

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 257 Session of 2017

INTRODUCED BY WARD, WHITE, SCARNATI, GORDNER, SCHWANK, BROOKS, FOLMER, YUDICHAK, HUTCHINSON, COSTA, STEFANO, AUMENT, BOSCOLA AND RAFFERTY, JANUARY 27, 2017

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 21, 2018

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

1 Eye Care for Insured Pennsylvanians Act.

2 Section 2702. Definitions.

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

6 "Covered vision care." Vision services and materials for
7 which reimbursement is available under a health insurance
8 policy, regardless of whether the reimbursement is contractually
9 limited by a deductible, copayment, coinsurance, waiting period,
10 annual or lifetime maximum, frequency limitation or alternative
11 benefit payment.

12 "Department." The Insurance Department of the Commonwealth.

13 "Health insurance policy." An individual or group health
14 insurance policy, subscriber contract, certificate or plan
15 issued by or through an insurer that provides covered vision
16 care. The term does not include accident only, fixed indemnity,
17 limited benefit, credit, dental, specified disease, Civilian
18 Health and Medical Program of the Uniformed Services (CHAMPUS)
19 supplement, long-term care or disability income, workers'
20 compensation or automobile medical payment insurance.

21 "Health insurer." An entity licensed by the department with
22 accident and health authority to issue a policy, subscriber
23 contract, certificate or plan that provides medical or health
24 care coverage and is offered or governed under any of the
25 following:

26 (1) Section 630, Article XXIV or other provision of this
27 act.

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

30 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan

1 corporations).

2 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
3 services plan corporations).

4 "Insured." An individual on whose behalf a health insurer is
5 obligated to pay for vision care under a health insurance
6 policy.

7 "Materials." Ophthalmic devices, including, but not limited
8 to, lenses, devices containing lenses, ophthalmic frames and
9 other lens mounting apparatus, prisms, lens treatments and
10 coating, contact lenses and prosthetic devices to correct,
11 relieve or treat defects or abnormal conditions of the human eye
12 or its adnexa associated with the delivery of vision care.

13 "Noncovered services." Vision care that is not covered but
14 for which a discount may be provided under the terms of a health
15 insurance policy.

16 "Vision care." A provision of eye care services, materials
17 or both.

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

23 "Vision care supplier." A person or entity that creates,
24 promotes, sells, provides, advertises or administers vision care
25 supplies, including an optical laboratory. The term includes
26 persons or entities affiliated with a health insurer.

27 Section 2703. Vision care provider and vision care supplier
28 selection.

29 A SUBJECT TO SECTION 2705 (RELATING TO CONSUMER
30 ACKNOWLEDGMENT), A health insurance policy shall allow an

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1 insured who receives vision care from an in-network vision care
2 provider to select an out-of-network vision care supplier for
3 related vision care on the recommendation or referral of the in-
4 network vision care provider, provided that the in-network
5 vision care provider gives to the insured, prior to
6 recommending, referring, prescribing or ordering any vision care
7 from the out-of-network vision care supplier, written notice <--
8 DISCLOSURE that: <--

9 (1) The out-of-network vision care supplier is not an
10 in-network vision care supplier.

11 (2) The insured has the option of selecting an in-
12 network vision care supplier.

13 ~~(3) The insured may have different financial obligations~~ <--
14 ~~depending on whether the vision care supplier is in network~~
15 ~~or out of network.~~

16 Section 2704. Discount access.

17 A SUBJECT TO SECTION 2705 (RELATING TO CONSUMER <--
18 ACKNOWLEDGMENT), A health insurance policy that has a discount
19 program for noncovered services shall permit an insured who
20 receives vision care from an in-network vision care provider to
21 receive a noncovered service from the in-network vision care
22 provider at a nondiscounted rate, provided that the vision care
23 provider gives to the insured, prior to receipt of the
24 noncovered service, written disclosure that the vision care
25 provider does not participate in the insured's discount program.

26 SECTION 2705. CONSUMER ACKNOWLEDGMENT. <--

27 THE INSURED MUST ATTEST IN WRITING TO RECEIPT OF THE VISION
28 CARE PROVIDER'S WRITTEN DISCLOSURE AND THAT THE INSURED MAY HAVE
29 DIFFERENT FINANCIAL OBLIGATIONS UNDER SECTIONS 2703 (RELATING TO
30 VISION CARE PROVIDER AND VISION CARE SUPPLIER SELECTION) AND

1 2704 (RELATING TO DISCOUNT ACCESS), DEPENDING ON WHETHER THE
2 VISION CARE SUPPLIER IS IN-NETWORK OR OUT-OF-NETWORK.

3 Section 2705 2706. Enforcement.

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4 (a) Scope.--The department may investigate and enforce the
5 provisions of this article only insofar as the actions or
6 inactions being investigated relate to coverage under a health
7 insurance policy.

8 (b) Insurance Commissioner power.--Upon satisfactory
9 evidence of a violation of this article by any insurer or other
10 person within the scope of the department's investigative and
11 enforcement authority under subsection (a), the Insurance
12 Commissioner may, in the Insurance Commissioner's discretion,
13 pursue any of the following actions:

14 (1) Suspend, revoke or refuse to renew the license of
15 the offending person.

16 (2) Enter a cease and desist order.

17 (3) Impose a civil penalty of not more than \$5,000 for
18 each action in violation of this article.

19 (4) Impose a civil penalty of not more than \$10,000 for
20 each action in willful violation of this article.

21 (c) Limitation.--Penalties imposed under this article shall
22 not exceed \$500,000 in the aggregate during a calender year.

23 (d) Violations by optometrists and ophthalmologists.--A
24 violation of this article by an optometrist shall constitute
25 unprofessional conduct under the act of June 6, 1980 (P.L.197,
26 No.57), known as the Optometric Practice and Licensure Act. A
27 violation of this article by an ophthalmologist shall constitute
28 unprofessional conduct under the act of December 20, 1985
29 (P.L.457, No.112), known as the Medical Practice Act of 1985, or
30 the act of October 5, 1978 (P.L.1109, No.261), known as the

1 Osteopathic Medical Practice Act.

2 Section ~~2706~~ 2707. Regulations. <--

3 The department may promulgate regulations as may be necessary
4 or appropriate to implement this article.

5 Section ~~2707~~ 2708. Applicability. <--

6 This article shall apply as follows:

7 (1) For health insurance policies for which either rates
8 or forms are required to be filed with the Federal Government
9 or the department, this article shall apply to any policy for
10 which a form or rate is first filed on or after the effective
11 date of this section.

12 (2) For health insurance policies for which neither
13 rates nor forms are required to be filed with the Federal
14 Government or the department, this article shall apply to any
15 policy issued or renewed on or after 180 days after the
16 effective date of this section.

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