

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0448.01 Yelana Love x2295

HOUSE BILL 18-1012

HOUSE SPONSORSHIP

Becker J. and Lontine, Gray, Singer, Valdez

SENATE SPONSORSHIP

Lundberg and Aguilar, Crowder, Kefalas, Sonnenberg

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING VISION CARE PLANS FOR EYE CARE SERVICES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a carrier or entity that offers a vision care plan from requiring an eye care provider with whom the carrier or entity contracts to:

- ! Provide services or materials to a covered person at a fee set by, or subject to the approval of, the carrier or entity unless certain conditions are met;
- ! Charge a covered person for noncovered services or noncovered materials in any amount less than the usual and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 14, 2018

customary amount that the eye care provider charges individuals who do not have coverage for such materials and services; or

! Participate, as a condition of participation in a vision plan, in any of the carrier's or entity's other vision plans.

The bill prohibits a carrier or entity from changing the terms of a contract between the carrier or entity and an eye care provider without communication with, and agreement from, the eye care provider.

The bill requires the commissioner of insurance to institute a corrective action plan or use any of the commissioner's enforcement powers against a carrier or entity that is not in compliance with the above requirements.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-121.7 as
3 follows:

4 **10-16-121.7. Prohibited contract provisions in contracts**
5 **between carriers and eye care providers - definitions.** (1) A CARRIER
6 OR ENTITY THAT OFFERS A VISION CARE PLAN SHALL NOT REQUIRE THAT
7 AN EYE CARE PROVIDER WITH WHOM THE CARRIER OR ENTITY CONTRACTS:

8 (a) PROVIDE SERVICES OR MATERIALS TO A COVERED PERSON AT
9 A FEE SET BY, OR SUBJECT TO THE APPROVAL OF, THE CARRIER OR ENTITY
10 UNLESS THE SERVICES OR MATERIALS ARE COVERED SERVICES OR
11 COVERED MATERIALS UNDER THE COVERED PERSON'S VISION CARE PLAN
12 AND THE AMOUNT OF COVERAGE IS NEITHER NOMINAL NOR DE MINIMIS.

13 (b) CHARGE A COVERED PERSON FOR A NONCOVERED SERVICE OR
14 NONCOVERED MATERIALS IN AN AMOUNT LESS THAN THE USUAL AND
15 CUSTOMARY AMOUNT THAT THE EYE CARE PROVIDER CHARGES
16 INDIVIDUALS WHO DO NOT HAVE COVERAGE FOR SUCH MATERIALS AND
17 SERVICES; OR

18 (c) PARTICIPATE, AS A CONDITION OF PARTICIPATION IN A VISION
19 CARE PLAN, IN ANY OF THE CARRIER'S OR ENTITY'S OTHER VISION PLAN

1 NETWORKS.

2 (2) A CARRIER OR ENTITY SHALL NOT CHANGE THE TERMS OF THE
3 CONTRACT BETWEEN THE CARRIER OR ENTITY AND AN EYE CARE PROVIDER
4 WITHOUT COMMUNICATION WITH [REDACTED] THE EYE CARE PROVIDER.

5 [REDACTED]
6 (3) IF THE COMMISSIONER DETERMINES THAT A CARRIER OR ENTITY
7 HAS NOT COMPLIED WITH THIS SECTION, THE COMMISSIONER SHALL DO ONE
8 OR BOTH OF THE FOLLOWING:

9 (a) INSTITUTE A CORRECTIVE ACTION PLAN FOR THE CARRIER TO
10 FOLLOW;

11 (b) USE ANY OF THE COMMISSIONER'S ENFORCEMENT POWERS TO
12 OBTAIN THE CARRIER'S OR ENTITY'S COMPLIANCE WITH THIS SECTION.

