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COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

HOUSE INSURANCE COMMITTEE

UNIVERSITY OF PITTSBURGH

WILLIAM PITT STUDENT UNION

3959 FIFTH AVENUE, PITTSBURGH, PENNSYLVANIA

MONDAY, APRIL 28, 2008

PUBLIC HEARING - HOUSE BILL 2101

BEFORE:

Representative Anthony M. DeLuca, Majority Chair

Representative Vince Biancucci

Representative John R. Evans

Representative Harry Readshaw

ALSO PRESENT:

Rick Speese, Democratic Executive Director

Kathy McCormac, Republican Executive Director

Lisa Kubeika, Research Analyst

Reported by: Lisa Ann Bauer, RPR, CRR, CMRS

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P R O C E E D I N G S

(1:07 o'clock p.m.)

REPRESENTATIVE DeLUCA: Good afternoon, ladies and gentlemen. There will be other members who will be joining us a little later. Some of the members have contacted us and there were some conflicts with some of the things that are going on in downtown Pittsburgh, a couple meetings, but we are going to start this meeting. Five minutes late, but we'll get started.

I'm certainly glad to see all this participation out here and didn't realize that House Bill 2101 would generate this type of interest involving the people I see out there.

Let me say that this committee has held over 25 meetings, not on this, but on different legislation. It's one of the more active committees in the House, and the fact is that we have a stenographer who will be taking this down and all our members will be getting the testimony that is provided here today. We will be taking it back to Harrisburg. Unfortunately, at some of these committee meetings some of the members have about four or five different meetings and are on different committees, and it depends on the subject. I'm sure if they knew that

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this bill was generating this much interest, we probably would have some more here.

Without any further adieu, I'd just like to introduce some of my colleagues here. As you know, Representative Readshaw from Allegheny County is the prime sponsor of House Bill 2101, and we thank Representative Readshaw for introducing this legislation. To my right is my executive director Mr. Rick Speese, and to his right here is the Republican executive director, Kathy McCormac, and my staff is Lisa Kubeika.

Today, ladies and gentlemen, we're going to be taking testimony on House Bill 2101, as I said, sponsored by Representative Readshaw. I would like to thank the University of Pittsburgh for allowing us to have this meeting here. It's certainly a wonderful facility. As the chair of the Insurance Committee, I appreciate the fact that the University has assisted us in scheduling this meeting.

As the Insurance Committee chair, it has been my focus to ensure that all medical providers are treated fairly and honestly by the insurance industry. We must remain diligent in ensuring our constituents receive the best medical care available. One of the ways to make sure this occurs is to ensure they have

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adequate access to care they need. This committee recognizes we must seek a balance between what is fair and reasonable reimbursement rates and the cost to provide them with the care. If we do not provide fair and honest dealings between providers and the insurance industry, our constituents are harmed by not receiving the care they need at the right time for the right cost.

If the balance between the providers and the insurance industry goes too far in one direction, the ultimate harm is to the consumer. The insurer is paid too much for the care, the consumer suffers because that cost is all too frequently borne by the consumer. If the insurers are paid too little, the consumer suffers due to the lack of medical providers who are willing to see them. It is a delicate balance. We recognize this balance is not easy, but it is vital to Pennsylvanians that we strive to foster it.

Representative Readshaw's bill amends the Unfair Insurance Practices Act to state that it would be an unfair practice to require an insurer to receive their vision services from a particular provider. Now, we have seen similar legislation in the past dealing with pharmacists and other types of providers.

Our focus today is to determine if the vision

service providers in Pennsylvania are being fairly treated by the insurance industry, and if they are not, is House Bill 2101 the remedy to fix that problem, or would this legislation go too far the other way and only restrict the insurance industry's ability to control costs of these services?

Again, as I stated earlier, it is incumbent upon us to achieve that delicate balance. I hope the testimony we hear today will assist our committee, the committee members, and the House to make that decision.

Finally, ladies and gentlemen, on a different topic, I'd like to acknowledge that this week is "Cover the Uninsured Week," and today, I personally urge my Senate colleagues to move quickly on legislation that the Pennsylvania House passed providing ABC legislation that the House passed last month which would extend coverage for more than 250,000 uninsured working Pennsylvanians over the next five years.

Again, I want to thank everyone here for their attendance, and now I'd like to turn it over to Representative Readshaw before we begin to testify for a few hours.

Representative Readshaw?

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REPRESENTATIVE READSHAW: Thank you, Chairman DeLuca. I would like to extend my appreciation for this hearing today. As many of you know or have possibly participated in public hearings before on different legislation, this is the opportunity for both sides of any issue to make their thoughts, feelings be known. And the Insurance Committee, under Chairman DeLuca's guidance, will take all these things, all this testimony into consideration.

I'll be brief. I'm sure we all know why we are here today at this point in time. And, basically, many people say, you know, how do you develop legislation, what's the motivation? Most of the time, it comes through constituents who are constituents of ours who see fit to bring possible problems, difficulties to our attention, and that was the case of this legislation.

So with that being said, I'd just like to read a couple of excerpts from a letter, a copy of a letter which I received which I think put in perspective why we are all here today. And in this letter it mentions two entities, but they are testifying today, so I say this without -- I will use these excerpts without any particular animosity, because they are going to

testify and I'm sure they will be able to defend what I am about to say here.

This copy of this letter was received by me from an optometrist, and this individual says that they were born and raised in McKees Rocks. And I will not read it verbatim, but upon graduating from optometry school in 1986, this individual returned to her home town, and now they are the only optometrist practicing in the area.

She mentions Highmark, as I said, but they are testifying, so I'm going to take some exception in saying what's in her letter. "Highmark, however, is making it exceedingly difficult to stay in business. I recently laid off two doctors and a full-time staff member because of the reimbursement from the vision plan." And she goes to state many, many facts as to depicting freedom of choice and the problems that she has in dealing with the powers that be and particular programs that are in effect now.

So with that, I just wanted to refer to that, Mr. Chairman, and just state, once again, that legislation is often developed for many reasons. In this particular case, as is usual, which I indicated, it was brought to me by constituents and those concerned for the freedom of choice in this particular

area.

So I thank you very much once again for having these hearings, and I will be sure the testimony will be very helpful in the future of this legislation. Thank you so much.

