

MANAGED VISION CARE BILLS UPDATE

The Vision Council has been tracking over 40 bills relating to managed vision care in 2015-2016. While many of these bills “died” in their respective legislatures, below are specific managed vision care bills that have been signed into law or working its way through the legislative process. You can visit the **iTrack** tool on The Vision Council’s website to view a specific bill The Vision Council is tracking. Should you have any questions need assistance please don’t hesitate to contact Jason McElvaney at jason@mcelvaneypublicaffairs.com or 571-385-4701.

Alabama Senate Bill 270

SB 270 prohibits insurers of vision care services from limiting a vision care provider’s ability to set fees for services and materials, to participate in specific plans, and to choose sources of suppliers. It also prohibits vision care providers from charging more to an insurer than the customary rates of those vision care providers. The bill requires reasonable reimbursements for vision care services and materials.

Status: Governor signed the bill into law on June 11, 2015 and takes effect immediately.

Arkansas House Bill 1894

HB 1804 establishes “The Vision Care Plan Act of 2015”. The bill provides an agreement between a vision care plan and vision care provider that a provider shall not charge a fee for services or materials that are not covered by a vision plan. A vision care provider shall not charge a fee for services or materials that is more than the vision care provider’s normal rate if the services or materials are non-covered services or materials. A vision care plan shall not: require a vision care provider to apply a discount to individuals who are insured with the vision plan, participate with or be credentialed by any specific vision care plan as a condition to join an insurer’s provider panel, and will 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.

Status: Governor signed the bill into law on April 2, 2015 and takes effect of the 91st day after the Legislature adjourns target date July 15, 2015.

Connecticut House Bill 6736

HB 6736 extends the prohibition to optometrists on the setting of payments by health insurers and other entities for noncovered benefits.

Status: HB 6736 was sent to the Governor on June 15, 2015 and the Governor signed the bill into law on June 23, 2015. The law takes effect on January 1, 2016.

Florida Senate Bill 340

The scope of SB 340 is broader than the previously-introduced MVC legislation in Florida’s previous legislative session. In particular, SB 340 would prohibit a MVC plan from restricting an eye care professional’s choices of suppliers and optical laboratories. A MVC plan would, however, still be entitled to set differing reimbursement rates for out-of-network supplies and services.

Status: The bill was sent to the Governor for his consideration on March 8, 2016. The Governor can either sign the bill into law or veto the measure. If the Governor does sign the bill into law, it will take effect on July 1, 2016.

Georgia-Patient Access to Eye Care Health

In a much-watched case (*Spectera, Inc., v. Wilson, et. al.*), the Georgia Supreme Court ruled in late-2013 that Georgia's Patient Access to Eye Care Act (the Act) prohibited Spectera from requiring, as a condition for inclusion on its panel, that eye care professionals (ECPs) utilize Spectera optical laboratories for the fabrication of eyeglasses. The Spectera independent provider agreements also required ECPs to purchase lenses, frames, and contact lenses from Spectera when providing services to Spectera-insured patients. The Georgia court found that these practices violated the provision of the act that prohibits an insurer from precluding "a covered person who seeks eye care from obtaining such service directly from a provider on the health benefit provider panel who is licensed to provide eye care." In the court's reasoning, obtaining eye care services "directly from a provider" includes an ECP's having the ability to direct and supervise the preparation of eye glasses as he or she sees fit. Because Spectera's agreement restricted an ECP's freedom in obtaining laboratory services and eye care materials, the court determined that it violated the Act and thus allowed Georgia's Patient Access to Eye Care Act to become law.

Status: The bill was signed in to law in 2010.

Kansas Senate Bill 285

SB 285 applies to contracts between an insurer, health insurer, or another entity writing vision care insurance or a vision care discount plan and a vision care provider. Contracts issued or renewed on or after the effective date of the Act could not contain any provision that would require a vision care provider to: 1.) provide services or materials to an insured under vision care insurance or a health benefit plan or to a subscriber of a vision care discount plan at a fee limited or set by the plan unless the services or materials are reimbursed as covered services under the contract; or 2.) participate in a vision care insurance or vision care discount plan as a condition to participate in any other health benefit plan or vision care plan, regardless of whether such plan is a plan of insurance or a vision care discount program which is not an insurance plan. The bill further provides that no vision care provider could charge more for services or materials that are not covered services under either vision care insurance or a vision care discount plan than such provider's usual and customary rate for those services and materials. Any entity offering vision care insurance policies and discount plan contracts is prohibited from changing the terms, discounts, or rates without the agreement at the time of the change by the vision care provider. Additionally, no vision care insurance policy or vision care discount plan that provides covered services for materials will be allowed to limit the choice of sources and suppliers of materials by a patient of a vision care provider.