13 (4) FOR PURPOSES OF THIS SECTION:

14 (a) "COVERED MATERIALS" MEANS MATERIALS FOR WHICH
15 REIMBURSEMENT IS AVAILABLE UNDER A COVERED PERSON'S VISION CARE
16 PLAN, OR FOR WHICH REIMBURSEMENT WOULD BE AVAILABLE BUT FOR THE
17 APPLICATION OF CONTRACTUAL LIMITATIONS SUCH AS DEDUCTIBLES,
18 COPAYMENTS, COINSURANCE, WAITING PERIODS, ANNUAL OR LIFETIME
19 MAXIMUMS, FREQUENCY LIMITATIONS, ALTERNATIVE BENEFIT PAYMENTS,
20 OR ANY OTHER CONTRACTUAL LIMITATIONS.

21 (b) "COVERED SERVICES" MEANS EYE CARE PROVIDER SERVICES
22 FOR WHICH REIMBURSEMENT IS AVAILABLE UNDER A COVERED PERSON'S
23 VISION CARE PLAN, OR FOR WHICH A REIMBURSEMENT WOULD BE
24 AVAILABLE BUT FOR THE APPLICATION OF CONTRACTUAL LIMITATIONS
25 SUCH AS DEDUCTIBLES, COPAYMENTS, COINSURANCE, WAITING PERIODS,
26 ANNUAL OR LIFETIME MAXIMUMS, FREQUENCY LIMITATIONS, ALTERNATIVE
27 BENEFIT PAYMENTS, OR ANY OTHER CONTRACTUAL LIMITATIONS.

1 (c) "EYE CARE PROVIDER" MEANS:

2 (I) AN OPTOMETRIST LICENSED TO PRACTICE UNDER ARTICLE 40 OF
3 TITLE 12; OR

4 (II) AN OPHTHALMOLOGIST LICENSED TO PRACTICE UNDER
5 ARTICLE 36 OF TITLE 12.

6 (d) "MATERIALS" MEANS OPHTHALMIC DEVICES INCLUDING
7 LENSES, DEVICES CONTAINING LENSES, ARTIFICIAL INTRAOCULAR LENSES,
8 OPHTHALMIC FRAMES AND OTHER LENS MOUNTING APPARATUS, PRISMS,
9 LENS TREATMENTS AND COATINGS, CONTACT LENSES, AND PROSTHETIC
10 DEVICES TO CORRECT, RELIEVE, OR TREAT DEFECTS OR ABNORMAL
11 CONDITIONS OF THE HUMAN EYE.

12 (e) "USUAL AND CUSTOMARY AMOUNT" MEANS AN AMOUNT
13 ESTABLISHED PURSUANT TO AN APPROPRIATE METHODOLOGY THAT IS
14 BASED ON GENERALLY ACCEPTED INDUSTRY STANDARDS AND PRACTICES.

15 (f) "VISION CARE PLAN" MEANS:

16 (I) A VISION CARE INSURANCE POLICY OR CONTRACT THAT
17 PROVIDES VISION BENEFITS TO A COVERED PERSON; AND

18 (II) A VISION DISCOUNT PLAN THAT PROVIDES DISCOUNTS TO
19 VISION BENEFITS TO A COVERED PERSON.

20 (5) THIS SECTION DOES NOT APPLY TO AN ENTITY OFFERING A
21 VISION DISCOUNT PLAN TO THE ENTITY'S MEMBERS IF THE ENTITY IS NOT
22 PRIMARILY ENGAGED IN THE BUSINESS OF OFFERING VISION CARE PLANS.

23 **SECTION 2. Act subject to petition - effective date -**
24 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
25 the expiration of the ninety-day period after final adjournment of the
26 general assembly (August 8, 2018, if adjournment sine die is on May 9,
27 2018); except that, if a referendum petition is filed pursuant to section 1

1 (3) of article V of the state constitution against this act or an item, section,
2 or part of this act within such period, then the act, item, section, or part
3 will not take effect unless approved by the people at the general election
4 to be held in November 2018 and, in such case, will take effect on the
5 date of the official declaration of the vote thereon by the governor.

6 (2) This act applies to vision care plans issued or renewed on or
7 after the applicable effective date of this act.