REPRESENTATIVE DeLUCA: Thank you, Representative Readshaw.

The first testifiers who will be testifying today are Joseph Wende. He is the Senior VP for Davis Vision. And Michael Warfel, Vice President of Government Affairs for Highmark. And Sam Weber, Chamber of Commerce. Welcome, all of three of you, and, again, I want to thank you for taking the time to participate in this hearing today.

And we have been joined by my colleague, Representative Evans -- thank you -- your representative from Erie.

Okay, gentlemen. Where would you want to start? Mr. Wende?

DR. WENDE: Thank you. Good afternoon, Chairman DeLuca and members of the committee. My name is Joseph Wende. I'm a licensed optometrist and Senior Vice President of Professional Affairs and Quality Management for Davis Vision, a vision subsidiary of Highmark. I'm joined today by Mike

Warfel, Highmark's Vice President for Government Affairs.

I'm responsible for all phases of Davis Vision's network management, quality assurance and improvement, including oversight of professional field consultants, recruiting, credentialing, utilization management, and accreditation activities.

Since joining the company 12 years ago, I've directed the development of Davis Vision's professional affairs departments. Born and raised in Wilkes-Barre, Pennsylvania, I practiced optometry in Doylestown, Pennsylvania, prior to joining Davis Vision.

Before offering our thoughts on House Bill 2101, I'd like to provide a brief overview of Davis Vision and the vision insurance industry marketplace. I hope to create an understanding of the steps we take to maintain affordable vision coverage for employers and their employees in a time when many are struggling to offer health benefits.

Davis Vision is a well-established national entity that has been providing comprehensive vision care services for over 40 years, and we consistently receive high recognition for quality in virtually all areas of our operations. We serve thousands of client

groups covering approximately 55 million people in all 50 states, the District of Columbia, and Puerto Rico. And, we provide plan services through a network for over 30,000 providers, which include optometrists, ophthalmologists, our own proprietary vision centers, as well as national and regional optical retailers.

Davis Vision has world-class regional laboratories strategically located throughout the country to maximize production quality and efficiency for our clients, their employees, and family members. We are the only vision care Preferred Provider Organization in the country to receive full accreditation from the Joint Commission, formerly the Joint Commission on Accreditation of Healthcare Organizations. In addition, Davis Vision maintains a National Committee for Quality Assurance Certification for Credentialing.

Our proprietary laboratories enable us to deliver quality eyewear that meets or exceeds industry standards in the most cost effective manner. Davis Vision's roster of corporate clients is extensive and includes many large national corporations and thousands of small and mid-size groups.

Davis Vision also functions as the exclusive vision vendor on behalf of the entire Blue Cross and

Blue Shield system for the Federal Employee Program BlueVision product for the federal government's Office of Personnel Management. To date, over one-half million members have enrolled in FEP BlueVision. In other words, when the program was launched, almost two out of every three people who selected vision insurance in the FEP program chose the Blue Cross and Blue Shield option through Davis Vision.

As you are aware, employers and other vision plan sponsors in Pennsylvania and across the United States are facing financial pressures to afford benefits, including employee health benefits. At the same time, employers also want to recruit the best employees so they can remain competitive in today's increasingly global economy. A vision benefit program, in addition to other employee benefits, represents an important addition to an employer benefit package designed to recruit and retain a top-notch workforce.

As part of Highmark's efforts to provide a full portfolio of employee benefit programs for our customers, Davis Vision helps our customers put together cost effective benefit packages which are competitive, comprehensive, and meet their needs. The availability of a reasonably priced vision benefit

plan enables Davis Vision to offer basic eye care at an affordable cost to both the employer and the employee.

Davis Vision is able to offer affordable vision coverage by achieving the economies of scale that only a company of our scope, size, and business model can achieve. At our fabrication facilities, ongoing investment in the latest technological advancements, robotics, and systems reflects our commitment to quality. We carefully manage inventories at each laboratory and employ innovative fabrication techniques to ensure rapid turnaround of 7,500 custom ophthalmic orders daily. By doing so, we keep the unit cost of eyewear most affordable.

Davis Vision currently contracts with thousands of eye care professionals in Pennsylvania and across the country. They effectively manage and grow their practices while accepting reasonably discounted professional fees for covered services rendered to eligible members of our vision plans. Consumers covered by a vision plan typically seek professional eye care services more frequently than persons without vision benefits, promoting improved eye and general health and offering greater opportunity to participating providers to service

those members.

By participating in a vision plan, an eye care professional attracts new patients to their practice through the marketing efforts of the vision plan. When a consumer requests a listing of participating providers, all participating providers within proximity of the member's residence or chosen ZIP code are displayed without incentive to select any one particular provider from the list.

Practitioners who chose not to participate in a vision plan are not prohibited from providing eye care services to vision plan members. With the exception of some government-sponsored medical assistance programs, virtually all vision plans offer out-of-network benefits to eligible members. A consumer may choose to receive care from any licensed eye care professional and be reimbursed up to the out-of-network allowances for eye examinations, ophthalmic frames, spectacle lenses, and/or contact lenses specified by the plan sponsor. In this way, consumers have the ultimate freedom of choice when selecting an eye care professional to obtain vision care services.

Requiring network providers to use a particular vision laboratory as a condition of network

participation does not diminish a providers' ability to compete in the market. When receiving services from a participating provider, virtually all of Davis Vision coverage has an allowance that can be applied to the acquisition of any frame within the provider's own inventory.

In addition, the most frequent options offered by plan sponsors include an eyewear benefit only once in a 12- or 24-month period. Thereafter, any additional eyewear purchases to satisfy a patient's needs or lifestyle would be a private transaction between that patient and the eye care professional of their choice. In those instances, the eye care professional would utilize their own inventory and inventory sources.

Independent eye care industry studies show that the average cost for a single pair of prescription eyeglasses nationally, not including an examination fee, is about $285. Without the benefit of managed vision care coverage, the cost of eye care for a typical Pennsylvania family where three or more members may require vision correction can be prohibitive. By requiring significant changes in vision benefits available to Pennsylvanians, we believe the proposed legislation, House Bill 2101,

could cost a typical family hundreds of dollars in additional expenses each year. These studies also confirm that consumers consistently perceive the most important feature of a vision plan to be low out-of-pocket expense.

