

By: Harless

H.B. No. 4377

A BILL TO BE ENTITLED

AN ACT

relating to the relationship between managed care plans and optometrists, therapeutic optometrists, and ophthalmologists.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1451.151(1), Insurance Code, is amended to read as follows:

(1) "Managed care plan" means a plan under which a health maintenance organization, preferred provider benefit plan issuer, vision benefit plan issuer, vision benefit plan administrator, or other organization provides or arranges for health care benefits or vision benefits to plan participants and requires or encourages plan participants to use health care practitioners the plan designates.

SECTION 2. Section 1451.154(c), Insurance Code, is amended to read as follows:

(c) A therapeutic optometrist who is included in a managed care plan's medical panels under Subsection (b) must:

(1) abide by the terms and conditions of the managed care plan;

(2) satisfy the managed care plan's credentialing standards for therapeutic optometrists; and

(3) provide proof that the Texas Optometry Board considers the therapeutic optometrist's license to practice therapeutic optometry to be in good standing[~~and~~

1 ~~[(4) comply with the requirements of the Controlled~~
2 ~~Substances Registration Program operated by the Department of~~
3 ~~Public Safety].~~

4 SECTION 3. Subchapter D, Chapter 1451, Insurance Code, is
5 amended by adding Sections 1451.157 and 1451.158 to read as
6 follows:

7 Sec. 1451.157. EXTRAPOLATION PROHIBITED. (a) In this
8 section, "extrapolation" means a mathematical process or technique
9 used by a managed care plan in the audit of a participating
10 physician or provider to estimate audit results or findings for a
11 larger batch or group of claims not reviewed by the plan.

12 (b) A managed care plan may not use extrapolation to
13 complete an audit of a participating optometrist or therapeutic
14 optometrist. Any additional payment due to a participating
15 optometrist or therapeutic optometrist or any refund due to the
16 managed care plan must be based on the actual overpayment or
17 underpayment and may not be based on an extrapolation.

18 Sec. 1451.158. ENFORCEMENT OF SUBCHAPTER. (a) A violation
19 of this subchapter by a managed care plan is an unfair method of
20 competition or an unfair or deceptive act or practice in the
21 business of insurance under Chapter 541 and is subject to
22 enforcement under that chapter.

23 (b) Notwithstanding Section 541.002, a managed care plan
24 that provides vision benefits is considered a person for purposes
25 of enforcing this subchapter under Chapter 541.

26 SECTION 4. Sections 1451.154(d) and 1451.156(d), Insurance
27 Code, are repealed.

1 SECTION 5. The changes in law made by this Act apply only to
2 a contract between a managed care plan and an optometrist,
3 therapeutic optometrist, or ophthalmologist entered into or
4 renewed, or a managed care plan delivered, issued for delivery, or
5 renewed, on or after January 1, 2024. A contract entered into or
6 renewed, or a managed care plan delivered, issued for delivery, or
7 renewed, before January 1, 2024, is governed by the law as it
8 existed immediately before the effective date of this Act, and that
9 law is continued in effect for that purpose.

10 SECTION 6. This Act takes effect September 1, 2023.