

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 490**

4 (By Senators Tucker, D. Hall, Green and Barnes)

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6 [Originating in the Committee on Banking and Insurance;  
7 reported February 25, 2014.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §33-6-38, relating to  
12 dental and vision insurance; defining terms; specifying an  
13 effective date; prohibiting insurers from requiring  
14 optometrists, ophthalmologists and dentists to provide  
15 discounts on noncovered services; prohibiting optometrists,  
16 ophthalmologists and dentists from charging more to covered  
17 persons on noncovered services than their customary or usual  
18 rate charged to noninsured individuals for such services; and  
19 providing that insurers may not provide for a nominal  
20 reimbursement for a service in order to claim that a service  
21 or material is covered.

22 *Be it enacted by the Legislature of West Virginia:*

23 That the Code of West Virginia, 1931, as amended, be amended  
24 by adding thereto a new section, designated §33-6-38, to read as  
25 follows:

26 **ARTICLE 6. THE INSURANCE POLICY.**

1 **§33-6-38. Noncovered discounts.**

2 (a) For the purposes of this section:

3 (1) "Covered services" means services and materials for which  
4 reimbursement from vision insurance or dental insurance is provided  
5 by an enrollee's plan contract, or for which a reimbursement would  
6 be available but for the application of the enrollee's contractual  
7 limitations of deductibles, copayments, and coinsurance.

8 (2) "Contractual discount" means a percentage reduction from  
9 a provider's usual and customary rate for covered services and  
10 materials required under a participating provider agreement.

11 (3) "Materials" includes, but is not limited to, any material  
12 or device utilized within the scope of practice of a health care  
13 professional.

14 (b) No agreement renewed or entered into on or after July 1,  
15 2014, between an insurer or an entity that writes vision insurance  
16 or dental insurance and an optometrist, ophthalmologist or dentist  
17 for the provision of any services on a preferred or in-network  
18 basis to plan members or insurance subscribers in connection with  
19 any vision insurance or dental insurance may require that such  
20 professional provide services or materials at a fee limited or set  
21 by the plan or insurer unless the services or materials are  
22 reimbursed as covered services under the contract.

23 (c) An optometrist, ophthalmologist or dentist may not charge  
24 more for services and materials that are noncovered services under  
25 any vision insurance or dental insurance than his or her usual and  
26 customary rate charged to non-insured individuals for those

1 services and materials.

2 (d) Reimbursement for covered services and materials paid  
3 pursuant to a vision insurance or dental insurance agreement that  
4 is renewed or entered into on or after July 1, 2014, shall be  
5 reasonable and may not provide nominal reimbursement in order to  
6 claim that services and materials are covered services.

NOTE: The purpose of this bill is to provide that insurers may not contractually require optometrists, ophthalmologists and dentists to provide a discount on services such insurers do not cover under their insurance; to prohibit optometrists, ophthalmologists or dentists from charging more for services and materials that are noncovered services under any vision insurance or dental insurance than their usual and customary rate charged to non-insured individuals for those services and materials; and prohibiting vision and dental insurers from paying nominal reimbursements in order to claim that services or materials are covered services.

This section is new; therefore, strike-throughs and underscoring have been omitted.