

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 865

S.P. 310

In Senate, March 12, 2015

An Act To Protect Vision Care Patients and Providers

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator WHITTEMORE of Somerset.
Cosponsored by Representative FREDETTE of Newport and
Senators: GRATWICK of Penobscot, HAMPER of Oxford, KATZ of Kennebec,
Representatives: BECK of Waterville, DUNPHY of Embden, McCABE of Skowhegan,
PICCHIOTTI of Fairfield, WALLACE of Dexter.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §2769** is enacted to read:

3 **§2769. Vision care coverage**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Contractual discount" means a percentage or other reduction from a provider's
7 usual and customary rate for a covered service or covered material required under a
8 participating provider agreement.

9 B. "Covered material" means a material for which reimbursement from an insurer,
10 limited benefit health insurance plan, limited benefit coverage plan or vision care
11 plan is provided to a vision care provider by an enrollee's plan contract or for which
12 reimbursement would be available but for the application of an enrollee's contractual
13 obligations for deductibles, copayments or coinsurance.

14 C. "Covered service" means a service for which reimbursement from an insurer,
15 limited benefit health insurance plan, limited benefit coverage plan or vision care
16 plan is provided to a vision care provider by an enrollee's plan contract or for which
17 reimbursement would be available but for the application of an enrollee's contractual
18 obligations for deductibles, copayments or coinsurance.

19 D. "Insurer" means every person engaged as principal and as indemnitor, surety or
20 contractor in the business of entering into a contract of health insurance, including
21 those health insurance contracts described in chapters 9, 33, 35 and 56-A.

22 E. "Limited benefit coverage" means coverage limited to only accidental injury,
23 specified disease, hospital indemnity, Medicare supplement, disability income, long-
24 term care or other limited benefits, including coverage limited to only vision care.

25 F. "Limited benefit health insurance plan" means a health insurance plan that
26 provides only accidental injury, specified disease, hospital indemnity, Medicare
27 supplement, disability income, long-term care or other limited benefits, including a
28 plan that covers only vision care.

29 G. "Material" means ophthalmic devices, including but not limited to lenses, devices
30 containing lenses, artificial intraocular lenses, ophthalmic frames and other lens
31 mounting apparatuses, prisms, lens treatments and coating, contact lenses and
32 prosthetic devices to correct, relieve or treat defects or abnormal conditions of the
33 human eye or its adnexa.

34 H. "Services" means the professional work performed by a vision care provider.

35 I. "Vision care plan" means insurance underwritten to provide coverage for eye care,
36 including entities, products or policies that create, promote, sell, provide, advertise or
37 administer integrated or stand-alone vision benefit plans or vision care insurance
38 policies or contracts that provide vision benefits to an enrollee pertaining to the
39 provisions of a covered service or covered material. "Vision care plan" includes a

1 limited benefit health insurance plan and limited benefit coverage plan that provides
2 coverage for eye care.

3 J. "Vision care provider" means a licensed doctor of optometry practicing under the
4 authority of Title 32, chapter 34-A or a licensed osteopathic or medical doctor
5 practicing under the authority of Title 32, chapter 36 or 48 who has also completed a
6 residency in ophthalmology.

7 **2. Noncovered services and materials provisions.** An agreement between an
8 insurer or vision care plan and a vision care provider may not seek to or require a vision
9 care provider to provide services or materials at a fee limited or set by the insurer or
10 vision care plan unless the services or materials are reimbursed as a covered service or a
11 covered material under the agreement.

12 **3. Prohibition on laboratory or supplier requirements.** An agreement between an
13 insurer or vision care plan and a vision care provider may not restrict or limit, directly or
14 indirectly, the vision care provider's choice of sources and suppliers of services or
15 materials or use of optical laboratories provided by the vision care provider to an enrollee
16 in a vision care plan.

17 **4. Notification requirements for contract changes.** An insurer or vision care plan
18 may not change any term, contractual discount or reimbursement rate contained in an
19 agreement with a vision care provider without a signed written acknowledgment from the
20 vision care provider at least 60 days before the change is implemented.

21 **5. Credentialling.** An agreement between an insurer or vision care plan and a vision
22 care provider may not require that a vision care provider participate with or be
23 credentialled by any specific limited benefit health insurance plan, limited benefit
24 coverage plan or vision care plan as a condition of joining an insurer's provider network.

25 **6. Contract length.** A vision care plan agreement between an insurer and a vision
26 care provider may not be longer than 2 years from the date the agreement is first signed.

27 **7. Enforcement.** The following provisions apply.

28 A. A person adversely affected by a violation of this section may bring an action in
29 the Superior Court of the county in which the person resides or has the person's
30 principal place of business, or may be brought in the Superior Court of Kennebec
31 County. The Superior Court may issue temporary or permanent injunctions to
32 restrain and prevent violations of this section and may make such other orders or
33 judgments as may be necessary to restore to a person who has suffered an
34 ascertainable loss by reason of the use or employment of an act in violation of this
35 section, including recovery of monetary damages of no more than \$1,000 for each
36 day found to be in violation. A person who violates the terms of an injunction issued
37 under this section shall forfeit and pay to the State a civil penalty of not more than
38 \$10,000 for each violation. Upon prevailing in an action under this section, when an
39 injunction is denied, the court may order the defendant to pay the attorney's fees and
40 costs of the prevailing party.

