Stricken language would be deleted from and underlined language would be added to the Code of Arkansas Rules.

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BLR
June 15, 2026

Proposed Rulemaking

~~Title~~
Vision Care Plan Coverage

Promulgated by:
State Insurance Department

Title 23. Public Utilities and Regulated Industries

Chapter I. State Insurance Department, Department of Commerce

Subchapter B. Life, Health, and Accident

Part 142. Vision Care Plan Coverage

Subpart 1. Generally

23 CAR § 142-101. Definitions.

Unless otherwise separately defined in this part and consistent with state law, the terms or phrases as used in this part shall follow the definitions of such terms or phrases as defined under Section 1 of the Vision Care Plan Act of 2015, now codified in Arkansas Code § 23-99-1001 et seq., or as later amended.

23 CAR § 142-102. Prohibited practices.

(a)(1) Pursuant to Arkansas Code § 23-99-1003(a), a participating provider agreement between an insurer, vision benefit manager, vision care plan, or vision care discount plan and a vision care provider shall not establish a fee that a vision care provider shall charge for services or materials that are not covered by a vision benefit plan or contract.

(2) A vision care insurer, vision benefit manager, vision care plan, or vision care discount plan shall not circumvent or avoid this restriction by providing minimal ~~or de minimus~~ reimbursement coverage for a service or ~~material~~ materials~~, or by~~ and

designating ~~a~~ the service or ~~material~~ materials as "covered" as defined in Arkansas Code § 23-99-1002(1) and (2).

(b)(1) Pursuant to Arkansas Code § 23-99-1003(b), a vision care provider shall not charge a fee for services or materials that is more than the vision care provider's normal rate for the services or materials if the services or materials are noncovered services or noncovered materials.

(2) This restriction or limitation of a vision care provider's charges for fees to not exceed normal rates for service or materials under Arkansas Code § 23-99-1003(b) is a reference to the vision care provider's charges or pricing to the ~~insured~~ enrollee and not to a vision care provider's normal reimbursement fees or allowed charges for such services or materials in a vision care plan or vision care discount plan participation agreement.

(c) Under Arkansas Code § ~~23-99-1003(e)~~ 23-99-1003(f), a participating provider agreement between an insurer, vision benefit manager, vision care plan, or vision care discount plan and a vision care provider shall not restrict or limit, directly or indirectly, the vision care provider's choice of optical labs or choice of sources and suppliers of services or materials provided by the vision care provider to an ~~individual who is insured by the insurer~~ enrollee.

(d)(1) Pursuant to Arkansas Code § 23-99-1003(d), a reimbursement paid by an insurer, vision benefit manager, vision care plan, or vision care discount plan to a vision care provider for covered services shall not be less than the current calendar year Medicare Physician Fee Schedule rate. ~~reimbursement rate for covered services provided to the enrollee.~~

~~(2) For a covered service, reimbursement that is greater than or equal to the Medicare Physician Fee Schedule for the applicable or similar service, regardless of whether the service is eligible for Medicare coverage, shall not be considered a violation.~~

(2) The relevant Medicare Physician Fee Schedule rates are those non-facility, locality-specific rates for the geographic area in which the services are

furnished, for the applicable fee schedule in effect at the time of service, as established by the Centers for Medicare and Medicaid Services.

(3) If there is no corresponding reimbursement rate in the current year's published Medicare Physician Fee Schedule for a covered service, reimbursement that is greater than or equal to the Medicare Physician Fee Schedule for the most similar service, regardless of whether the service is eligible for Medicare coverage, shall not be considered a violation.

(e) Pursuant to Arkansas Code § 23-99-1003(d), a reimbursement paid by an insurer, vision benefit manager, vision care plan, or vision care discount plan to a vision care provider for covered materials shall not be nominal or de minimis.

23 CAR § 142-103. Application of Vision Care Plan Act of 2015.

~~(a) Pursuant to Arkansas Code § 23-99-1005(c), the Vision Care Plan Act of 2015, Arkansas Code § 23-99-1001 et seq., is applicable to all vision benefit plans or contracts issued, renewed, or recredentialed in this state on and after July 22, 2015.~~

(a) This part applies to insurers, vision benefit managers, vision care discount plans, vision care plans, and vision care providers, all as defined in Arkansas Code § 23-99-1002.

~~(b) The State Insurance Department interprets the Vision Care Plan Act of 2015 to apply to all contracts newly issued after July 22, 2015, or renewed after July 22, 2015, but also to apply to all vision care provider contracts when they are recredentialed after the effective date of the Vision Care Plan Act of 2015, even though a renewal process on the contract has not occurred.~~

(b) The requirements of this part shall not apply to a vision benefit plan or contract, vision care plan, or vision care discount plan, if such plan is exempt from state regulation under federal ~~or state~~ law.

