
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 978 Session of 2015

INTRODUCED BY WARD, SCARNATI, FOLMER, RAFFERTY, GORDNER, VOGEL,
BOSCOLA, McGARRIGLE, TEPLITZ, YUDICHAK, BROOKS, HUTCHINSON,
SABATINA, WOZNIAK AND STEFANO, AUGUST 14, 2015

REFERRED TO BANKING AND INSURANCE, AUGUST 14, 2015

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," providing for quality eye care for
12 insured Pennsylvanians.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
16 as The Insurance Company Law of 1921, is amended by adding an
17 article to read:

18 ARTICLE XXVII

19 QUALITY EYE CARE FOR INSURED PENNSYLVANIANS

20 Section 2701. Short title of article.

21 This article shall be known and may be cited as the Quality
22 Eye Care for Insured Pennsylvanians Act.

1 Section 2702. Definitions.

2 The following words and phrases when used in this article
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Coverage." Inclusion in an insurance policy, a vision care
6 plan or a government program of services, materials or both
7 where reimbursement from the insurer, vision care plan or
8 government program is provided to an eye care provider under an
9 enrollee's contractual plan or where reimbursement would be
10 available for the application of the enrollee's contractual plan
11 limitations on deductibles, copayments or coinsurance.

12 "Enrollee." A subscriber afforded coverage for services,
13 materials or both under an insurance policy, a vision care plan
14 or a government program.

15 "Eye care provider." A licensed doctor of optometry
16 practicing under the authority of the act of June 6, 1980
17 (P.L.197, No.57), known as the Optometric Practice and Licensure
18 Act, or a licensed physician who has also completed a residency
19 in ophthalmology.

20 "Government program." A program that issues coverage for
21 materials or services pursuant to this act and is governed by or
22 subject to any of the following:

23 (1) The medical assistance program established under the
24 act of June 13, 1967 (P.L.31, No.21), known as the Public
25 Welfare Code.

26 (2) The Children's Health Care Program established under
27 Article XXIII.

28 (3) A program administered by a Medicaid managed care
29 organization as defined in section 1903(m)(1)(A) of the
30 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396b(m)(1))

1 (A) that is a party to a Medicaid managed care contract with
2 the Department of Human Services.

3 (4) The Medicare program established under the Social
4 Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

5 (5) The Medicare Advantage program established under the
6 Social Security Act.

7 "Insurance policy." An individual or group health insurance
8 policy, contract or plan issued by or through an insurer, a
9 vision care plan or a government program that provides coverage
10 for materials, services or both provided by an eye care
11 provider. The term does not include accident only, fixed
12 indemnity, limited benefit, credit, dental, specified disease,
13 Civilian Health and Medical Program of the Uniformed Services
14 (CHAMPUS) supplement, long-term care or disability income,
15 workers' compensation or automobile medical payment insurance.

16 "Insurer." An entity or affiliate entity that issues an
17 insurance policy pursuant to this act and is subject to any one
18 of the following:

19 (1) This act.

20 (2) The act of December 29, 1972 (P.L.1701, No.364),
21 known as the Health Maintenance Organization Act.

22 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
23 corporations).

24 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
25 services plan corporations).

26 (5) A preferred provider organization.

27 "Licensure board." Any or all of the following, depending on
28 the licensure of the affected individual:

29 (1) The State Board of Medicine.

30 (2) The State Board of Osteopathic Medicine.

1 (3) The State Board of Optometry.
2 "Materials." Ophthalmic devices, including, but not limited
3 to, lenses, devices containing lenses, artificial intraocular
4 lenses, ophthalmic frames and other lens mounting apparatus,
5 prisms, lens treatments and coating, contact lenses and
6 prosthetic devices to correct, relieve or treat defects or
7 abnormal conditions of the human eye or its adnexa associated
8 with the delivery of services, materials or both by an eye care
9 provider.

