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4

A Bill

HOUSE BILL 1351

5 By: Representatives Eubanks, Achor, F. Allen, Dalby, Eaton, Eaves, Evans, K. Ferguson, Henley,
6 Hollowell, Gramlich, Holcomb, Ladyman, Maddox, Magie, McGrew, Milligan, Nazarenko, Perry, J.
7 Richardson, Richmond, Steimel, Warren, Wing, Wooten
8 By: Senators J. Boyd, Caldwell, J. English, Irvin, M. Johnson, Rice, J. Scott
9

For An Act To Be Entitled

10 AN ACT TO REGULATE A VISION BENEFIT MANAGER; TO AMEND
11 THE VISION CARE PLAN ACT OF 2015; TO AMEND THE
12 HEALTHCARE CONTRACTING SIMPLIFICATION ACT; AND FOR
13 OTHER PURPOSES.
14

Subtitle

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17 TO REGULATE A VISION BENEFIT MANAGER; TO
18 AMEND THE VISION CARE PLAN ACT OF 2015;
19 AND TO AMEND THE HEALTHCARE CONTRACTING
20 SIMPLIFICATION ACT.
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

26 23-85-132. Reduction of benefits due to other insurance contracts
27 prohibited.

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



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

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

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

15
 16 SECTION 2. Arkansas Code § 23-99-1002 is amended to read as follows:
 17 23-99-1002. Definitions.

18 As used in this subchapter:

19 (1) "Covered materials" means materials for which reimbursement
 20 from the insurer, vision benefit manager, vision care plan, or vision care
 21 discount plan is provided to a vision care provider by an individual's vision
 22 benefit plan or contract and that are reimbursable subject to a deductible,
 23 copayment, coinsurance, or other contractual limitations;

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

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

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

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

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

7 ~~(4)~~(6) "Materials" means ophthalmic devices, including without
 8 limitation:

9 (A) Lenses;

10 (B) Devices containing lenses;

11 (C) Contact lenses;

12 (D) Artificial intraocular lenses;

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

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

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

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

17 ~~and~~

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

20 (J) Low-vision devices; and

21 (K) Vision therapy devices;

22 ~~(5)~~(7) "Noncovered materials" means materials that are not
 23 covered by an insurer, a vision benefit manager, a vision care plan, or a
 24 vision care discount plan;

25 ~~(6)~~(8) "Noncovered services" means services that are not covered
 26 by an insurer, a vision benefit manager, a vision care plan, or a vision care
 27 discount plan;

28 ~~(7)~~(9) "Participating provider agreement" means an agreement
 29 between a vision care provider and an insurer that obligates a vision care
 30 provider to provide for compensation services and materials to an individual
 31 who is insured by the insurer;

32 ~~(8)~~(10) "Services" means benefits or services provided by a
 33 vision care provider;

34 ~~(9)~~(11) "Vision benefit manager" means an individual, company,
 35 organization, group, or other entity, including without limitation an
 36 insurer, third party administrator, and a subcontractor, that creates,

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

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

8 ~~(10)~~(13) "Vision care discount plan" means a separate plan to
 9 provide benefits or services under a rider to a health benefit plan or as a
 10 stand-alone agreement that is authorized by a vision care provider to provide
 11 discounts to individuals under the Primary Eye Care Provider Act, § 23-99-301
 12 et seq.;

13 ~~(11)~~(14) "Vision care plan" means an entity that provides health
 14 benefits and that creates, promotes, sells, provides, advertises, or
 15 administers an integrated or stand-alone vision benefit plan or contract; and

16 ~~(12)~~(15) "Vision care provider" means an individual licensed as
 17 an optometrist under § 17-90-301 et seq., or a licensed osteopathic or
 18 medical physician licensed under § 17-91-101 et seq. or § 17-95-401 et seq.,
 19 if the physician has also completed a residency in ophthalmology.

20
 21 SECTION 3. Arkansas Code § 23-99-1003 is amended to read as follows:
 22 23-99-1003. Prohibited practices – Agreements.

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

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

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

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

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

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

7 (1) Nominal or de minimis; or

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

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

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

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

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

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

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

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

1 claim that services and materials are covered services and materials.

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

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

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

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

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

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

23 (1) Optical laboratory;

24 (2) Source of supplier of:

25 (A) Contact lenses;

26 (B) Ophthalmic lenses;

27 (C) Ophthalmic glasses frames; or

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

30 (3) Equipment used for patient care;

31 (4) Retail optical affiliation;

32 (5) Vision support organization;

33 (6) Group purchasing organization;

34 (7) Doctor alliance;

35 (8) Professional trade association membership;

36 (9) Electronic health record software, electronic medical record

1 software, or practice management software; or

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

4 ~~(f)~~(1) The terms, discounts, and reimbursement rates in a
5 participating contract between an insurer, vision benefit manager, vision
6 care plan, or vision care discount plan with a vision care provider shall not
7 be modified during the term of a participating contract absent written
8 authorization from the vision care provider.

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

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

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

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

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

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

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

6 ~~(g)~~(q) An optician licensed under the Ophthalmic Dispensing Act, § 17-
 7 89-101 et seq., is subject to:

- 8 (1) Subsections (c) and ~~(e)~~(f) of this section; and
- 9 (2) Subsection (b) of this section in regard to materials.

10
 11 SECTION 4. Arkansas Code § 23-99-1202(5), concerning the definition of
 12 "health benefit plan" under the Healthcare Contracting Simplification Act, is
 13 amended to read as follows:

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

17 (B) "Health benefit plan" includes:

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

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

22 (a) A healthcare insurance policy or
 23 certificate;

24 (b) A dental-only plan;

25 (c) A health maintenance organization provider
 26 contract; or

27 (d) A managed healthcare plan; and

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

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

33 (i) A disability income plan;

34 (ii) A credit insurance plan;

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

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

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

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

8 (vii) An accident-only plan;

9 (viii) A specified disease plan; or

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

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

12
 13 SECTION 5. Arkansas Code § 23-99-1202(7), concerning the definition of
 14 "healthcare insurer" under the Healthcare Contracting Simplification Act, is
 15 amended to read as follows:

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

18 (B) "Healthcare insurer" includes:

19 (i) An insurance company;

20 (ii) A health maintenance organization;

21 (iii) A hospital and medical service corporation;

22 (iv) A risk-based provider organization;

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

25 (vi) A dental-only plan; and

26 (vii) A vision-only plan;

27
 28 SECTION 6. DO NOT CODIFY. Effective date. This act shall apply to an
 29 insurer, vision benefit manager, vision care plan, and vision discount plan
 30 upon the earlier of:

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

33 (2) The initiation of a new contract with a vision care provider
 34 or a modification of an existing contract with a vision care provider; or

35 (3) January 1, 2026.

36