23 CAR § 142-104. Recoupment.

If the enrollee is verified to be eligible by the vision care provider through customary verification methods of the insurer, vision benefit manager, vision care plan,

or vision care discount plan, and if the healthcare provider relies in good faith on the verification and provides covered services or covered materials to the enrollee, then the insurer, vision benefit manager, vision care plan, or vision care discount plan shall not withhold or recoup payment made to the healthcare provider for the covered service or covered material if the insurer, vision benefit manager, vision care plan, or vision care discount plan later determines the enrollee to have been ineligible on the date of service.

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1353

By: Representatives Eubanks, Achor, F. Allen, Dalby, Eaton, Eaves, Evans, K. Ferguson, Gramlich, Henley, Holcomb, Hollowell, Ladyman, Maddox, Magie, McGrew, Milligan, Nazarenko, Perry, J. Richardson, Richmond, Steimel, Vaught, Warren, Wing, Wooten
By: Senators D. Wallace, J. Boyd, Caldwell, J. English, Irvin, M. Johnson, Rice, J. Scott

For An Act To Be Entitled

AN ACT TO REGULATE A VISION BENEFIT MANAGER; TO AMEND THE VISION CARE PLAN ACT OF 2015; TO AMEND THE HEALTHCARE CONTRACTING SIMPLIFICATION ACT; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE A VISION BENEFIT MANAGER; TO AMEND THE VISION CARE PLAN ACT OF 2015; TO AMEND THE HEALTHCARE CONTRACTING SIMPLIFICATION ACT.

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

SECTION 1. Arkansas Code § 23-85-132 is amended to read as follows:

23-85-132. Reduction of benefits due to other insurance contracts prohibited.

(a) ~~No~~ A contract of individual accident and health insurance or health coverage sold, delivered, or issued for delivery or offered for sale in this state by an insurer, hospital and medical service corporation, or health maintenance organization, directly or indirectly providing indemnity services, healthcare services, or cash to an individual as a result of hospitalization, medical or surgical treatment, ~~or~~ dental care, or vision care shall not contain a provision reducing the benefit that would otherwise be payable to the individual in the absence of other insurance or health coverage if the reduction of benefits is due solely to the existence of one

(1) or more additional contracts providing benefits to that individual unless the reduction complies with coordination of benefit rules adopted by the Insurance Commissioner.

(b) ~~No~~ A contract of individual accident and health insurance sold, delivered, or issued for delivery or offered for sale in this state providing disability income coverage shall not contain ~~any~~ a provision for the denial or reduction of benefits because of the existence of other insurance, except as provided in § 23-85-122 or any coverages approved by the commissioner pursuant thereto and except that the benefits may be reduced to offset disability income benefits payable under the Social Security Act.

(c) The commissioner may issue rules to implement this section, including~~, but not limited to,~~ without limitation rules as to the amount of reductions and the nature and timing of proofs of eligibility for Social Security benefits.

SECTION 2. Arkansas Code § 23-99-1002 is amended to read as follows:

23-99-1002. Definitions.

As used in this subchapter:

(1) "Covered materials" means materials for which reimbursement from the insurer, vision benefit manager, vision care plan, or vision care discount plan is provided 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 other contractual limitations;

(2) "Covered services" means services for which reimbursement from the insurer, vision benefit manager, vision care plan, or vision care discount plan is provided 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 other contractual limitations;

(3) "Enrollee" means an individual participating in a health benefit plan, vision benefit plan, or vision benefit discount plan that is purchased by an individual or provided to an individual by an insurer, company, organization, group, employer, government assistance program, or another entity that purchases or supplies coverage for a health benefit plan, vision care benefit plan, or vision benefit discount plan;

(4) "Extrapolation" means a mathematical formula, process, or technique used by a vision benefit manager or the vision benefit manager's

agent, in an audit of an optometrist to estimate audit results or findings for a larger batch or group of claims not reviewed by the vision benefit manager;

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

~~(4)~~(6) "Materials" means ophthalmic devices, including without limitation:

(A) Lenses;

(B) Devices containing lenses;

(C) Contact lenses;

(D) Artificial intraocular lenses;

~~(D)~~(E) Ophthalmic frames;

~~(E)~~(F) Lens-mounting apparatus;

~~(F)~~(G) Prisms;

~~(G)~~(H) Spectacle or contact lens treatments and coatings; ~~and~~

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

(J) Low-vision devices; and

(K) Vision therapy devices;

