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**ENGROSSED SUBSTITUTE HOUSE BILL 1762**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Riccelli, Schmick, Jinkins, Harris, Cody, Van De Wege, Robinson, and Tharinger)

AN ACT Relating to enhancing the relationship between a health insurer and a contracting health care provider; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 48.20 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Noncovered vision materials or services" means vision materials or vision services that are:

(A) Excluded from coverage under the terms and conditions of the health benefit plan; or

(B) Ineligible for reimbursement under the health benefit plan.

(ii) Vision materials or vision services are not noncovered vision materials or vision services solely because they are not wholly or partially reimbursable due to the operation of plan or contract limitations, such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations.

(b) "Vision care provider" means:

(i) An optometrist licensed under chapter 18.53 RCW;

(ii) A physician licensed under chapter 18.71 RCW or osteopathic physician and surgeon licensed under chapter 18.57 RCW, who has completed a residency in ophthalmology; or

(iii) A dispensing optician licensed under chapter 18.34 RCW.

(c) "Vision materials" means ophthalmic devices including, but not limited to, devices containing lenses, artificial intraocular lenses, ophthalmic frames and other lens mounting apparatuses, prisms, lens treatments and coatings, contact lenses, or prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

(d) "Vision services" means professional work performed by a vision care provider within the scope of his or her practice.

(2) An insurer, or any contract or participating provider agreement between the insurer and a vision care provider, may not:

(a) Prohibit directly or indirectly an enrollee from freely contracting at any time to obtain noncovered vision materials or services outside the health benefit plan on any terms or conditions the enrollee and vision care provider may agree to. Nothing in this subsection may be construed to bind an insurer or vision care provider for any noncovered vision materials or services. Nothing in this subsection prohibits a vision care provider from choosing to contractually opt in to a materials discount program sponsored by an insurer or vision care plan;

(b) Require a vision care provider to participate with, or be credentialed by, another insurer, health carrier, or health benefit plan as a condition to join one of the insurer's provider panels; or

(c) Require a vision care provider to purchase vision services or vision materials from suppliers, including optical labs, in which the insurer has a financial interest.

(3) An insurer must provide no less than sixty days' notice to the vision care provider of any proposed changes to a vision care provider's contract with the insurer, which the vision care provider may accept or reject at any time within the notice period. A vision care provider's rejection of the amendment does not affect the terms of the vision care provider's existing contract with the insurer. If the notice of proposed amendment is delivered in writing to the vision care provider via certified mail, the amendment may be considered accepted in the absence of written notice of rejection by the vision care provider within the sixty-day notice period.

(4) An insurer may require a vision care provider to notify the insurer of any changes to his or her provider practice status including, but not limited to, tax identification, address, phone number, hours of operations, and providers on staff.

(5) The commissioner shall respond to all complaints alleging violations of this section using the same standards, timelines, and procedures, regardless of the identity of the person or entity making the complaint.

NEW SECTION. **Sec.**  A new section is added to chapter 48.21 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Noncovered vision materials or services" means vision materials or vision services that are:

(A) Excluded from coverage under the terms and conditions of the health benefit plan; or

(B) Ineligible for reimbursement under the health benefit plan.

(ii) Vision materials or vision services are not noncovered vision materials or vision services solely because they are not wholly or partially reimbursable due to the operation of plan or contract limitations, such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations.

(b) "Vision care provider" means:

(i) An optometrist licensed under chapter 18.53 RCW;

(ii) A physician licensed under chapter 18.71 RCW or osteopathic physician and surgeon licensed under chapter 18.57 RCW, who has completed a residency in ophthalmology; or

(iii) A dispensing optician licensed under chapter 18.34 RCW.

(c) "Vision materials" means ophthalmic devices including, but not limited to, devices containing lenses, artificial intraocular lenses, ophthalmic frames and other lens mounting apparatuses, prisms, lens treatments and coatings, contact lenses, or prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

(d) "Vision services" means professional work performed by a vision care provider within the scope of his or her practice.

(2) An insurer, or any contract or participating provider agreement between the insurer and a vision care provider, may not:

(a) Prohibit directly or indirectly an enrollee from freely contracting at any time to obtain noncovered vision materials or services outside the health benefit plan on any terms or conditions the enrollee and vision care provider may agree to. Nothing in this subsection may be construed to bind an insurer or vision care provider for any noncovered vision materials or services. Nothing in this subsection prohibits a vision care provider from choosing to contractually opt in to a materials discount program sponsored by an insurer or vision care plan;

(b) Require a vision care provider to participate with, or be credentialed by, another insurer, health carrier, or health benefit plan as a condition to join one of the insurer's provider panels; or

(c) Require a vision care provider to purchase vision services or vision materials from suppliers, including optical labs, in which the insurer has a financial interest.

(3) An insurer must provide no less than sixty days' notice to the vision care provider of any proposed changes to a vision care provider's contract with the insurer, which the vision care provider may accept or reject at any time within the notice period. A vision care provider's rejection of the amendment does not affect the terms of the vision care provider's existing contract with the insurer. If the notice of proposed amendment is delivered in writing to the vision care provider via certified mail, the amendment may be considered accepted in the absence of written notice of rejection by the vision care provider within the sixty-day notice period.

(4) An insurer may require a vision care provider to notify the insurer of any changes to his or her provider practice status including, but not limited to, tax identification, address, phone number, hours of operations, and providers on staff.

(5) The commissioner shall respond to all complaints alleging violations of this section using the same standards, timelines, and procedures, regardless of the identity of the person or entity making the complaint.