10 "Physician." An individual licensed under the laws of this
11 Commonwealth to engage in the practice of:

12 (1) Medicine and surgery in all its branches within the
13 scope of the act of December 20, 1985 (P.L.457, No.112),
14 known as the Medical Practice Act of 1985.

15 (2) Osteopathic medicine and surgery within the scope of
16 the act of October 5, 1978 (P.L.1109, No.261), known as the
17 Osteopathic Medical Practice Act.

18 "Services." The delivery of any eye care services, materials
19 or both by an eye care provider.

20 "Vision care plan." An entity that creates, promotes, sells,
21 provides, advertises or administers an integrated or stand-alone
22 vision benefit plan, or a vision care insurance policy or
23 contract that provides coverage for materials, services or both
24 to an enrollee pursuant to an insurance policy, vision care plan
25 or government program.

26 Section 2703. Restrictions on participating provider
27 agreements.

28 A participating provider agreement between an eye care
29 provider and an insurer, vision care plan or government program
30 shall comply with all of the following:

1 (1) The participating provider agreement may not require
2 that an eye care provider provide services, materials or both
3 at a fee limited or set by the insurer, vision care plan or
4 government program unless those services, materials or both
5 are subject to coverage and are reimbursed as covered
6 services or covered materials under the participating
7 provider agreement.

8 (2) Reimbursements paid by an insurer, vision care plan
9 or government program for covered services and covered
10 materials under the participating provider agreement shall be
11 reasonable and shall not provide nominal reimbursement in
12 order to claim that services and materials are included in
13 coverage under the insurance policy, vision care plan or
14 government program.

15 (3) An eye care provider may not charge more for
16 services and materials that are noncovered services or
17 noncovered materials to an enrollee of an insurer, vision
18 care plan or government program than the usual and customary
19 rate for those services and materials.

20 (4) The participating provider agreement may not
21 restrict or limit, either directly or indirectly, the eye
22 care provider's choice of sources and suppliers of services
23 or materials or the use of optical laboratories provided by
24 the eye care provider to an enrollee.

25 (5) The terms or reimbursement rates contained in the
26 participating provider agreement may not be changed without a
27 signed acknowledgment of written consent and agreement from
28 the eye care provider.

29 Section 2704. Prohibition on contracting.

30 No insurance policy, vision care plan or government program

1 may impose a condition or restriction on an eye care provider
2 that is not necessary for the delivery of services or materials
3 or that has the effect of excluding the eye care provider from
4 participation in the insurance policy, vision care plan,
5 government program or any of the participating provider panels
6 for those entities.

7 Section 2705. Interference with other contractual
8 relationships.

9 No insurer, vision care plan or government program offering
10 group or individual coverage may interfere with any existing
11 contractual relationship, Federal or State requirement or the
12 doctor-patient relationship by directly communicating with an
13 enrollee in a manner that interferes with or contravenes those
14 relationships and requirements.

15 Section 2706. Private right of action for eye care providers.

16 A person adversely affected by a violation of this article
17 may bring an action in a court of competent jurisdiction for
18 injunctive relief and monetary damages and if successful in an
19 action, shall be entitled to recover against the opposing party
20 actual damages, a penalty of up to \$1,000 for each day of
21 violation and reasonable attorney fees and costs.

22 Section 2707. Penalties.

23 A violation of the provisions of this article by an insurer
24 or a vision care plan with frequency sufficient to constitute a
25 general business practice shall be considered a violation of the
26 act of July 22, 1974 (P.L.589, No.205), known as the Unfair
27 Insurance Practices Act, and is deemed an unfair method of
28 competition and an unfair deceptive act or practice pursuant to
29 that act.

30 Section 2708. Applicability.

1 The requirements of this article shall apply to an insurer,
2 insurance policy, a vision care plan or a government program and
3 any contracts, addendums and certificates executed, delivered,
4 issued for delivery, continued or renewed in this Commonwealth.
5 No insurance policy, vision care plan or government program
6 contract may be in effect longer than two years from the date of
7 initial signature or last renewal.

8 Section 2. This act shall take effect in 60 days.