

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

694W0207

## HOUSE BILL NO. 1133

Introduced by: Representatives Conzet, Brunner, Gibson, Heinemann (Leslie), Munsterman,  
and Romkema and Senators Monroe, Sutton, and White

1 FOR AN ACT ENTITLED, An Act to regulate vision care plans and vision discount plans.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Contractual discount," a percentage reduction from a provider's usual and customary  
5 rate for covered services and materials required under a participating provider  
6 agreement;

7 (2) "Covered services," services for which reimbursement from the vision care plan or  
8 vision care discount plan is provided to a vision care provider by an enrollee's plan  
9 contract, or for which a reimbursement is available but for the application of the  
10 enrollee's contractual plan limitations of deductibles, copayments, or coinsurance;

11 (3) "Covered materials," materials for which reimbursement from the vision care plan  
12 or vision care discount plan is provided to a vision care provider by an enrollee's plan  
13 contract, or for which a reimbursement is available but for the application of the  
14 enrollee's contractual limitations of deductibles, copayments, or coinsurance;

15 (4) "Services," the professional work performed by a vision care provider;



- 1       (5) "Materials," ophthalmic devices includes lenses, devices containing lenses, artificial  
2       intraocular lenses, ophthalmic frames and other lens mounting apparatus, prisms, lens  
3       treatments and coating contact lenses, and prosthetic devices to correct, relieve, or  
4       treat defects or abnormal conditions of the human eye or its adnexa;
- 5       (6) "Vision care provider," a licensed doctor of optometry practicing under the authority  
6       of chapter 36-7 or a licensed medical or osteopathic doctor practicing under the  
7       authority of chapter 36-4 who has also completed a residency in ophthalmology;
- 8       (7) "Vision care plan," an entity that creates, promotes, sells, provides, advertises, or  
9       administers a stand-alone vision benefit plan, or a vision care insurance policy or  
10      contract which provides vision benefits to an enrollee pertaining to the provision of  
11      covered services or covered materials, and is considered to be doing insurance  
12      business subject to investigation under § 58-4-44;
- 13      (8) "Vision care discount plan," an entity governed under chapter 58-17E where vision  
14      care providers have joined an organization and agreed to provide discounts to  
15      patients.

16      Section 2. No agreement between a vision care plan or vision care discount plan and a vision  
17      care provider may seek to or require that the vision care provider provide services or materials  
18      at a fee limited or set by the vision care plan or vision care discount plan unless the services or  
19      materials are reimbursed as covered services or covered materials under the specific contract  
20      involved. A vision care provider may not charge more for services and materials that are  
21      noncovered services or noncovered materials to an enrollee of a vision care plan than the  
22      provider's usual and customary rate for those services and materials. Reimbursements paid by  
23      a vision care plan or vision care discount plan for covered services and covered materials may  
24      not provide nominal or de minimus reimbursement in order to claim that services and materials

1 are covered services.

2 Section 3. No agreement between a vision care plan or vision care discount plan and a vision  
3 care provider may require that the vision care provider shall participate with or be credentialed  
4 by any specific vision care plan or vision care discount plan as a condition to join an insurer's  
5 provider panel.

6 Section 4. No vision care plan or vision care discount plan that provides covered services  
7 for materials may have the effect, directly or indirectly, of limiting the choice of sources and  
8 suppliers of materials by a patient of a vision care provider.

9 Section 5. No vision care plan or vision care discount plan may change the terms, discounts,  
10 or reimbursement rates contained in a plan without a signed acknowledgment of written  
11 agreement from the vision care provider.

12 Section 6. The provisions of this Act do not apply to the pediatric vision care coverage  
13 required to be offered as an essential health care benefit under the Affordable Care Act, PL 111-  
14 148 and 152.

15 Section 7. The requirements of this Act apply to each vision care plan and vision care  
16 discount plan policy contract, addendum, and certificate executed, delivered, issued for delivery,  
17 continued, or renewed in this state. Any written document as referenced in this Act in existence  
18 on January 1, 2016, which is continuous in nature or which has no specific duration or renewal  
19 provision, is considered for the purpose of this Act to be renewed ninety days after January 1,  
20 2016.

21 Section 8. The effective date of this Act is January 1, 2016.