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PROPOSED RULE 113 VISION CARE PLAN COVERAGE

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SECTION 1. AUTHORITY

This Rule is issued pursuant to Ark. Code Ann. § 23-99-1005 which requires the Arkansas Insurance Commissioner (“Commissioner”) to develop and promulgate a rule to implement Act 959 of 2015, “An Act to Regulate an Insurer that Offers Vision Care Plans” (“Vision Care Plan Act of 2015”).

SECTION 2. DEFINITIONS

Unless otherwise separately defined in this rule and consistent with state law, the terms or phrases as used in this rule shall follow the definitions of such terms or phrases as defined under Section One (1) of the Vision Care Plan Act of 2015, now codified in Ark. Code Ann. § 23-99-1001 et seq., or as later amended.

SECTION 3. PROHIBITED PRACTICES

A. Pursuant to Ark. Code Ann. § 23-99-1003(a), a participating provider agreement between an insurer, vision care plan, or vision care discount plan and a vision care provider shall not establish a fee that a vision care provider shall charge for services or materials that are not covered by a vision benefit plan or contract. A vision care insurer, vision care plan or vision care discount plan shall not circumvent or avoid this restriction by providing minimal or de minimus coverage for a service or material, or by designating a service or material as "covered" as defined in Ark. Code Ann. § 23-99-1002(1) and (2).

B. Pursuant to Ark. Code Ann. § 23-99-1003(b), a vision care provider shall not charge a fee for services or materials that is more than the vision care provider's normal rate for the services or materials if the services or materials are noncovered services or noncovered materials. This restriction or limitation of a vision care provider's charges for fees to not exceed normal rates for service or materials under Ark. Code Ann. § 23-99-1003(b) is a reference to the vision care provider's charges or pricing to the insured and not to a vision care provider's normal reimbursement fees or allowed charges for such services or materials in a vision care plan or vision care discount plan participation agreement.

C. Under Ark. Code Ann. § 23-99-1003(e), a participating provider agreement between an insurer, vision care plan, or vision care discount plan and a vision care provider shall not restrict or limit, directly or indirectly, the vision care provider's choice of optical labs or choice of sources and suppliers of services or materials provided by the vision care provider to an individual who is insured by the insurer. A vision care insurer, vision care plan or vision care discount plan may not avoid this restriction by reducing coverage or reimbursement to an optical

lab, referred or chosen by a vision care provider, which causes out of pocket costs to the insured for such service or item to be greater than if the item or service had been covered in-network by the vision care plan.

SECTION 4. APPLICATION OF VISION CARE PLAN ACT OF 2015

Pursuant to Ark. Code Ann. § 23-99-1005(c), the Vision Care Plan Act of 2015 is applicable to all vision benefit plan or contracts issued, renewed, or recredentialed in this state on and after July 22, 2015. The Arkansas Insurance Department (“Department”) interprets the Vision Care Plan Act of 2015 to apply to all contracts newly issued after July 22, 2015, or renewed after July 22, 2015, but also to apply to all vision care provider contracts when they are recredentialed after the effective date of the Act, even though a renewal process on the contract has not occurred.

SECTION 5. EFFECTIVE DATE

The effective date of this Rule shall be November 7, 2016.

ALLEN W. KERR
INSURANCE COMMISSIONER

DATE