SHALL NOT CHANGE THE TERMS OF THE CONTRACT

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

BETWEEN THE CARRIER OR ENTITY AND AN EYE CARE PROVIDER WITHOUT COMMUNICATION WITH THE EYE CARE PROVIDER.

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

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

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

(4) FOR PURPOSES OF THIS SECTION:

(a) "COVERED MATERIALS" MEANS MATERIALS FOR WHICH REIMBURSEMENT IS AVAILABLE UNDER A COVERED PERSON'S VISION CARE PLAN, OR FOR WHICH REIMBURSEMENT WOULD BE AVAILABLE BUT FOR THE APPLICATION OF CONTRACTUAL LIMITATIONS SUCH AS DEDUCTIBLES, COPAYMENTS, COINSURANCE, WAITING PERIODS, ANNUAL OR LIFETIME MAXIMUMS, FREQUENCY LIMITATIONS, ALTERNATIVE BENEFIT PAYMENTS, OR ANY OTHER CONTRACTUAL LIMITATIONS.

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

(c) "EYE CARE PROVIDER" MEANS:

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

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

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

(e) "USUAL AND CUSTOMARY AMOUNT" MEANS AN AMOUNT ESTABLISHED PURSUANT TO AN APPROPRIATE METHODOLOGY THAT IS BASED ON GENERALLY ACCEPTED INDUSTRY STANDARDS AND PRACTICES.

(f) "VISION CARE PLAN" MEANS:

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

(II) A VISION DISCOUNT PLAN THAT PROVIDES DISCOUNTS TO VISION BENEFITS TO

A COVERED PERSON.

(5) THIS SECTION DOES NOT APPLY TO AN ENTITY OFFERING A VISION DISCOUNT PLAN TO THE ENTITY'S MEMBERS IF THE ENTITY IS NOT PRIMARILY ENGAGED IN THE BUSINESS OF OFFERING VISION CARE PLANS.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2019; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on January 1, 2019, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

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

Approved: March 29, 2018