Virtually all covered prescription eyeglasses for eligible Davis Vision members receiving care from participating independent optometrists, ophthalmologists, and opticians in Pennsylvania are fabricated in Davis Vision's ophthalmic laboratory located in Philadelphia. This summer, we will be relocating our Pennsylvania laboratory to an even larger space to accommodate increased eyeglass production demands. We have several other laboratories located throughout the country, and the quality of materials and services provided by each Davis Vision laboratory is second to none.

Davis Vision laboratories have received the Gold Seal Award from Colts Laboratories, the leading independent quality measurement organization in the ophthalmic industry, every year since 2001. All Davis Vision laboratories are certified to standards established by the International Organization for Standards. Additionally, Essilor, the largest supplier and distributor of ophthalmic spectacle

lenses worldwide and the owner of the largest wholesale ophthalmic laboratory system nationally, recently named Davis Vision's laboratories as the Varilux Lab of the Year.

Several provisions in House Bill 2101, which amends the Unfair Insurance Practices Act, would remove significant cost controls, ultimately resulting in higher out-of-pocket costs to the consumer and higher premium costs to employers and other plan sponsors, while increasing revenue to optometrists and ophthalmologists in direct proportion to the higher financial burden that will be borne by consumers and plan sponsors.

We believe that this legislation would not benefit the consumer. It not only would impact the business interests of Davis Vision and other third party vision plans, but its implications would be far reaching. It would impact the bottom line of businesses and individuals throughout the region and across Pennsylvania.

Some portions of the bill which we believe to be most problematic include those which prohibit requiring an insured to obtain ophthalmic services and products from a vision laboratory or company as a condition of obtaining payment for the vision

services. In effect, this amendment would prohibit vision plans from requiring network providers to obtain ophthalmic products from a particular vision laboratory or company as a condition of network participation. It is a common cost savings measure and quality control mechanism within healthcare insurance to require members to use a designated laboratory system for diagnostic tests and procedures. The use of a contracted ophthalmic laboratory within a vision plan will serve the same purpose.

Another provision which creates serious problems would prohibit a vision plan from imposing a co-payment or any other condition upon an insured who is not utilizing an ophthalmic service or product from a particular vision laboratory or company. Co-payments are an effective cost sharing mechanism to manage appropriate utilization of coverage services within health plans.

Yet another provision which we find troublesome would prohibit the creation of a preferred class of providers that is not held to uniform conditions of participation under the same employer's purchased healthcare contract, vision care contract, or other health insurance contracts. In fact, health plans commonly vary the exact terms of participation

of provider entities, like individual practitioners versus IPAs versus hospital systems, for example, to reflect the differing services and capabilities of those providers.

It appears that the primary benefactors from this proposed legislation would be independent optometrists, ophthalmologists, opticians, and wholesale ophthalmic laboratories that will realize increased revenue in direct proportion to the higher financial burden borne by consumers.

As an optometrist myself, I am proud of the contributions of my profession to public health. Having practiced optometry in Pennsylvania for more than ten years, I can certainly understand why some eye care professionals might prefer a totally local approach and the use of their own local labs and services from a financial perspective. However, the economies of scale that Davis Vision realizes through our business model not only enables us to operate as a fiscally responsible vision company, but gives us the ability to provide significant benefits -- high quality and cost controls, to name a few -- to the end users, our clients, and their employees.

We would welcome the opportunity to discuss in more detail the reasons we believe this legislation

conflicts with the interests of consumers and employers and with established public policy objectives. It prevents insurers from providing cost management solutions to consumers.

I'd be happy to answer any questions that you may have at this time.

REPRESENTATIVE DeLUCA: Anybody else? Mr. Weber? Then we'll ask questions.

MR. WEBER: Good afternoon, Chairman DeLuca and members of the committee. My name is Samuel J. Weber, and I am the president of the Chambers of Commerce Service Corporation. I appreciate the opportunity provided by the House Insurance Committee to offer my comments on House Bill 2101.

My testimony is provided on behalf of the Chambers of Commerce Service Corporation, CCSC. If you don't mind, I'm going to take about ten minutes off my testimony if I say CCSC from now on.

REPRESENTATIVE DeLUCA: Absolutely.

MR. WEBER: CCSC provides employee benefits and other products and services to business members of 90 Chambers of Commerce in the state of Pennsylvania. CCSC is a Pennsylvania for-profit corporation owned by Chambers of Commerce, and we're

located in Wexford, Pennsylvania.

The overwhelming majority of our customers are small businesses with one to fifty employees. These businesses provide themselves and their employees health insurance coverage which may also include dental and vision coverage. My primary responsibility is providing business members of our participating chambers with the highest volume employee benefits package possible. Competitive benefit packages play a critical role in our customers' efforts to attract and retain skilled employees. Vision care benefits are a prized value add to our employer customers and their employees.

CCSC provides Davis Vision as the vision care option to our customers. The menu of vision care benefit plans we offer is designed to recognize the differing needs and financial resources of our employers. Employers want the availability of a choice of affordable plan designs. They also expect their employees will benefit from choice, quality, and the limitation of out-of-pocket expenses at the end of service.

CCSC believes the amendments to the Unfair Insurance Protection Act in the proposed legislation would eliminate choice and competition among the

vision plans. It is likely employers would be faced with higher vision care costs. Employers make it painfully clear to me and to CCSC on a daily basis that it is a struggle to provide and maintain a comprehensive benefit plan for their employees. The decline in the number of small businesses providing employee benefits, particularly medical coverage, is well documented. It is a huge financial commitment for small businesses to provide major medical coverage. The increase in these employer costs already impacts their decision to offer vision, dental, and other ancillary benefits.

Our goal, and we believe that of any proposed legislation, should not be to further add to the financial burden for employers that provide a comprehensive benefit package. CCSC does not believe their employees will benefit from the loss of a reasonably priced basic eye care plan.

The Chambers of Commerce Service Corporation has been a strong advocate for wellness and preventive care for our customers and their employees. A critical component of any effort to impact behaviors which directly affect the cost of healthcare is the purchasers' and users' belief that there is a positive correlation between cost and benefit. CCSC believes

that House Bill 2101 will have the opposite effect on employer vision care premiums, preventive care, and out-of-pocket costs to employees.

