**A** **BILL**

TO AMEND SECTION 38‑71‑440, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ACTIONS PROHIBITED OF HEALTH MAINTENANCE ORGANIZATIONS AND BENEFIT PLANS OFFERING MEDICAL EYE CARE OR VISION CARE BENEFITS, SO AS TO PROVIDE A HEALTH MANAGEMENT ORGANIZATION AND BENEFIT PLAN MAY NOT CONDITION THE PARTICIPATION IN ITS MEDICAL EYE CARE NETWORK BY AN OPHTHALMOLOGIST OR OPTOMETRIST ON THE PARTICIPATION OF THE OPHTHALMOLOGIST OR OPTOMETRIST IN A VISION CARE PLAN OFFERED BY OR ADMINISTERED THROUGH THE HEALTH MANAGEMENT ORGANIZATION OR BENEFIT PLAN.

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

SECTION 1. Section 38‑71‑440 of the 1976 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~~ benefits, vision care benefits, or both, to covered persons including payments and reimbursements.

(2) ‘Ophthalmologist’ means a physician licensed pursuant to ~~Title 40, Chapter 47~~ Chapter 47, Title 40 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) ‘Optometrist’ means a doctor of optometry licensed pursuant to ~~Title 40, Chapter 37~~ Chapter 37, Title 40 who is engaged in the practice of optometry in South Carolina.

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

(C) No health maintenance organization or health benefit plan which maintains or contracts with a network of ophthalmologists or optometrists, or both, 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, with respect to the terms, conditions, privileges, and opportunity of participation or compensation for the same eye care services provided in this section.

(D) No health maintenance organization or health benefit plan which maintains or contracts with ophthalmologists, optometrists, or both, to provide medical eye care benefits, vision care benefits, or both, may require a participating ophthalmologist or a participating optometrist to participate in a vision care plan offered by, or administered through, or associated with a health maintenance organization or health benefit plan as a condition for participation in the medical eye care network of the health maintenance organization or the health benefit plan by a participating ophthalmologist or a participating optometrist providing medical eye care services in accordance with and subject to subsection (B).

(~~D~~E) No health benefit plan or health maintenance organization shall impose on optometry, 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 Chapter 37, Title 40.

(~~E~~F) Any health maintenance 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~~G) 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 40.

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

(~~I~~J) 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~~K) ~~Any~~ A person aggrieved by a violation of this section may file a complaint with the ~~Department of Insurance~~ department. 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~~ A party aggrieved by the ~~director’s~~ determination of the director is entitled to administrative and judicial review pursuant to Article 3, Chapter 23, Title 1. The director or ~~the~~ an administrative law judge, if a hearing before the Administrative Law ~~Judge Division~~ 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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