



February 20, 2020

Senator Bob Hackett
c/o National Council of Insurance Legislators
2317 Route 34 South, Suite 2B
Manasquan, New Jersey 08736

Re: Draft Model Act Regarding Vision Care Services

Dear Senator Hackett,

The American Optometric Association (AOA) greatly appreciates your efforts, both with the National Council of Insurance Legislators (NCOIL) and in your home state legislature of Ohio, to work closely with Doctors of Optometry to provide greater flexibility, choice and benefits for patients and doctors. It is because of your continued efforts that we look forward to the opportunity coordinate with you in addressing some concerns we have with the language as drafted in the Draft Model Act Regarding Vision Care Services (Draft Act).

The AOA represents over 44,000 members nationwide, and since 1898, has been the principal voice for and authority on comprehensive optometric vision care. The AOA and our member Doctors of Optometry take a leading role in patient care with respect to eye and vision care, as well as general health and well-being. Doctors of Optometry and vision plans agree that Americans need regular eye exams, which is reflected in the recent letter to you from AHIP which stated “*regular vision care is key to maintaining good vision and healthy eyes.*”

The Draft Act as presented would provide an unintentional loophole, not included in the dental Act, which would serve solely to maintain power with large vision plans to the detriment of patients and doctors. Below are a few of the areas we would like to partner on with you in addressing.

Dental Act as a Basis is an Excellent Start

The NCOIL model act for noncovered dental services is a solid foundation and would be well served if only to replace “*dental/dentist*” with “*vision/eye doctor.*”

However, the main difference between the model act for dental services and a model act for vision care services and materials is the application of the law to “materials” in vision care. This is an important difference, because it’s noncovered materials that are typically subject to the onerous contract terms and empty promises by vision care plans.

Defining Non-Covered Services

To make sure the vision care model act would apply to materials, the definition of “*noncovered services*” needs to be adjusted from what works in dental care.

The “*but for application of contract limitations*” should be restricted to only consider the out of pocket payments by patients (for deductibles, copayments and coinsurance). The remaining limitations (waiting period, annual or lifetime maximum, frequency limitation, alternative benefit payment, and any other limitation) are plan restrictions that turn covered services into noncovered services. This extraneous language broadens the definition of “covered services” so much that there would be few or no remaining noncovered services subject to the legislation.

Clearly Defining the Plans

States vary widely on how vision plans are regulated – from practically no regulation at all, to holding vision plans to most of the same requirements as health plans. In some cases, vision plans are merely prepaid discount programs. Include a drafting note that states should define vision plans to have the broadest reach in the state, so that more patients are protected, may help for clarity in the future.

Strengthening Protections

Our largest concern lies within subsections D(a) and D(b), and our request would be to have them removed altogether as they unnecessarily create a loophole. This is a loophole which does not appear in the NCOIL model act for noncovered dental care and the Dental Act has been successful to date.

It would seem counterproductive to have a legislature prohibit vision plan contracts from establishing prices for noncovered services and materials, yet doctors would still have the defacto hard sell by vision plans of agreeing to such fee schedules or potentially face unwritten penalties by the plan

Unfortunately, some vision plans have misled the public by suggesting that the provisions provided in this Draft Act are the only way to reduce the cost of services or materials.

Doctors should retain the freedom to compete in price for services and materials that patients purchase from the doctor, without loopholes designed to once again allow vision plans to set prices to the detriment of doctors and patients. The Draft Act would not guarantee lower prices or a fairer marketplace for the patient unfortunately, which is where are Doctors’ priorities lie, with the patient.

Thank you again for your continued efforts in working with Doctors of Optometry on this growing and important issue, your dedication is incredibly appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Wolfe" with a stylized flourish at the end.

Chris Wolfe, O.D., Dipl. ABO
Chair
AOA State Government Relations Committee