Status: The bill was signed into law on April 17, 2014 and took effect on June 2, 2014.

Kentucky House Bill 465

HB 465 shall not require an optometrist to meet terms and conditions that are not required of a physician or osteopath as a condition for participation in an insurer's provider network and shall provide the same reimbursement for services to optometrists as allowed for those services rendered by physicians or osteopaths.

Status: Bill was signed by the Governor on March 30, 2015 and becomes effective 90 days after the Legislature adjourns target date June 28, 2015.

Maine Senate Bill 310

SB 310 restricts a vision care plan from: an agreement with an eye care provider to provide services or materials to an enrollee at a specified or limited fee unless service or materials are covered service or a covered material under the vision

plan, an agreement with an eye care provider from choosing its sources and suppliers of services and materials, changing any term, contractual discount or reimbursement rate contained in an agreement without notice to the provider at least 60 days before change is implemented, and require an eye care provider participate in other vision insurance as a condition of joining an insurer's provider network for a health plan that provides coverage for vision care or services.

Status: Became law without the Governor's signature on June 13, 2015 and became effective on January 1, 2016.

Oregon House Bill 3530

HB 3530 prohibits vision care insurance from imposing specified terms on a vision care provider. The prohibitions are: limit or specify the fee that a provider may charge for services or materials that are not reimbursed, require a provider to participate in one vision care insurance plan as a condition for participating in another plan, change terms, discount or reimbursement rates without a signed acknowledgement that the provider agrees, and restricts a provider's choice of suppliers of materials.

Status: The Governor signed the bill into law on August 12, 2015. The law became effective on January 1, 2016.

Texas Senate Bill 684

SB 684 does not allow a managed vision care plan to "restrict or limit an ECP's choice of sources of suppliers of services or materials, including optical laboratories." As with other 'access to eye care' laws, the impact of this language would be to prohibit a managed vision care company from requiring that an ECP utilize certain optical laboratories as a condition to inclusion on the insurer's panel.

Status: The Governor signed the bill into law on June 20, 2015. The bill took effect on September 1, 2015.

Pennsylvania Senate Bill 978

SB 978 would amend the Commonwealth's Insurance Company Law to add provisions prohibiting an insurer from limiting an eye care professional's choice of suppliers of materials or services, including services from optical laboratories. The Act would also prohibit an insurer from setting fees for non-covered materials and services. In a section that is fairly unique among other similar laws, the Act also prohibits insurers from directly communicating with enrollees in a manner that "interferes with or contravenes" the doctor-patient relationship.

Status: SB 978 was referred to the Senate Banking and Insurance Committee on August 14, 2015 and no action has been taken on the legislation since it was referred to the committee.

Vermont Senate Bill 281

SB 281 requires health insurance plans to provide a choice of providers for vision care and medical eye care services and to reimburse providers the same amount for the same services when provided by either an optometrist or an ophthalmologist. It requires health insurers to permit optometrists to participate in vision care and medical eye care plans to the same extent as ophthalmologists and prohibits insurers from placing certain requirements on an optometrist as a condition for participation in a health insurance or vision plan. The bill would also ensure that optometrists and ophthalmologists are compensated for the services and materials they provide.

Status: The bill was signed into law on June 10, 2014 and took effect on January 1, 2015.

Virginia House Bill 1444

HB 1444 restricts a vision care plan from requiring an eye care provider from accepting a fee or rate on materials or services unless the materials and services are covered materials or services under the vision care plan. The vision care plan shall not require a provider to use a particular optical lab, manufacturer of eyeglass frames or contact lenses or third party supplier as a condition of participation in a vision care plan. Any changes to a participating provider agreement proposed by the vision care plan shall be submitted in writing to the provider at least 30 days prior to the effective date of the changes.

Status: Both the House and Senate accepted the Governor's amendments on April 15, 2015. The bill shall become effective January 1, 2016.

United States Congress HR 3323

HR 3323 applies to the delivery of care under vision and dental plans. The proposed bill has two main facets: (1) a provision prohibiting health plans from restricting doctor choice in selecting laboratories and other providers of supplies and services; and (2) provisions prohibiting vision and dental care plans from mandating prices for "non-covered" items and services. HR 3323 does not preempt any enacted state law; it only affects any vision plans, such as those organized under the Employment Retirement Income Security Act (ERISA), the Taft-Hartley Act (union type benefits), or any federal benefit plans that are offered to Federal employees. Most of the vision plans that are offered at the federal level are supplied by VSP and Davis Vision.

Status: The bill was filed on July 29, 2015 and referred to the subcommittee on Health under the full House Energy and Commerce Committee on July 31, 2015. No action has been taken on the legislation since then.