A sustainable health delivery system will require transparency to users, feature intelligent cost controls, and require the transition of providers to quality measurements and outcome-based payments and away from fee for service. The battle has been, and will continue to be, about how to bring the competitive interests in the current system to agree to a process to make the necessary changes. These systemic problems will not be impacted positively by the proposals contained in House Bill 2101.

It is understandable that providers of vision care services and goods are concerned about the operational costs they incur. We believe that House Bill 2101 provides, at best, a short-term solution to those concerns. We believe that any legislation that does not promote the provision of the highest quality of service and products to employer purchasers and employee consumers at the lowest possible cost is counterproductive.

CCSC is opposed to the legislation, and I, too, would be happy to answer any questions.

REPRESENTATIVE DeLUCA: Thank you very

much. I want to recognize my colleague, a good friend of mine, Vince Biancucci of Beaver County, who has joined us today, who is also a member of the Insurance Committee.

Mr. Wende, let me ask you, you make a statement here on page 4, "To date, over one-half million members have enrolled in FEP BlueVision."

This is not by the insureds, is it? This is by the fact that that's who their healthcare plan has. It's not like these individuals enrolled in your plan because that's the choice they made.

DR. WENDE: That is correct.

REPRESENTATIVE DeLUCA: Is that correct?

DR. WENDE: Yes, sir.

REPRESENTATIVE DeLUCA: I mean, I understand you say that, but when you say "enrolled," they have no other choice. If they wanted to enroll in Tony DeLuca's plan, they wouldn't be able to enroll in Tony DeLuca's plan.

DR. WENDE: No, I'm sorry. If I could, the Federal Employee Program was enacted by federal legislation, and December 31st, 2006 was the initial period of coverage, initial date of coverage for federal employees. All federal employees nationally and retirees, annuitants, had the option of selecting

vision and/or dental coverage. In fact, three national vision plans were offered, and every federal employee had the opportunity to select one of those three or elect voluntarily to select no vision coverage at all. In fact, approximately two out of three federal employees that chose vision coverage chose the FEP BlueVision Davis Vision program, as opposed to the other two vision programs that were also offered.

REPRESENTATIVE DeLUCA: What about the other plans? They have the option to pick other plans, outside of the federal employees?

DR. WENDE: Federal employees --

REPRESENTATIVE DeLUCA: I understand the federal. I'm talking about the other companies, like the Chamber of Commerce insures. Are they able to pick other plans, too?

MR. WEBER: CCSC, Chambers of Commerce Service Corporation, offers Davis Vision as an ancillary benefit to the medical coverage that we provide. We do not force or require an employer that buys medical coverage from CCSC to buy Davis Vision. They would be free, if they chose to, to buy or not buy a vision care product from any of the competitive offerings that are out there or choose not to buy that

product.

REPRESENTATIVE DeLUCA: Independently?

MR. WEBER: Independently.

REPRESENTATIVE DeLUCA: You won't operate through your plan. Your plan offers that vision plan, I imagine at a reasonable cost.

MR. WEBER: Yes.

REPRESENTATIVE DeLUCA: They take the plan.

MR. WEBER: That's correct. We believe that there are significant benefits.

REPRESENTATIVE DeLUCA: Naturally. We understand that part. Am I correct?

MR. WEBER: Right.

REPRESENTATIVE DeLUCA: I just want to be clear. I guess I would like to go now -- nobody is saying what I understand about the quality of work. I haven't heard that yet, you know, but I guess one problem I have with some of these plans, like pharmaceutical plans and stuff like that, it's always, you know, sometimes bigger -- we think bigger is always better until we put everybody out of business and then we have a corner on the market because nobody else is there. We found that through the airline industry.

I understand you want to control costs, but I want to know why there is a disparity between, say, you had an optometrist who was able to provide glasses and make the lens there. Why they would have to be able -- if I went in there to have these lenses -- I lost a lens, I need it repaired. It's my understanding I could not go there and have these lenses repaired today. Some people can't go a week, week and a half without this. They would have to send it to Davis Vision and there would be a waiting period of about a week before that lens would come back, and yet they can go to a Wal-Mart and the same day, you guys would take care it of.

DR. WENDE: In that case, if, in fact, your eyewear that you received through your Davis Vision benefit program were damaged or defective --

REPRESENTATIVE DeLUCA: Not damaged. I want to get this replaced, a lens. My doctor is an optometrist and I need it replaced. I'm going to keep these frames. I'm going to go back and I bring it to the doctor and I say, I need a new lens. He says, you're going to have to leave your glasses here because we can't make them here. We have to send it out to Davis Vision. Yet, it's my understanding that you can go to Wal-Mart and they can make them the same

day. Why is it fair for the small, independent optometrist?

DR. WENDE: It is through the use of Davis Vision's laboratory control of fabrication for the eyewear through the independent optometrist that we are able to offer the cost savings, the quality control, and an unconditional one-year warranty.

There are select regional retailers -- for example, Wal-Mart -- that do participate contractually in some Davis Vision programs. And due to the size and scale and the distribution mechanisms and economies of scale that are available to an organization like that with thousands of locations across the country, similar distribution sophistication and economies of scale typically are not available to an independent optometrist.

So through our relationship with those large national retail organizations, they are contractually able to provide the laboratory services and all the resources. Davis Vision retains the right to monitor the quality and establish the standards for the quality of the services through their laboratory and they are contractually obligated to also honor the unconditional one-year warranty.

REPRESENTATIVE DeLUCA: Let me ask you

this: If I agreed, as an optometrist, to participate in your plan and I agreed to the price that you are offering Wal-Mart to make this lens, would you allow me to be able to make this lens in my facility that I am willing to abide by the same agreement that you have with Wal-Mart? Would you permit that to happen?

DR. WENDE: We typically do not.

REPRESENTATIVE DeLUCA: You wouldn't?

DR. WENDE: Correct.

REPRESENTATIVE DeLUCA: Why wouldn't you do that? I think what we're talking about here, from what I understand about the bill, is that, from my understanding, the optometrists want a fair playing field, a level playing field, and they can compete if they want to compete. If they can't, then they don't. It doesn't affect what you're trying to do as cost saving measures. From my understanding, I'm not asking you to pay them more money. They are asking for them to be able to have the same type of facility, the same type of things that you offer to some of the chains.

