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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 257 Session of  
2017

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INTRODUCED BY WARD, WHITE, SCARNATI, GORDNER, SCHWANK, BROOKS,  
FOLMER, YUDICHAK, HUTCHINSON, COSTA, STEFANO, AUMENT, BOSCOLA  
AND RAFFERTY, JANUARY 27, 2017

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REFERRED TO BANKING AND INSURANCE, JANUARY 27, 2017

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AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An  
2 act relating to insurance; amending, revising, and  
3 consolidating the law providing for the incorporation of  
4 insurance companies, and the regulation, supervision, and  
5 protection of home and foreign insurance companies, Lloyds  
6 associations, reciprocal and inter-insurance exchanges, and  
7 fire insurance rating bureaus, and the regulation and  
8 supervision of insurance carried by such companies,  
9 associations, and exchanges, including insurance carried by  
10 the State Workmen's Insurance Fund; providing penalties; and  
11 repealing existing laws," providing for quality eye care for  
12 insured Pennsylvanians.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The act of May 17, 1921 (P.L.682, No.284), known  
16 as The Insurance Company Law of 1921, is amended by adding an  
17 article to read:

18 ARTICLE XXVII

19 QUALITY EYE CARE FOR INSURED PENNSYLVANIANS

20 Section 2701. Short title of article.

21 This article shall be known and may be cited as the Quality  
22 Eye Care for Insured Pennsylvanians Act.

1 Section 2702. Definitions.

2 The following words and phrases when used in this article  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Covered vision services." Vision services for which  
6 reimbursement is available under an insured's policy, regardless  
7 of whether the reimbursement is contractually limited by a  
8 deductible, copayment, coinsurance, waiting period, annual or  
9 lifetime maximum, frequency limitation or alternative benefit  
10 payment.

11 "Enrollee." A subscriber afforded coverage for services,  
12 materials or both under an insurance policy, a vision care plan  
13 or a government program.

14 "Eye care provider." A licensed doctor of optometry  
15 practicing under the authority of the act of June 6, 1980  
16 (P.L.197, No.57), known as the Optometric Practice and Licensure  
17 Act, or a licensed physician who has also completed a residency  
18 in ophthalmology.

19 "Government program." A program that issues coverage for  
20 materials or services pursuant to this act and is governed by or  
21 subject to any of the following:

22 (1) The medical assistance program established under the  
23 act of June 13, 1967 (P.L.31, No.21), known as the Human  
24 Services Code.

25 (2) A program administered by a Medicaid managed care  
26 organization as defined in section 1903(m)(1)(A) of the  
27 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396b(m)(1)  
28 (A)) that is a party to a Medicaid managed care contract with  
29 the Department of Human Services.

30 (3) The Medicare program established under the Social

1 Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

2 (4) The Medicare Advantage program established under the  
3 Social Security Act.

4 "Insurance policy." An individual or group health insurance  
5 policy, contract or plan issued by or through an insurer, a  
6 vision care plan or a government program that provides coverage  
7 for materials, services or both provided by an eye care  
8 provider. The term does not include accident only, fixed  
9 indemnity, limited benefit, credit, dental, specified disease,  
10 Civilian Health and Medical Program of the Uniformed Services  
11 (CHAMPUS) supplement, long-term care or disability income,  
12 workers' compensation or automobile medical payment insurance.

13 "Insurer." An entity or affiliate entity that issues an  
14 insurance policy pursuant to this act and is subject to any one  
15 of the following:

16 (1) This act.

17 (2) The act of December 29, 1972 (P.L.1701, No.364),  
18 known as the Health Maintenance Organization Act.

19 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
20 corporations).

21 (4) 40 Pa.C.S. Ch. 63 (relating to professional health  
22 services plan corporations).

23 (5) A preferred provider organization.

24 "Licensure board." Any or all of the following, depending on  
25 the licensure of the affected individual:

26 (1) The State Board of Medicine.

27 (2) The State Board of Osteopathic Medicine.

28 (3) The State Board of Optometry.

29 "Materials." Ophthalmic devices, including, but not limited  
30 to, lenses, devices containing lenses, artificial intraocular

1 lenses, ophthalmic frames and other lens mounting apparatus,  
2 prisms, lens treatments and coating, contact lenses and  
3 prosthetic devices to correct, relieve or treat defects or  
4 abnormal conditions of the human eye or its adnexa associated  
5 with the delivery of services, materials or both by an eye care  
6 provider.

7 "Physician." An individual licensed under the laws of this  
8 Commonwealth to engage in the practice of:

9 (1) Medicine and surgery in all its branches within the  
10 scope of the act of December 20, 1985 (P.L.457, No.112),  
11 known as the Medical Practice Act of 1985.

12 (2) Osteopathic medicine and surgery within the scope of  
13 the act of October 5, 1978 (P.L.1109, No.261), known as the  
14 Osteopathic Medical Practice Act.

15 "Services." The delivery of eye care services, materials or  
16 both by an eye care provider.

17 "Vision care plan." An entity that creates, promotes, sells,  
18 provides, advertises or administers an integrated or stand-alone  
19 vision benefit plan, or a vision care insurance policy or  
20 contract that provides coverage for materials, services or both  
21 to an enrollee pursuant to an insurance policy, vision care plan  
22 or government program.

23 Section 2703. Restrictions on participating provider  
24 agreements.

25 A participating provider agreement between an eye care  
26 provider and an insurer, vision care plan or government program  
27 shall comply with all of the following:

28 (1) The eye care provider may not be required to provide  
29 services to the insurer's insureds at a fee set by the  
30 insurer unless those services are covered vision services.

1       (2) Reimbursements paid by an insurer, vision care plan  
2 or government program for covered services and covered  
3 materials under the participating provider agreement shall be  
4 reasonable and shall not provide nominal reimbursement in  
5 order to claim that services and materials are included in  
6 covered vision services under the insurance policy, vision  
7 care plan or government program.

8       (3) An eye care provider may not charge more for  
9 services and materials that are noncovered services or  
10 noncovered materials to an enrollee of an insurer, vision  
11 care plan or government program than the usual and customary  
12 rate for those services and materials.

13       (4) The participating provider agreement may not  
14 restrict or limit, either directly or indirectly, the eye  
15 care provider's choice of sources and suppliers of services  
16 or materials or the use of optical laboratories provided by  
17 the eye care provider to an enrollee.

18       (5) The terms or reimbursement rates contained in the  
19 participating provider agreement may not be changed without a  
20 signed acknowledgment of written consent and agreement from  
21 the eye care provider.

22 Section 2704. Prohibition on contracting.

23 No insurance policy, vision care plan or government program  
24 may impose a condition or restriction on an eye care provider  
25 that is not necessary for the delivery of services or materials  
26 or that has the effect of excluding the eye care provider from  
27 participation in the insurance policy, vision care plan,  
28 government program or any of the participating provider panels  
29 for those entities.

30 Section 2705. Penalties.

1 A violation of the provisions of this article by an insurer  
2 or a vision care plan with frequency sufficient to constitute a  
3 general business practice shall be considered a violation of the  
4 act of July 22, 1974 (P.L.589, No.205), known as the Unfair  
5 Insurance Practices Act, and is deemed an unfair method of  
6 competition and an unfair deceptive act or practice pursuant to  
7 that act.

8 Section 2706. Applicability.

9 The requirements of this article shall apply to an insurer,  
10 insurance policy, a vision care plan or a government program and  
11 any contracts, addendums and certificates executed, delivered,  
12 issued for delivery, continued or renewed in this Commonwealth.

13 Section 2. This act shall take effect in 60 days.