NEW SECTION. **Sec.**  A new section is added to chapter 48.44 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Noncovered vision materials or services" means vision materials or vision services that are:

(A) Excluded from coverage under the terms and conditions of the health benefit plan; or

(B) Ineligible for reimbursement under the health benefit plan.

(ii) Vision materials or vision services are not noncovered vision materials or vision services solely because they are not wholly or partially reimbursable due to the operation of plan or contract limitations, such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations.

(b) "Vision care provider" means:

(i) An optometrist licensed under chapter 18.53 RCW;

(ii) A physician licensed under chapter 18.71 RCW or osteopathic physician and surgeon licensed under chapter 18.57 RCW, who has completed a residency in ophthalmology; or

(iii) A dispensing optician licensed under chapter 18.34 RCW.

(c) "Vision materials" means ophthalmic devices including, but not limited to, devices containing lenses, artificial intraocular lenses, ophthalmic frames and other lens mounting apparatuses, prisms, lens treatments and coatings, contact lenses, or prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

(d) "Vision services" means professional work performed by a vision care provider within the scope of his or her practice.

(2) A health care services contractor, or any contract or participating provider agreement between the health care services contractor and a vision care provider, may not:

(a) Prohibit directly or indirectly an enrollee from freely contracting at any time to obtain noncovered vision materials or services outside the health benefit plan on any terms or conditions the enrollee and vision care provider may agree to. Nothing in this subsection may be construed to bind a health care services contractor or vision care provider for any noncovered vision materials or services. Nothing in this subsection prohibits a vision care provider from choosing to contractually opt in to a materials discount program sponsored by a health care services contractor or vision care plan;

(b) Require a vision care provider to participate with, or be credentialed by, another health care services contractor, health carrier, or health benefit plan as a condition to join one of the health care services contractor's provider panels; or

(c) Require a vision care provider to purchase vision services or vision materials from suppliers, including optical labs, in which the health care services contractor has a financial interest.

(3) A health care services contractor must provide no less than sixty days' notice to the vision care provider of any proposed changes to a vision care provider's contract with the health care services contractor, which the vision care provider may accept or reject at any time within the notice period. A vision care provider's rejection of the amendment does not affect the terms of the vision care provider's existing contract with the health care services contractor. If the notice of proposed amendment is delivered in writing to the vision care provider via certified mail, the amendment may be considered accepted in the absence of written notice of rejection by the vision care provider within the sixty-day notice period.

(4) A health care services contractor may require a vision care provider to notify the health care services contractor of any changes to his or her provider practice status including, but not limited to, tax identification, address, phone number, hours of operations, and providers on staff.

(5) The commissioner shall respond to all complaints alleging violations of this section using the same standards, timelines, and procedures, regardless of the identity of the person or entity making the complaint.

NEW SECTION. **Sec.**  A new section is added to chapter 48.46 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Noncovered vision materials or services" means vision materials or vision services that are:

(A) Excluded from coverage under the terms and conditions of the health benefit plan; or

(B) Ineligible for reimbursement under the health benefit plan.

(ii) Vision materials or vision services are not noncovered vision materials or vision services solely because they are not wholly or partially reimbursable due to the operation of plan or contract limitations, such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations.

(b) "Vision care provider" means:

(i) An optometrist licensed under chapter 18.53 RCW;

(ii) A physician licensed under chapter 18.71 RCW or osteopathic physician and surgeon licensed under chapter 18.57 RCW, who has completed a residency in ophthalmology; or

(iii) A dispensing optician licensed under chapter 18.34 RCW.

(c) "Vision materials" means ophthalmic devices including, but not limited to, devices containing lenses, artificial intraocular lenses, ophthalmic frames and other lens mounting apparatuses, prisms, lens treatments and coatings, contact lenses, or prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

(d) "Vision services" means professional work performed by a vision care provider within the scope of his or her practice.

(2) A health maintenance organization, or any contract or participating provider agreement between the health maintenance organization and a vision care provider, may not:

(a) Prohibit directly or indirectly an enrollee from freely contracting at any time to obtain noncovered vision materials or services outside the health benefit plan on any terms or conditions the enrollee and vision care provider may agree to. Nothing in this subsection may be construed to bind a health maintenance organization or vision care provider for any noncovered vision materials or services. Nothing in this subsection prohibits a vision care provider from choosing to contractually opt in to a materials discount program sponsored by a health maintenance organization or vision care plan;

(b) Require a vision care provider to participate with, or be credentialed by, another health maintenance organization, health carrier, or health benefit plan as a condition to join one of the health maintenance organization's provider panels; or

(c) Require a vision care provider to purchase vision services or vision materials from suppliers, including optical labs, in which the health maintenance organization has a financial interest.

(3) A health maintenance organization must provide no less than sixty days' notice to the vision care provider of any proposed changes to a vision care provider's contract with the health maintenance organization, which the vision care provider may accept or reject at any time within the notice period. A vision care provider's rejection of the changes does not affect the terms of the vision care provider's existing contract with the health maintenance organization. If the notice of proposed changes is delivered in writing to the vision care provider via certified mail, the changes may be considered accepted in the absence of written notice of rejection by the vision care provider within the sixty-day notice period.

(4) A health maintenance organization may require a vision care provider to notify the health maintenance organization of any changes to his or her provider practice status including, but not limited to, tax identification, address, phone number, hours of operations, and providers on staff.

(5) The commissioner shall respond to all complaints alleging violations of this section using the same standards, timelines, and procedures, regardless of the identity of the person or entity making the complaint.

(6) This section does not apply to vision materials or vision services provided directly by a health maintenance organization.

NEW SECTION. **Sec.**  This act takes effect January 1, 2016.

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