Now, I know for a fact when people get glasses, chances are if I have to go to a chain store to get my lens repaired, I'm going to go back to the optometrist to make sure if I have any problems. I'm

sure that optometrist is going to charge me another visit. He is not going to do it for nothing. So how is the consumer saving money because of the fact -- unless they go to the optometrist, I would imagine, in Wal-Mart. I imagine they do have an optometrist there. I'm not sure.

DR. WENDE: Typically, in many cases, they do.

REPRESENTATIVE DeLUCA: So the chances are that we -- like some insurance industries, you know, consumers worry about paying. He doesn't want to pay any more, so chances are that optometrist loses that patient. Maybe he's been there for 20 years with him, or he or she has been there 20 years. It ends up because they can't afford it because of what the economy is, they end up going to the chain and they are not participating with their optometrist or ophthalmologist anymore, unless they have some type of ophthalmologist who does surgery.

It seems to me we're steering people away from the small business people. And the Chamber of Commerce, I would think the Chamber of Commerce would have to be looking at that because of the fact that you represent small people, small businesses. If you keep putting small businesses out of business -- they

are going to go out of business if they can't compete. Let's not kid ourselves. There is no way that you're going to continue to have a small business if you can't compete.

I understand about costs, but what I'm saying about the costs, if there is a level playing field and they want to participate in the program at the same rates that you offer to the chains, what's wrong with that?

MEMBER OF THE AUDIENCE: Amen.

REPRESENTATIVE DeLUCA: I'm just trying to get a feel for this. What's wrong with -- it's not costing the plan any more money. It's the same amount of money you pay to the Wal-Mart, same services you provide Wal-Mart or some of the other chains to do. It's a level playing field. What is so wrong with that? That's what I'm trying to get the feel. What is wrong with that?

DR. WENDE: One of the other things that is unique within optometry and the eye care profession that differs from other healthcare professions is the fact that once you have that prescription from the eye doctor of your choice, there now are unique cosmetic and other consumer choices to be made. It's not simply a matter of taking that prescription to the

pharmacy to be filled with the generic or a specified brand name product. The various lens options, tints, coats, progressive lenses, and myriad brands and designs of those lenses are also options available to the covered membership, and it is through Davis Vision's control of the fabrication of the eyewear that we are able to offer those lens options at fixed, uniform, consistent discounted pricing to every covered beneficiary at any provider location that we go to so that there is no financial incentive to a covered member to receive their eyewear or eye examination at any particular group or setting within the provider network.

The ultimate cost, the out-of-pocket expense to the patient is the same whether they could go to a contracted retail organization or a private or independent doctor within the network. So that the American public has established over the last generation or more that there is a significant segment of the population -- in fact, industry studies show that approximately one-third of the American public prefer to receive their eye care examination and services at a retail optical location, where approximately two-thirds still continue to prefer to receive their care from a traditional independent

practice setting.

We feel, in response to the marketplace, in response to the demand of our clients and their employees and beneficiaries, that we strive to compose our network to reflect about the same composition and the purchasing and buying preferences of the American public.

REPRESENTATIVE DeLUCA: I understand what you're saying, but I just want to key in on the one thing.

Why would you permit a chain store to be able to manufacture the lens on their premises? It's not going through your laboratory. It's on their premises. Unless you own the laboratories in their store, why would you permit them to be able to provide that lens in one day and not permit the independent from doing the same thing at the same cost? That's what I'm asking.

DR. WENDE: Typically, the large national or regional retail optical chains have sophisticated distribution mechanisms, laboratory systems, and economies of scale available to them that typically are not available to the independent practitioner.

MEMBER OF THE AUDIENCE: Bullshit.

REPRESENTATIVE DeLUCA: Please, please,

please. Let's have order here. Please, we can't have that type of exchange.

DR. WENDE: Also, in our contractual relationship with a national or regional optical retailer, it is feasible and manageable for Davis Vision to be able to monitor the quality of the services. It is not logistically feasible for Davis Vision to be able to monitor hundreds of thousands of independent offices in the sense of each one of --

REPRESENTATIVE DeLUCA: Please. We have the court reporter here that has to take this down verbatim, and we cannot permit that type, because she won't be able to get the right testimony we're talking here and get the right thing, and we have to take that back to Harrisburg. I understand we have some people with opposite views, but that's what we're here today to find out.

All right. That's my question. Representative Evans?

REPRESENTATIVE EVANS: Thank you, Chairman DeLuca. I've got a couple questions here to ask, first to Mr. Warfel.

As far as Highmark is concerned, we heard the testimony that the reason that these contracts are put together with exclusive companies is because of the

cost factor, not only to businesses, but to the company itself.

What type of review process occurs as far as analyzing and reviewing the cost effectiveness of individual companies, like Davis Vision and others? Do you continually monitor those operations to see if they are, indeed, the lowest cost providers that you can work with under your umbrella?

MR. WARFEL: I think to answer your question, Representative, Davis Vision is a wholly owned subsidiary of Highmark. So it is our vision subsidiary, so, obviously, if someone is going to purchase benefits from us, be it health, dental, or vision, we're obviously going to prefer that our customers or folks who are representing us -- Mr. Weber can certainly speak to this as well, but for us, Davis Vision is wholly owned by us, so, obviously, we're looking at what they are doing. If they weren't successful, Representative, in the marketplace -- I mean, what was your total annual sales last year?

DR. WENDE: Approximately $450 million.

REPRESENTATIVE DeLUCA: Please, please, please.

REPRESENTATIVE EVANS: Mr. Warfel, are ophthalmologists that you're encountering with your

relationship in your business dropping their relationships with Highmark as a result of the issue of exclusive deals with companies like Davis Vision? Are you seeing ophthalmologists not taking Highmark patients or vision plans that cover this entity?

MR. WARFEL: Representative, I can't speak to that. I'll be happy to research that and get back to the Chairman. As the Chairman knows, I've been working for Highmark in this capacity for 13 years. To my knowledge, I've not had an ophthalmologist contact a legislator and say to me, we're going to drop coverage because they could not get access to services. But I'll be happy to ask the provider affairs folks if that's something they've experienced.