~~(5)~~(7) "Noncovered materials" means materials that are not covered by an insurer, a vision benefit manager, a vision care plan, or a vision care discount plan;

~~(6)~~(8) "Noncovered services" means services that are not covered by an insurer, a vision benefit manager, a vision care plan, or a vision care discount plan;

~~(7)~~(9) "Participating provider agreement" means an agreement between a vision care provider and an insurer that obligates a vision care provider to provide for compensation services and materials to an individual who is insured by the insurer;

~~(8)~~(10) "Services" means benefits or services provided by a vision care provider;

~~(9)~~(11) "Vision benefit manager" means an individual, company, organization, group, or other entity, including without limitation an insurer, third party administrator, and a subcontractor, that creates,

promotes, sells, provides, advertises, or administers an integrated or stand-alone vision benefit plan, vision benefit discount plan, or other insurance policy or contract that provides vision benefits or discounts to an enrollee pertaining to the provision of covered services or covered materials;

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

~~(10)~~(13) "Vision care discount plan" means a separate plan to provide benefits or services under a rider to a health benefit plan or as a stand-alone agreement that is authorized by a vision care provider to provide discounts to individuals under the Primary Eye Care Provider Act, § 23-99-301 et seq.;

~~(11)~~(14) "Vision care plan" means an entity that provides health benefits and that creates, promotes, sells, provides, advertises, or administers an integrated or stand-alone vision benefit plan or contract; and

~~(12)~~(15) "Vision care provider" means an individual licensed as an optometrist under § 17-90-301 et seq., or a licensed osteopathic or medical physician licensed under § 17-91-101 et seq. or § 17-95-401 et seq., if the physician has also completed a residency in ophthalmology.

SECTION 3. Arkansas Code § 23-99-1003 is amended to read as follows:

23-99-1003. Prohibited practices — Agreements.

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

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

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

(2) An insurer, vision benefit manager, vision care plan, or

vision care discount plan shall not avoid the restriction under subdivision (c)(1) of this section by providing minimal reimbursement for a service or materials to apply a discount.

(d) A reimbursement paid by an insurer, vision benefit manager, vision care plan, or vision care discount plan to a vision care provider for covered services and covered materials shall not be:

(1) Nominal or de minimis; or

(2) Less than the current calendar year Medicare reimbursement rate for the covered service or covered materials provided to the enrollee.

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

~~(e)~~(f) A participating provider agreement between an insurer, vision benefit manager, vision care plan, or vision care discount plan and a vision care provider shall not restrict or limit, directly or indirectly, the vision care provider's choice of optical labs or choice of sources and suppliers of services or materials provided by the vision care provider to an individual who is insured by the insurer.

(g) An insurer, vision benefit manager, vision care plan, or vision care discount plan shall identify participating vision care providers in a neutral manner and shall not distinguish between participating vision care providers based on the following characteristics:

(1) Discount or incentive offered by the vision care provider on services and materials that are not covered by the insurer or vision benefit manager, vision care plan, or vision care discount plan;

(2) The dollar amount, volume amount, or percent usage amount of any material or good purchased by the vision care provider; or

(3) The brand, source, manufacturer, or supplier of a covered service or covered product utilized by the vision care provider.

(h) An insurer, vision benefit manager, vision care plan, or vision care discount plan shall not advertise that services and materials are covered with additional copay or coinsurance if the health benefit plan, vision benefit plan, or vision benefit discount plan does not reimburse the participating vision care provider for the services or materials in order to

claim that services and materials are covered services and materials.

(i) An insurer, vision benefit manager, vision care plan, or vision care discount plan shall not steer enrollees to, or limit the enrollees' choice of, vision care provider for services or materials that are not covered services or not covered materials.

(j) An insurer, vision benefit manager, vision care plan, or vision care discount plan shall not incentivize, recommend, encourage, persuade, or attempt to persuade an enrollee to obtain covered services, noncovered services, covered materials, or noncovered materials:

(1) At any particular participating vision care provider over another participating vision care provider;

(2) At a retail establishment owned by, partially owned by, contracted with, or otherwise affiliated with the insurer, vision benefit manager, vision care plan, or vision care discount plan instead of a different vision care provider; or

(3) At any internet or virtual provider or retailer owned by, partially owned by, contracted with, or otherwise affiliated with the vision plan instead of a different participating vision care provider.

