**South Carolina General Assembly**

125th Session, 2023-2024

**S. 588**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Adams, Kimbrell, Gambrell, Shealy and Fanning

Companion/Similar bill(s): 4271

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Introduced in the Senate on March 2, 2023

Currently residing in the Senate Committee on **Banking and Insurance**

Summary: Vision Care Plans

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/2/2023 Senate Introduced and read first time ([Senate Journal‑page 7](h:\sj\20230302.docx))

3/2/2023 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 7](h:\sj\20230302.docx))

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**VERSIONS OF THIS BILL**

[03/02/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/588_20230302.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38‑71‑440, RELATING TO HEALTH MAINTENANCE ORGANIZATIONS AND HEALTH BENEFIT PLANS OFFERING MEDICAL EYE CARE OR VISION CARE BENEFITS AND PROHIBITED ACTIONS, SO AS TO PROVIDE DEFINITIONS FOR VISION CARE ORGANIZATION AND PROVIDER PANEL, PROHIBIT THE REQUIREMENT THAT AN OPHTHALMOLOGIST, OPTOMETRIST, OR OPTICIAN MUST JOIN A NETWORK SOLELY FOR THE PURPOSE OF CREDENTIALING THE LICENSEE FOR ANOTHER ORGANIZATION’S VISION NETWORK, PROHIBIT THE REQUIREMENT THAT AN OPHTHALMOLOGIST, OPTOMETRIST, OR OPTICIAN MUST USE SPECIFIC SUPPLIERS OF MATERIALS OR OPTICAL LABORATORIES, PROHIBIT CONTRACT REQUIREMENTS THAT AN OPHTHALMOLOGIST, OPTOMETRIST, OR OPTICIAN MUST PROVIDE SERVICES OR MATERIALS TO A PATIENT BASED UPON THE HEALTH MAINTENANCE ORGANIZATION’S SUBSIDIARIES, OTHER HOLDINGS, OR CONTRACT MANDATES, AND PROHIBIT PATIENT RESTRICTION OF CHOICE OF LABS AND MATERIAL PROVIDERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 38‑71‑440 of the S.C. Code is amended to read:

Section 38‑71‑440. (A) As used in this section:

(1) “Health benefit plan” means any public or private health plan implemented in this State that provides medical eye care or vision care benefits, or both, to covered persons including payments and reimbursements.

(2) “Health maintenance organization” means any public or private health maintenance organization implemented in this State that provides medical eye care or vision care plans, including payments and reimbursements, to covered persons.

(2)(3) “Ophthalmologist” means a physician licensed pursuant to Title 40, Chapter 47 who practices in South Carolina and who specializes in the medical and surgical care of the eye and visual system and routine vision care.

(3)(4) “Optometrist” means a doctor of optometry licensed pursuant to Title 40, Chapter 37 who is engaged in the practice of optometry in South Carolina.

(5) “Optician” means an optician licensed pursuant to Title 40, Chapter 38, who is engaged in the practice of opticianry in South Carolina.

(6) “Vision Care Organization” means any public or private entity or organization implemented in this state that provides vision care plans or related benefit plans to individuals or entities for the provision of vision care services or related vision care products.

(B) No health maintenance organization, vision care organization, or health benefit plan which maintains or contracts with a network of ophthalmologists or, optometrists, or both,opticians to provide medical eye care or vision care benefits, or both, shall prohibit a participating ophthalmologist, optometrist, or optician from performing any vision care medical services within that ophthalmologist’s, optometrist's, or optician’s scope of practice set forth in Title 40, Chapters 37, or 38, in accordance with the terms of the health maintenance organization or health benefit plan and in accordance with subsections (C) and (I).

(C)(1) No health maintenance organization, vision care organization, or health benefit plan which maintains or contracts with a network of ophthalmologists or, optometrists, or both, opticians to provide medical eye care or vision care benefits, or both, excepting all self‑funded health benefit plans as defined under the Federal Employee Retirement Income Security Act (ERISA) of 1974, shall discriminate against optometry, as a class, or ophthalmology, as a class, or opticianry, as a class, with respect to the terms, conditions, privileges, and opportunity of participation or compensation for the same eye care services provided in this section.

(2) No health maintenance organization, vision care organization, or health benefit plan may require an ophthalmologist, optometrist, or optician to join a network solely for the purpose of credentialing the licensee for another organization’s vision network. This does not prevent such organizations from entering a contract with another organization’s vision care plan to use the vision network.

(3) No health maintenance organization, vision care organization, or health benefit shall require an ophthalmologist, optometrist, or optician to utilize specific suppliers of materials or optical laboratories.

(D) No health benefit plan, vision care organization, or health maintenance organization shall impose on ophthalmology, as a class, optometry, as a class, or opticianry, as a class, any condition or restriction which is not necessary for the delivery of services or materials, or both, in accordance with and subject to the scope of practice as set forth in Chapters 37, 38, or 47, Title 40.

(E) Any health maintenance organization, vision care organization, or health benefit plan may contract for vision care benefits or medical eye care benefits, or both. A health maintenance organization or health benefit plan may contract for surgery only services with ophthalmologists. A health maintenance organization or health benefit plan must be authorized to contract with optometrists and ophthalmologists as either individual panelists or network panelists.

(F) Nothing in this section may be construed to limit, expand, or otherwise affect the scope of practice of optometrists and therapeutically certified optometrists as provided for in Chapter 37, Title 40as set forth in Chapters 37, 38, or 47, Title 40.

(G) Nothing in this section may be construed to preclude a covered person from receiving emergency medical eye care or to preclude a primary care physician from providing treatment for covered services in accordance with the terms of a health maintenance organization or health benefit plan.

(H) Nothing in this section may be construed to mandate coverage of any service.

(I) Nothing in this plan may be construed to prohibit a health maintenance organization or health benefit plan from professionally credentialing and evaluating all individual optometrists or ophthalmologists within a network or plan in a nondiscriminatory manner. Nothing in this section may be construed to prohibit any health maintenance organization or health benefit plan from limiting the number of optometrists or ophthalmologists in a nondiscriminatory manner or to prohibit a health maintenance organization or health benefit plan from negotiating individually with optometrists or ophthalmologists for individual rates and eye care services in a nondiscriminatory manner.

(J) No health benefit plan, vision care organization, or health maintenance organization shall close a provider panel in a manner that precludes the covered individual from receiving covered materials from a provider who offers the covered materials.

(J)(K) Any person aggrieved by a violation of this section may file a complaint with the Department of Insurance. After notice to the health maintenance organization or health benefit plan and an opportunity for it to submit a written response to the complaint, the director of the department may make a written determination regarding the complaint. Any party aggrieved by the director's determination is entitled to administrative and judicial review pursuant to Article 3, Chapter 23, Title 1. The director or the administrative law judge, if a hearing before the Administrative Law Court is requested, may impose sanctions that are authorized under current insurance laws if a violation of this section is found to have occurred.

SECTION 2. This act takes effect upon approval by the Governor.

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