I think, Representative, there are two things that at play here, not someone who represents the vision aspects of our business, but the healthcare aspects. That is the Blue Cross Blue Shield coverage, Security Blue, et cetera. There are two things at play here. One is for someone like myself, who wears contact lenses, I need to have an annual eye exam to get a fresh supply of contact lenses, corrective eyewear. But I also have a very serious eye disorder that requires treatment every six months with a

specialist in Central Pennsylvania, so sometimes the healthcare side of the business is going to pay for the service, if it's a very unique disease. For me, it was a genetic disorder, but then there is this volunteer aspect, if you will, of making eyewear available that our customers can offer their employees through a vision plan.

What I'm asking the committee members to consider today is that there was an article in the paper just last week about the upcoming rates that are going to be going out to small businesses, particularly to the 50 market, over the next several months. Those rates are creeping up again, so I'm saying to you all respectfully, there is only so much that our customers can put forth here in terms of buying a full array of healthcare products, including vision, including dental.

So we're asking you to carefully look and balance the roles of this legislation versus the ability of our customers, Sam's organization, and others to meet those needs. But I will get back to you, unless, Joe, you have any particular comments to offer.

DR. WENDE: No, that's fine.

REPRESENTATIVE EVANS: Is there evidence

of business people, employers, those of us on this committee hear a great deal from employers and the pressures that they face in an ever-rising insurance marketplace. Is there direct evidence that vision coverage is being dropped by employers today because of cost?

MR. WEBER: Keep in mind, I represent the small business sector, so I always look at this dividing between the very large corporations and then the impact to the small employers. And there is no question. There is a limited number of dollars that they are able to commit to providing benefits. I mentioned it when I testified. It is well documented, not just in the state of Pennsylvania but across the country, that fewer and fewer businesses between one and fifty employees are providing any type of benefits, let alone vision, the ancillary benefits.

I believe we work with Highmark and Davis Vision for a variety of reasons. First and foremost is quality. We are not a purely cost driven organization. We are absolutely committed -- and we've been in business now for 15 years and serve thousands of employers across the state. We want our customers, when they pay their premium, to be able to access the care and the provider, to the extent

possible, of their choice and receive quality services. It's not about just driving to the lowest cost. That may be a byproduct of the system that we have today that there are going to be, as Dr. Wende said, a group of customers no different to me than those that purchase goods and services from the internet. There are a number of people that are going to buy from either a chain or through the internet or whatever the lowest common denominator price is, and there are going to be a significant number of people that buy based on the relationship that they have with the provider, the access that they have to that provider, and what they perceive to be the differential in quality that makes them use that provider.

There is no perfect answer to this. I would suggest, though, that every time you do anything that drives cost in any part of this system, it is going to come back and have an impact and reduce the number of people that are buying that vision ancillary benefit, and then they are not going to get the preventive eye care that might identify diabetes or might identify macular degeneration or the types of things that could create a serious health problem, and that's really, I think, what we are focused and concerned about.

TRANSCRIPT OF PROCEEDINGS

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REPRESENTATIVE EVANS: Chairman DeLuca, if I could have the latitude to make a few closing comments on the bill itself.

REPRESENTATIVE DeLUCA: Sure.

REPRESENTATIVE EVANS: I see the merits of the bill that Representative Readshaw is putting forth here and I do appreciate, you know, where he is coming from and, obviously, from the attendance in this room, this is an important issue in Western Pennsylvania.

However, those of us who are legislators do have to look at sometimes the bigger picture, and beyond the fact that there are professionals who are concerned about this issue, we have to take into consideration what our constituents want us to do, what our business people in our communities want us to do, i.e. cost factors, access, things of that nature, and this may not be a popular to thing to say in this room today, but I can see some analogies to what is happening in the marketplace to the discussions that were probably held 40, 50 years ago at the advent of the supermarket when some small business people were looking at a new way of doing business and some people were winners and some people were losers. It was great for some folks. It was really bad for others.

But, clearly, one-stop shopping is where consumers are heading today. If you look at CVS and Rite Aid, you go to Rite Aid or a CVS now, you can buy a gallon of milk, you can buy bread. People want the convenience of those stops. We are faced with an issue with beer distributors in Pennsylvania, who are very upset with us legislators because they want to be able to retain the practice of selling beer as they have for years. Consumers don't want that anymore. Consumers we hear from want convenience. They want to go to a Sheetz, they want to go to a grocery store to buy a six pack of beer or a bottle of wine.

So I'm just trying to make the case that there is a big picture that we look at, and I want you to understand that I'm sensitive to this issue, I understand where the professionals are coming from. I went to my eye doctor -- Mr. DeLuca used his eyeglasses as a reference -- two weeks ago in Edinboro and found out that Capital Blue Cross no longer recognizes -- they no longer recognize the Capital Blue Cross plan at my eye doctor, so I had to go somewhere else to get glasses. It was an inconvenience for me. It was a pain. I wasn't happy.

This is like an engine with a lot of moving parts, and if the issues were simple in Harrisburg, I

think things would be done a lot quicker, but there are lots of interest groups involved and I appreciate the opportunity to question the panelists and thank the Chairman for his indulgence. Thank you.

REPRESENTATIVE DeLUCA: Thank you, Representative, and I'm sure that we're all cost minded. I understand where you're coming from. We're certainly going to have to look at costs and the long picture. But as I look at this piece of legislation, I don't see anything here that deviates from the reimbursement. We're not saying what the reimbursement should be. We're not saying you should pay more. I think what Representative Readshaw is looking at is the fact that he would like to have everybody on an even playing field.

Now, I talked to some -- you mentioned the fact that our healthcare, Capital Blue Cross, doesn't cover. By the same token, a lot of people don't want to change their eye specialist because of the fact they like the eye specialist they have and they get a good examination, and even though they want to do one shop, I think, even on the national healthcare issue, people still want choice, as long as it doesn't impact the cost.

I don't know if we're looking at -- I'm

certainly looking at the fact that if somebody wants to play by the same rules and accept the same type of reimbursement, then I don't see how that drives the cost up. That's my only thing.

Representative Readshaw?

REPRESENTATIVE READSHAW: Thank you, Chairman DeLuca.

I would -- before I ask this question, I would just like to reemphasize the Chairman's call for order. As the prime sponsor of this legislation, I'd ask those in attendance to refrain from responding in any way unless you're sitting at the table being interrogated. I appreciate that.