(k) An insurer, vision benefit manager, vision care plan, or vision care discount plan shall not reimburse a vision care provider a different amount for covered services or covered materials because of the vision care provider's choice of:

(1) Optical laboratory;

(2) Source of supplier of:

(A) Contact lenses;

(B) Ophthalmic lenses;

(C) Ophthalmic glasses frames; or

(D) Covered services, covered materials, noncovered services, or noncovered materials;

(3) Equipment used for patient care;

(4) Retail optical affiliation;

(5) Vision support organization;

(6) Group purchasing organization;

(7) Doctor alliance;

(8) Professional trade association membership;

(9) Electronic health record software, electronic medical record

software, or practice management software; or

(10) Third-party claim filing service, billing service, or electronic data interchange clearinghouse company.

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

(m) A participating provider agreement between an insurer, vision benefit manager, vision care plan, or vision care discount plan and a vision care provider shall not require a vision care provider to accept a reimbursement payment in the form of a virtual credit card or any other payment method wherein a processing fee, administrative fee, percentage amount, or dollar amount is assessed to the vision care provider to receive a reimbursement payment.

(n)(1) An insurer, vision benefit manager, vision care plan, or vision care discount plan shall not use extrapolation to complete an audit of a participating vision care provider.

(2) An additional payment due to a participating vision care provider or a refund due to the insurer or vision benefit manager shall not be based on an extrapolation, but shall be based on the actual overpayment or underpayment, as determined after an investigation by the insurer, vision benefit manager, vision care plan, or vision care discount plan, and participating vision care provider has been afforded, and has exhausted, all opportunities to appeal the insurer, vision benefit manager, vision care plan, or vision care discount plan's findings, as stated in the provider manual or policy document, or applicable law.

(o)(1) A participating provider agreement between an insurer, vision benefit manager, vision care plan, or vision care discount plan and a vision care provider shall not prohibit a vision care provider from accepting a cash payment option from the enrollee if the cash payment option is less costly to the enrollee than the total out-of-pocket cost of the service or material.

(2) A vision care provider shall not be subject to an audit for offering a cash price option for services and materials.

(p) An insurer, vision benefit manager, vision care plan, or vision care discount plan shall not withhold or recoup a contracted amount for a

covered service or covered material provided to an enrollee if the enrollee is verified to be eligible by the vision care provider through customary verification methods of the insurer, vision benefit manager, vision care plan, or vision care discount plan to receive the covered service or covered material on the date of service.

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

(1) Subsections (c) and ~~(c)~~(f) of this section; and

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

SECTION 4. Arkansas Code § 23-99-1202(5), concerning the definition of "health benefit plan" under the Healthcare Contracting Simplification Act, is amended to read as follows:

(5)(A) "Health benefit plan" means a plan, policy, contract, certificate, agreement, or other evidence of coverage for healthcare services offered or issued by a healthcare insurer in this state.

(B) "Health benefit plan" includes:

(i) A nonfederal governmental plan as defined in 29 U.S.C. § 1002(32), as it existed on ~~January 1, 2023; and~~ January 1, 2025;

(ii) A contract for providing benefits for dental care pursuant to:

(a) A healthcare insurance policy or certificate;

(b) A dental-only plan;

(c) A health maintenance organization provider contract; or

(d) A managed healthcare plan; and

(iii) A contract for providing benefits for vision care under a healthcare insurance policy or certificate, a vision-only plan, a health maintenance organization provider contract, or a managed healthcare plan.

(C) "Health benefit plan" does not include:

(i) A disability income plan;

(ii) A credit insurance plan;

(iii) Insurance coverage issued as a supplement to liability insurance;

(iv) A medical payment under automobile or homeowners insurance plans;

(v) A health benefit plan provided under Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(vi) A plan that provides only indemnity for hospital confinement;

(vii) An accident-only plan;

(viii) A specified disease plan; or

(ix) A long-term care only plan~~; or~~

~~(x) A vision-only plan~~;

SECTION 5. Arkansas Code § 23-99-1202(7), concerning the definition of "healthcare insurer" under the Healthcare Contracting Simplification Act, is amended to read as follows:

(7)(A) "Healthcare insurer" means an entity that is subject to state insurance regulation and provides health insurance in this state.

(B) "Healthcare insurer" includes:

(i) An insurance company;

(ii) A health maintenance organization;

(iii) A hospital and medical service corporation;

(iv) A risk-based provider organization;

(v) A sponsor of a nonfederal self-funded governmental plan; ~~and~~

(vi) A dental-only plan; and

(vii) A vision-only plan;

SECTION 6. DO NOT CODIFY. Effective date. This act shall apply to an insurer, vision benefit manager, vision care plan, and vision discount plan upon the earlier of:

(1) The period of renewal of an enrollee's current health benefit plan or issue of a new health benefit plan to an enrollee;

(2) The initiation of a new contract with a vision care provider or a modification of an existing contract with a vision care provider; or (3) January 1, 2026.

APPROVED: 2/25/25