

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas      *As Engrossed: H3/12/15 H3/23/15 S3/26/15*  
90th General Assembly      **A Bill**  
Regular Session, 2015

HOUSE BILL 1894

By: Representatives Vines, Baltz, Collins, D. Ferguson, G. Hodges, Jett, Magie, *M. Hodges*  
By: Senator Rapert

### **For An Act To Be Entitled**

AN ACT TO REGULATE AN INSURER THAT OFFERS VISION CARE  
PLANS; TO ESTABLISH THE VISION CARE PLAN ACT OF 2015;  
AND FOR OTHER PURPOSES.

### **Subtitle**

TO REGULATE AN INSURER THAT OFFERS VISION  
CARE PLANS; AND TO ESTABLISH THE VISION  
CARE PLAN ACT OF 2015.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an additional subchapter to read as follows:

#### Subchapter 9 – Vision Care Plan Act of 2015

##### 23-99-901. Title.

This subchapter shall be known and may be cited as the "Vision Care Plan Act of 2015".

##### 23-99-902. Definitions.

As used in this subchapter:

(1) "Covered materials" means materials for which reimbursement from the insurer, vision care plan, or vision care discount plan is provided to a vision care provider by an individual's vision benefit plan or contract and that are reimbursable subject to a deductible, copayment, coinsurance, or



other contractual limitations;

(2) "Covered services" means services for which reimbursement from the insurer, vision care plan, or vision care discount plan is provided to a vision care provider by an individual's vision benefit plan or contract and that are reimbursable subject to a deductible, copayment, coinsurance, or other contractual limitations;

(3) "Insurer" means an insurance company, a health maintenance organization, a hospital and medical service corporation, or a self-insured health plan for employees of a governmental entity;

(4) "Materials" means ophthalmic devices, including without limitation:

(A) Lenses;

(B) Devices containing lenses;

(C) Artificial intraocular lenses;

(D) Ophthalmic frames;

(E) Lens-mounting apparatus;

(F) Prisms;

(G) Spectacle or contact Lens treatments and coatings; and

(H) Prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa;

(5) "Noncovered materials" means materials that are not covered by an insurer, a vision care plan, or a vision care discount plan;

(6) "Noncovered services" means services that are not covered by an insurer, a vision care plan, or a vision care discount plan;

(7) "Participating provider agreement" means an agreement between a vision care provider and an insurer that obligates a vision care provider to provide for compensation services and materials to an individual who is insured by the insurer;

(8) "Services" means benefits or services provided by a vision care provider;

(9) "Vision benefit plan or contract" means a plan, contract, or policy of insurance issued by an insurer that provides for vision care benefits or services;

(10) "Vision care discount plan" means a separate plan to provide benefits or services under a rider to a health benefit plan or as a stand-alone agreement that is authorized by a vision care provider to provide

discounts to individuals under the Primary Eye Care Provider Act, § 23-99-301 et seq.;

(11) "Vision care plan" means an entity that provides health benefits and that creates, promotes, sells, provides, advertises, or administers an integrated or stand-alone vision benefit plan or contract; and

(12) "Vision care provider" means an individual licensed as an optometrist under § 17-90-301 et seq., a licensed medical or osteopathic physician licensed under § 17-91-101 et seq. or § 17-95-401 et seq., if the physician has also completed a residency in ophthalmology.

23-99-903. Prohibited practices – Agreements.

(a) A participating provider agreement between an insurer, vision care plan, or vision care discount plan and a vision care provider shall not establish a fee that a vision care provider shall charge for services or materials that are not covered by a vision benefit plan or contract.

(b) A vision care provider shall not charge a fee for services or materials that is more than the vision care provider's normal rate for the services or materials if the services or materials are noncovered services or noncovered materials.

(c)(1) An insurer, vision care plan, or vision care discount plan shall not require a vision care provider to apply a discount to an individual who is insured by the insurer with a participating vision care provider for noncovered services or noncovered materials.

(2) An insurer, vision care plan, or vision care discount plan shall not avoid the restriction under subdivision (c)(1) of this section by providing minimal reimbursement for a service or materials to apply a discount.

(d) A participating provider agreement between an insurer, vision care plan, or vision care discount plan and a vision care provider shall not require that a vision care provider participate with or be credentialed by any specific vision care plan or vision care discount plan as a condition to join an insurer's provider panel.

(e) A participating provider agreement between an insurer, vision care plan, or vision care discount plan and a vision care provider shall 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

provided by the vision care provider to an individual who is insured by the insurer.

(f) The terms, discounts, and reimbursement rates in a participating contract between an insurer, vision care plan, or vision care discount plan with a vision care provider shall not be modified during the term of a participating contract absent written authorization from the vision care provider.

(g) An optician licensed under the Ophthalmic Dispensing Act, § 17-89-101 et seq., is subject to:

(1) Subsections (c) and (e) of this section; and

(2) Subsection (b) of this section in regard to materials.

23-99-904. Private civil action.

(a) A vision care provider adversely affected by any violation of this subchapter by an insurer, vision care plan, or a vision care discount plan may bring a civil action in a court of competent jurisdiction against the insurer, vision care plan, or a vision care discount plan for injunctive relief.

(b) If a person prevails in the civil action under subsection (a) of this section, the person shall recover:

(1) Monetary damages not less than one thousand dollars (\$1,000);

(2) Three (3) times the amount of actual damages, if any; and

(3) Reasonable attorney's fees, costs, and any other proper relief.

23-99-905. Rules – Enforcement – Effective date.

(a) The State Insurance Department shall develop and promulgate rules for the implementation and administration of this subchapter.

(b) The Insurance Commissioner shall enforce this subchapter and may seek injunctive relief for violations of this subchapter.

(c) This subchapter is applicable to a vision benefit plan or contract issued, renewed, or recredentialed in this state on and after the effective date of this subchapter.

/s/Vines