HOUSE BILL REPORT
HB 1762

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to enhancing the relationship between a health insurer and a contracting health care provider.

Brief Description: Concerning the relationship between a health insurer and a contracting health care provider.

Sponsors: Representatives Riccelli, Schmick, Jinkins, Harris, Cody, Van De Wege, Robinson and Tharinger.

Brief History:
Committee Activity:
Health Care & Wellness: 2/4/15, 2/18/15 [DPS].

Brief Summary of Substitute Bill

- Imposes requirements relating to insurance coverage for vision materials and vision services.
- Requires the Insurance Commissioner to respond to a complaint about coverage for vision materials or services in the same manner regardless of the identity of the person or entity making the complaint.
- Makes violations of the requirements relating to insurance coverage for vision materials and vision services enforceable under the Consumer Protection Act.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Caldier, Clibborn, Jinkins, Johnson, Moeller, Robinson, Rodne, Tharinger and Van De Wege.

Minority Report: Do not pass. Signed by 2 members: Representatives Harris, Assistant Ranking Minority Member; Short.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 1 member: Representative DeBolt.

Staff: Jim Morishima (786-7191).

Background:

Participating Provider Contracts.

Health carriers enter into contracts with health care providers under which the providers agree to accept a specified reimbursement rate for their services. A health carrier must file all provider contracts and provider compensation agreements with the Insurance Commissioner 30 days before use.

A health carrier must provide at least 60 days' notice to a health care provider of any proposed material amendments to the provider's contract. A material amendment is an amendment to a contract that would result in requiring the provider to participate in a health plan, product, or line of business with a lower fee schedule in order to continue to participate in a health plan, product, or line of business with a higher fee schedule. During the 60-day period, the provider may reject the material amendment without affecting the terms of the existing contract. The material amendment must be clearly defined in a notice to the provider before the notice period begins. The notice must inform the provider that he or she may choose to reject the terms of the material amendment through written or electronic means at any time during the notice period and that such rejection will not affect the terms of the existing contract. The health carrier's failure to comply with the notice requirements voids the effectiveness of the material amendment.

The Consumer Protection Act.

The Consumer Protection Act (CPA) prohibits unfair or deceptive trade practices. A private person or the Attorney General may bring a civil action to enforce the provisions of the CPA. A person or entity found to have violated the CPA is subject to treble damages and attorney's fees.

Summary of Substitute Bill:

A health carrier may not:

- require an optometrist, ophthalmologist, or dispensing optician to provide non-covered vision materials or services at a fee set by the carrier;
- require an optometrist, ophthalmologist, or dispensing optician to participate with, or be credentialed by, another carrier or health benefit plan as a condition of joining one of the carrier's provider panels;
- restrict or limit an optometrist's, ophthalmologist's, or dispensing optician's choice of sources and suppliers of vision materials or services, including optical labs; or
- provide nominal reimbursement for vision materials or services in order to claim that such services are covered services.

A health carrier must provide at least 60 days' notice to an optometrist, ophthalmologist, or dispensing optician of any proposed amendments to the provider contract. The optometrist, ophthalmologist, or dispensing optician must have at least 30 days to accept or reject the amendments. Rejection of the amendments may not affect the existing provider contract. If there is no response after 30 days, the health carrier may deem the amendments to be accepted as long as the notice was delivered via certified mail.

The Insurance Commissioner must respond to a complaint regarding vision care coverage using the same standards, timelines, and procedures, regardless of the identity of the person or entity making the complaint.

"Vision materials" is defined as ophthalmic devices, including devices containing lenses, artificial intraocular lenses, ophthalmic frames and other lens mounting apparatuses, prisms, lens treatments and coating, contact lenses, or prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or adnexa. "Vision services" is defined as professional work performed by an optometrist or ophthalmologist within his or her scope of practice.

Violations of the act are violations of the CPA.

Substitute Bill Compared to Original Bill:

The substitute bill:

- adds dispensing opticians to the definition of "vision care provider;"
- removes the requirement that reimbursement amounts for vision materials and services be no less than the usual and customary rate for those services;
- removes the requirement that a vision care provider consent in writing to any changes in a participating provider agreement. Instead, the substitute bill:
    - requires a carrier to give at least 60 days' notice of any amendments to the provider's contract;
    - requires the carrier to provide at least 30 days for the provider to accept or reject the changes;
    - provides that the provider's rejection of the amendment does not affect the terms of the existing contract; and
    - allows the carrier to deem the amendment accepted after the 30-day period has expired if the notice was delivered by certified mail; and
- removes the requirement that a participating provider agreement expire after an initial term followed by one or more finite renewal periods.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Health insurers are experimenting with different models for vision care services, which leads to patient confusion. Adequate networks are essential. Economic relationships between entities must be considered and limited. Accountability is critical. This bill improves transparency, prevents cross subsidization, prohibits insurers from funneling business to labs that they own, and prohibits an insurer from requiring acceptance of one product as a condition for accepting another product. Patients are often required to pay out-of-pocket expenses that exceed the usual and customary rates for the services. This bill does not prohibit these arrangements; it lets providers opt out of them and gives clear terms of engagement. Dispensing opticians should be included in this bill.

(Opposed) Many of the provisions of this bill are already covered under current law. This bill contradicts the existing provider notification practices, which will make it difficult to administer. This bill expands coverage for vision services. The requirement that vision care providers be reimbursed using usual and customary rates puts a fee-for-service system into law, emphasizes quantity over quality, and increases health care costs. Limiting the length of provider contracts will result in carriers having to renegotiate the contracts every year, which is contrary to industry practice and would be disruptive to provider networks. Any provider can currently opt out of a network with 60 days' notice. Negotiated discounts benefit both providers and patients, who expect these discounts. This bill will eliminate patient choice and will be a cost driver.

Persons Testifying: (In support) Representative Riccelli, prime sponsor; Brad Tower and Kim White, Optometric Physicians of Washington; and Lisa Thatcher, Opticians Association of Washington.

(Opposed) Chris Marr, Group Health Cooperative; Chris Bandoli, Regence Blue Shield; Bill Stauffacher, National Association of Vision Care Plans; Len Sorrin, Premera Blue Cross; and Sydney Smith Zvara, Association of Washington Healthcare Plans.

Persons Signed In To Testify But Not Testifying: None.