I was a little hesitant about asking this question, but the Chairman referred to concern for small business people and a fair playing field and cornering the market, so with those considerations, I'm going to ask a question to whomever might want to respond to this, and as I had mentioned previously in the introduction, I've received mounds of both pro and con on this legislation, but one of the questions which was emphasized time and time again was why the large insurance companies, particularly a nonprofit, should be able to use their influence to control fees and eliminate competition, and I know -- it's not a

loaded question. I think it's a fair question.

So if anybody would like to respond to that, fine. And if you don't want to respond to it, I'd also understand that, but if anybody can respond to that, I'd appreciate it.

MR. WARFEL: Representative Readshaw, I'll try and take a crack at it, and if Dr. Wende and Sam want to augment, fine.

I think as a non-vision person here today, there are a lot of professionals sitting behind us here, and I respect them taking time out of their day to be here, and I sincerely mean that. This is an opportunity -- hearings are an opportunity for all of us to learn, and, Representative Readshaw, we met with you. I understand this is a deep concern to you. We hear you.

With that being said, why would a large insurer like Highmark put in place a subsidiary such as Davis Vision? The goal, as I look across the marketplace with my experience, is that rightly or wrongly, the health insurance industry is getting larger, and the for-profit, non-Pennsylvania based insurance companies that Highmark competes with, United Healthcare, annual revenues exceeding $70 billion, a net profit of about $6 billion in their

last fiscal year. In comparison to Highmark, our annual revenues last year were a little over 11 billion.

So I guess what I'm suggesting to you is in order for us to compete with those kinds of large, non-Pennsylvania based insurance companies, we want to have products that do several things: First, Dr. Wende and particularly Mr. Weber talked about quality. The last thing I want to do as the government affairs representative for Highmark is to take questions from any legislator sitting up here saying my constituent paid Highmark X to provide a scope of benefits. Why isn't Highmark paying the benefits?

So I think the quality, certainly by us owning Davis Vision, it is a wholly owned subsidiary. Obviously, they account to the management at Highmark to make sure that the products that they are offering work, that the quality of services delivered are delivering that promise.

So, in a sense, it seems to me that it's logical for a company like Highmark that wants to be a one-stop shop for a full contingent of healthcare benefits, because our dental subsidiary is equally large and equally successful. So for all those

reasons, I'm trying to answer the question.

Sam, if you could offer another view.

MR. WEBER: Again, I'm going to be very clear. We have always been a proponent of a level playing field, and how do we then make sure that both consumers and providers are treated fairly? I don't think that anything I've said today would oppose, if the systems can be put in place, the ability for providers to work with Highmark/Davis Vision on a competitive basis.

The issue is that I think nobody wants to change. Nobody wants to do things differently than they've done them in the past, and I would suggest that all of us that are part of the many moving parts of this system need to figure out a better way to do business.

Again, we work with Highmark because when you're in the communities that we're in across this state, from Pittston to Scranton to Titusville to Meadville to Waynesboro to Waynesburg in different parts of the state, part of what we need to offer to our small businesses that are part of Chambers of Commerce is that access to the providers in all those communities. And guess what, gentlemen and ladies? It is our partners at Highmark that have the reach

into those communities. Good or bad, that is the partner that is available to the greatest number of businesses in our communities. And to me, it is incumbent upon us truly to create that level playing field in Pennsylvania across the board for all of the moving parts of the system so that we really can start to get at some of what -- I understand that it is a major issue to the people that are in the vision care business. To me, that is part of a -- that's a micro-part of a much larger problem, and fixing parts of this system, in my opinion, have unintended consequences when you start to look at what the potential impact would be when others in the system come back.

And as Mr. Warfel said, it is, good or bad, a system where the competitors, which, by the way, in many cases, do not offer coverage to many of the businesses that I represent, the small businesses, Mr. Chairman, at a competitive price because of their health conditions or because of a variety of other factors, that I think we really need to figure out a way to address.

And so, again, I go to a local vision care practitioner to get my care and to get my eyeglasses, and, fortunately, they still take my coverage and I

don't go to a chain and I'm not hopefully ever going to ever have to go to a chain, but I also have some flexibility that as gasoline gets to be four bucks a gallon and milk gets to be an outrageous price and other things occur in the economy, that's great that I can do that. My goal is obviously to try in the best way that I can to enable as many of the people that are covered by the plans that we offer to have that same kind of choice.

DR. WENDE: If I could, Representative Readshaw, respectfully point out that I don't believe that participation in a third party program, like Davis Vision's network, restricts an eye care professional's ability to compete. Quite the opposite. We do believe very much in freedom of choice. We believe that those covered beneficiaries should have a choice of their preference, optometrist or ophthalmologist, to receive their eye care services. We believe they should have a choice of practice setting, be that independent or private practice or retail setting. We also believe that they should have a choice of any practitioner, whether they choose to participate in the Davis Vision network or not. And that is why, with the exception of very few medical assistance programs, we encourage all of our

clients and virtually all programs that we administer offer the option for members to receive a benefit from an out-of-network provider so that a beneficiary is not limited or restricted in any way in their choice of eye care professional.

REPRESENTATIVE READSHAW: Thank you very much. Thank you for your testimony today.

Mr. Chairman, that's all the questions I have.

REPRESENTATIVE DeLUCA: Any other questions? Kathy?

MS. McCORMAC: Thank you. This is more of a practical question.

If an individual were to go out of network and obtain their services through an out-of-network provider, under the bill, how would the billing occur? Would that provider of services retain the right to balance bill the patient, or no?

DR. WENDE: As typically occurs today under programs that Davis Vision administers, if a beneficiary chooses to use a nonparticipating or out-of-network provider, they will have a specified allowance -- and that's communicated to them in their benefit materials -- towards the examination and a specific allowance towards a frame and single vision or bifocal or trifocal lenses or contact lenses. The

patient then would be responsible for any amount over that allowance and the nonparticipating provider would be able to bill that amount directly to the patient.

MS. McCORMAC: Thank you.

REPRESENTATIVE DeLUCA: Let me thank you, gentlemen, and, certainly, let me say this is not anything against Highmark or anything else. What we are trying to do is get information pertaining to this legislation so we can make an intelligent decision, and that's why we have these hearings on different legislation.

And, Mike, as you know, it has nothing to do with whether we're against Highmark or for Highmark, one way or the other. We understand we need to get healthcare under control. We are working on that in Harrisburg and, certainly, these are some of the things that come out.

