



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 156

132nd General Assembly
(As Introduced)

Rep. Schuring

BILL SUMMARY

- Prohibits specified terms from being included in health care contracts between a vision care provider and a contracting entity (any person that has the primary business purpose of contracting with participating providers for the delivery of health care services).
 - Prohibits a contracting entity from requiring that a vision care provider accept a payment amount set by the contracting entity for vision care services or materials unless those services or materials are covered services.
 - Imposes disclosure requirements on health insurers and on vision care providers regarding vision care services and materials that are not covered services.
 - Imposes disclosure requirements on vision care providers regarding vision care materials and services that are out-of-network.
 - Makes a violation of the above provisions an unfair and deceptive act in the business of insurance.
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CONTENT AND OPERATION

Choice of vision care providers and suppliers of vision care materials

The bill regulates the provision of vision care services and vision care materials in health insurance contracts and in provider agreements between insurers and vision care providers (licensed optometrists and certified physicians). "Vision care materials" include lenses, devices containing lenses, prisms, lens treatments and coatings, contact lenses, orthotics, vision training, and any prosthetic device necessary to correct, relieve,

or treat any defect or abnormal condition of the human eye or its adnexa (appendages or accessory organs).¹

The bill imposes disclosure requirements on any health care policy, contract, agreement, or plan of a (1) health insuring corporation, (2) sickness and accident insurer, (3) multiple employer welfare arrangement, or (4) public employee benefit plan (collectively, health insurer) regarding vision care services and vision care materials. A health insurer must include both of the following on each insurance identification or other verification card provided to an enrollee:

- The following statement:

IMPORTANT: If you opt to receive vision care services or vision care materials that are not covered benefits under this plan, a participating vision care provider may charge you his or her normal fee for such services or materials. Prior to providing you with vision care services or vision care materials that are not covered benefits, the vision care provider will provide you with an estimated cost for each service or material upon your request.

- A disclosure of any business interests the insurer has in a source or supplier of vision care materials.²

Unfair and deceptive act in the practice of insurance

Under the bill, a pattern of continuous or repeated violations of the above requirements is an unfair or deceptive practice in the business of insurance.³ Under continuing law, a person who is found to have committed an unfair and deceptive practice in the business of insurance is subject to any or all of the following sanctions:

- Suspension or revocation of the person's license to engage in the business of insurance;
- Prohibition on an insurance company or insurance agency employing the person or permitting the person to serve the company or agency in any capacity for a period of time;

¹ R.C. 3963.01(T) and (U), with a conforming change in R.C. 3963.03; The Free Dictionary, *Adnexa*, <http://medical-dictionary.thefreedictionary.com/adnexa> (accessed May 19, 2017).

² R.C. 1739.05, 1751.85, and 3923.86.

³ R.C. 1751.85 and 3923.86.



- Return of any payments received by the person as a result of the violation;
- Fees for attorneys and other costs of any investigation into the violations committed by the person.⁴

Health Contract Law prohibitions

Provider contract terms

The bill also prohibits specified terms from being included in health care contracts between a vision care provider and a contracting entity (any person that has the primary business purpose of contracting with participating providers for the delivery of health care services).

The bill prohibits a contract between a contracting entity and a vision care provider from doing any of the following:

- Requiring that a vision care provider accept as payment an amount set by the contracting entity for vision care services or vision care materials unless the services in question are "covered vision services" (those services or materials for which reimbursement is available under a health care contract or would be available but for the application of contractual limitations such as deductibles, copayments, waiting periods, annual or lifetime maximums, or any other limitation). In other words, the contracting entity cannot require the vision care provider to charge a certain rate for vision care services that are not covered services.
- Requiring that a vision care provider participate in a health care contract as a condition to participating in any other health care contract;
- Directly limiting a vision care provider's choice of sources and suppliers of vision care materials;
- Prohibiting a vision care provider from describing out-of-network options to an enrollee.⁵

Noncovered services

The bill also imposes requirements on vision care providers regarding vision care materials and services that are out-of-network or are not covered services.

⁴ R.C. 3901.22, not in the bill.

⁵ R.C. 3963.02(E)(1) and 3963.01(C) and (D), with a conforming change in R.C. 1753.09.

First, if a provider recommends an out-of-network source of vision care materials to an enrollee, the provider must:

- Notify the enrollee in writing that the source is out-of-network;
- Inform the enrollee of the cost of those materials; and
- Disclose in writing to the enrollee any business interest the provider has in the recommended out-of-network source.

Second, if a provider does not accept as payment for vision care services or vision care materials that are not covered services an amount set by a contracting entity, the provider must supply to the enrollee a cost estimate for the services or materials upon the request of the enrollee. The provider must also post in a conspicuous location the following notice:

IMPORTANT: This vision care provider does not accept the fee schedule set by your insurer for vision care services and vision care materials that are not covered benefits under your plan and instead charges his or her normal fee for those services and materials. This vision care provider will provide you with an estimate cost for each noncovered service or material upon your request.⁶

Contracting entities

The bill specifies that the above provisions do not:

- Restrict a contracting entity's determination of specific coverage or reimbursement amounts for network or out-of-network suppliers of vision care materials as set forth in a health benefit plan;
- Restrict a contracting entity's ability to enter into an agreement with another contracting entity or an affiliate of another contracting entity.⁷

Enforcement

The prohibitions described above under "**Health Care Contract Law prohibitions**" would become part of Ohio's Health Care Contract Law.⁸ Continuing law

⁶ R.C. 3963.02(E)(2) and (3).

⁷ R.C. 3963.02(E)(4).

⁸ R.C. Chapter 3963.



authorizes the Superintendent of Insurance to conduct a market investigation of any person regulated by the Department of Insurance under Ohio's Insurance Law⁹ or Ohio's Corporation and Partnership Law¹⁰ to determine whether any violation of the Health Care Contract Law has occurred. When conducting such an examination, the Superintendent can assess the costs of the examination against the person examined. The Superintendent may enter into a consent agreement to impose any administrative assessment or fine for conduct discovered that may be a violation of the Health Care Contract Law. In addition, a series of violations of the Health Care Contract Law by any person regulated by the Department of Insurance that, taken together, constitute a pattern or practice of violating that Law may constitute an unfair and deceptive insurance practice.¹¹

The bill also specifies that a violation of these prohibitions is an unfair or deceptive practice in the business of insurance (see "**Unfair and deceptive act in the practice of insurance**" above).¹²

General Assembly's intent and findings

The bill states that its provisions seek to prevent health insuring corporations, vision insurers, vision benefit plans, and other contracting entities from establishing fee limitations on services and vision care materials that are not covered vision services for enrollees under an insurance plan.

Furthermore, strategies by health insuring corporations, vision insurers, vision benefit plans, and other contracting entities to adopt or impose a deductible, copayment, coinsurance, or any other reimbursement for services or vision care materials as a method to avoid the impact of the bill is contrary to the spirit and intent of the General Assembly.¹³

HISTORY

ACTION

DATE

Introduced

03-23-17

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⁹ R.C. Title 39.

¹⁰ R.C. Title 17.

¹¹ R.C. 3963.09, not in the bill.

¹² R.C. 3901.21(BB).

¹³ Section 3 of the bill.

