

1 State of Arkansas *As Engrossed: H3/12/15 H3/23/15 S3/26/15*

2 90th General Assembly

# A Bill

3 Regular Session, 2015

HOUSE BILL 1894

4

5 By: Representatives Vines, Baltz, Collins, D. Ferguson, G. Hodges, Jett, Magie, *M. Hodges*

6 By: Senator Rapert

7

8

## For An Act To Be Entitled

9 AN ACT TO REGULATE AN INSURER THAT OFFERS VISION CARE  
10 PLANS; TO ESTABLISH THE VISION CARE PLAN ACT OF 2015;  
11 AND FOR OTHER PURPOSES.

12

13

14

## Subtitle

15 TO REGULATE AN INSURER THAT OFFERS VISION  
16 CARE PLANS; AND TO ESTABLISH THE VISION  
17 CARE PLAN ACT OF 2015.

18

19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21

22 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an  
23 additional subchapter to read as follows:

24

25 Subchapter 9 – Vision Care Plan Act of 2015

26

27 23-99-901. Title.

28 This subchapter shall be known and may be cited as the "Vision Care  
29 Plan Act of 2015".

30

31 23-99-902. Definitions.

32 As used in this subchapter:

33

34 (1) "Covered materials" means materials for which reimbursement  
35 from the insurer, vision care plan, or vision care discount plan is provided  
36 to a vision care provider by an individual's vision benefit plan or contract  
and that are reimbursable subject to a deductible, copayment, coinsurance, or



1 other contractual limitations;

2 (2) "Covered services" means services for which reimbursement  
3 from the insurer, vision care plan, or vision care discount plan is provided  
4 to a vision care provider by an individual's vision benefit plan or contract  
5 and that are reimbursable subject to a deductible, copayment, coinsurance, or  
6 other contractual limitations;

7 (3) "Insurer" means an insurance company, a health maintenance  
8 organization, a hospital and medical service corporation, or a self-insured  
9 health plan for employees of a governmental entity;

10 (4) "Materials" means ophthalmic devices, including without  
11 limitation:

12 (A) Lenses;

13 (B) Devices containing lenses;

14 (C) Artificial intraocular lenses;

15 (D) Ophthalmic frames;

16 (E) Lens-mounting apparatus;

17 (F) Prisms;

18 (G) Spectacle or contact Lens treatments and coatings; and

19 (H) Prosthetic devices to correct, relieve, or treat  
20 defects or abnormal conditions of the human eye or its adnexa;

21 (5) "Noncovered materials" means materials that are not covered  
22 by an insurer, a vision care plan, or a vision care discount plan;

23 (6) "Noncovered services" means services that are not covered by  
24 an insurer, a vision care plan, or a vision care discount plan;

25 (7) "Participating provider agreement" means an agreement  
26 between a vision care provider and an insurer that obligates a vision care  
27 provider to provide for compensation services and materials to an individual  
28 who is insured by the insurer;

29 (8) "Services" means benefits or services provided by a vision  
30 care provider;

31 (9) "Vision benefit plan or contract" means a plan, contract, or  
32 policy of insurance issued by an insurer that provides for vision care  
33 benefits or services;

34 (10) "Vision care discount plan" means a separate plan to  
35 provide benefits or services under a rider to a health benefit plan or as a  
36 stand-alone agreement that is authorized by a vision care provider to provide

1 discounts to individuals under the Primary Eye Care Provider Act, § 23-99-301  
2 et seq.;

3 (11) "Vision care plan" means an entity that provides health  
4 benefits and that creates, promotes, sells, provides, advertises, or  
5 administers an integrated or stand-alone vision benefit plan or contract; and

6 (12) "Vision care provider" means an individual licensed as an  
7 optometrist under § 17-90-301 et seq., a licensed medical or osteopathic  
8 physician licensed under § 17-91-101 et seq. or § 17-95-401 et seq., if the  
9 physician has also completed a residency in ophthalmology.

10  
11 23-99-903. Prohibited practices – Agreements.

12 (a) A participating provider agreement between an insurer, vision care  
13 plan, or vision care discount plan and a vision care provider shall not  
14 establish a fee that a vision care provider shall charge for services or  
15 materials that are not covered by a vision benefit plan or contract.

16 (b) A vision care provider shall not charge a fee for services or  
17 materials that is more than the vision care provider's normal rate for the  
18 services or materials if the services or materials are noncovered services or  
19 noncovered materials.

20 (c)(1) An insurer, vision care plan, or vision care discount plan  
21 shall not require a vision care provider to apply a discount to an individual  
22 who is insured by the insurer with a participating vision care provider for  
23 noncovered services or noncovered materials.

24 (2) An insurer, vision care plan, or vision care discount plan  
25 shall not avoid the restriction under subdivision (c)(1) of this section by  
26 providing minimal reimbursement for a service or materials to apply a  
27 discount.

28 (d) A participating provider agreement between an insurer, vision care  
29 plan, or vision care discount plan and a vision care provider shall not  
30 require that a vision care provider participate with or be credentialed by  
31 any specific vision care plan or vision care discount plan as a condition to  
32 join an insurer's provider panel.

33 (e) A participating provider agreement between an insurer, vision care  
34 plan, or vision care discount plan and a vision care provider shall not  
35 restrict or limit, directly or indirectly, the vision care provider's choice  
36 of optical labs or choice of sources and suppliers of services or materials

1 provided by the vision care provider to an individual who is insured by the  
2 insurer.

3 (f) The terms, discounts, and reimbursement rates in a participating  
4 contract between an insurer, vision care plan, or vision care discount plan  
5 with a vision care provider shall not be modified during the term of a  
6 participating contract absent written authorization from the vision care  
7 provider.

8 (g) An optician licensed under the Ophthalmic Dispensing Act, § 17-89-  
9 101 et seq., is subject to:

10 (1) Subsections (c) and (e) of this section; and

11 (2) Subsection (b) of this section in regard to materials.

12  
13 23-99-904. Private civil action.

14 (a) A vision care provider adversely affected by any violation of this  
15 subchapter by an insurer, vision care plan, or a vision care discount plan  
16 may bring a civil action in a court of competent jurisdiction against the  
17 insurer, vision care plan, or a vision care discount plan for injunctive  
18 relief.

19 (b) If a person prevails in the civil action under subsection (a) of  
20 this section, the person shall recover:

21 (1) Monetary damages not less than one thousand dollars  
22 (\$1,000);

23 (2) Three (3) times the amount of actual damages, if any; and

24 (3) Reasonable attorney's fees, costs, and any other proper  
25 relief.

26  
27 23-99-905. Rules – Enforcement – Effective date.

28 (a) The State Insurance Department shall develop and promulgate rules  
29 for the implementation and administration of this subchapter.

30 (b) The Insurance Commissioner shall enforce this subchapter and may  
31 seek injunctive relief for violations of this subchapter.

32 (c) This subchapter is applicable to a vision benefit plan or contract  
33 issued, renewed, or recredentialed in this state on and after the effective  
34 date of this subchapter.

35 **APPROVED: 04/02/2015**