MR. WARFEL: Mr. Chairman, I want to compliment you for your work on House Bill 2005. I know Sam's organization is interested in it as well. It's critically needed and you passed it a few weeks ago and we thank you for it.

REPRESENTATIVE DeLUCA: Thank you very much. Thank you, gentlemen.

The next individual who will be testifying is

Robert McCauley. He is the president of the Western Optometric Society. Welcome.

DR. McCAULEY: Chairman DeLuca and Mr. Readshaw and other members of the committee, I am pleased and honored to be present for this to testify on behalf of the Pennsylvania Optometric Assocation. I'm Robert McCauley, though all of my many friends and colleagues behind me will know me as Chip, and I'm a practicing optometrist in Pennsylvania for the past 30 years. I currently serve as president of the Western Pennsylvania Optometric Society. In that capacity, I welcome you all to our part of the state. With me today is POA's lobbyist, Ted Mowatt.

The Pennsylvania Optometric Association represents approximately 1300 optometrists practicing in nearly every county of the Commonwealth, serving as the family eye doctor for the vast majority of Pennsylvania citizens. In many areas of the state, optometrists are the only full-time eye care providers. We provide independent, full scope primary eye care in cooperation with our physician colleagues. Unfortunately, as independent optometrists, like many other providers, we are often at the mercy of large insurers, as patients with insurance tend to follow the rules established by their health plan and will

seek out providers who participate in their plan. This legislation seeks only to level the playing field a bit and make participation in these plans sustainable.

Policies of certain vision benefits plans have a negative impact on the quality, access, and continuity of eye care to the residents of the Commonwealth of Pennsylvania. Some vision benefit plans create competitive disparity for patients through a policy of creating different levels of provider participation. These plans require independent eye care providers to use the vision benefit plan's wholly owned for-profit laboratories and products, while some commercial optical providers and large provider groups are permitted to use their own laboratories and their own products.

The result is that patients who choose to use an independent provider are limited in their choice of product and timeliness of service. Many commercial optical locations offer same day service or one-day service. Many independent providers of optical services have the ability to offer the same type of service but are unable to do so since they are required to use the vision benefit plan's laboratory. This can significantly delay processing time.

Additionally, processing time for independent providers is often delayed when the plan-owned laboratory produces an inferior or inaccurate product. This forces the provider to correct these deficiencies prior to dispensing the final product. Such policies also may affect the business of local optical laboratories, who traditionally supply local doctors with ophthalmic materials. In addition, this policy can affect local economies and jobs. You'll hear from some of those today.

Some vision plans also have a policy of not subscribing to uniform standards. Some vision benefit plans enter into contracts with select providers and pay higher levels of reimbursement to those providers than other providers for the same services and products. This reimbursement variance can result in a disparity of provider care and services, thereby affecting the visual welfare of the citizens of the Commonwealth of Pennsylvania who participate in these vision plans.

Some plans have an all-products requirement. Some vision benefit plans are owned by both nonprofit and for-profit insurance companies. These companies may make the eye care provider participate in the vision benefit plan as a requirement for participation

in the health insurance plan. In the case of eye care providers, for patients to see their local optometrist or ophthalmologist for treatment of eye health conditions like glaucoma or macular degeneration, the doctor must also agree to participate in the company's vision plan. This practice is unfair.

Some vision benefit plans may also require the eye care providers to accept all contracts for both commercial and government benefit contracts with greatly varied levels of reimbursement as rules of participation with the vision benefits plan. With the current lack of competition present within the healthcare market in Pennsylvania and particularly in our western part of the state, there exists a monopolistic system that has no incentive to control costs and results in higher premium costs to the employer and other plan sponsors.

This same monopolistic system creates no incentive to produce a quality product when providers have no other choice of laboratory. By inserting competition into the payor equation and allowing the providers to choose an ophthalmic lab which produces the highest quality product at the most efficient cost, we believe that would lower the premiums to the employer sponsors and save tens of thousands of

dollars. The interests of Pennsylvania optometrists and the POA is to promote competition in the marketplace, giving providers and patients choice, which eventually will lead to lower costs to Pennsylvania employers and patients.

My personal experience illustrates our dilemma. I've been in practice in the northern suburbs of Pittsburgh for nearly 30 years. I joined my family optometrist, who started the first optometric practice in the North Hills in the late 1940s. I am very proud of our reputation for quality eye care. For our entire practice history, we have primarily used a local optical lab on the South Side of Pittsburgh. They have proven, through the competitive forces of the marketplace, that they can deliver very high quality optical goods at a reasonable price in a timely fashion. Their accurate and timely service allows me to follow through on my promises to my patients.

For most of my 30 years in practice, I have resisted participating in many vision plans, but nine months ago, in part due to urging of many of my patients, I joined a panel from a large plan in our area. We've had mixed results. First, hundreds of my patients have expressed relief that I now take their

insurance. Many have been paying out of pocket in order to use our office. Virtually all the problems stem from the use of the vision benefit plan laboratory. Their turnaround time is many days longer. The error and return rate is high. We deal with strangers with whom we have no voice. In a normal competitive business, we would choose to use them or not based on normal business practices, but competition does not exist here and that leads to my primary concern:

My office tries to be upbeat and positive with all our patients, but when a patient has this type of vision plan, we must prewarn them that their insurance does not allow us to use our normal laboratory, that they should expect their lenses to take a week or two longer than before, and if there are any prescription or lens errors, the delay might even be longer. We are now forced into a position where we have to use a second rate lab, which ultimately reflects on our first rate practice and service.

My experience is not unique. In fact, the POA recently passed a resolution asking that action be taken to address this statewide concern, and that resolution is attached. Also attached is the 2006 JD Power survey. They survey consumers of managed care

plans with the following results, and you can see the various results. The industry average is in the middle. Vision Service Plan, which has its own contracted laboratories but allows any laboratory to participate and compete, is at the top. Some of the other laboratories are down towards the bottom.

So in closing, the POA fully supports the efforts of Representatives Readshaw and Mustio in introducing this legislation and hopes that the committee will see fit to advance the bill as soon as possible.

I'll be happy to take any questions any of the members have.

REPRESENTATIVE DeLUCA: Thank you very much, sir. Let me just state here that I guess what I can get out of this is a lot of times, inferior lenses are given out. Is that what you're stating?

DR. McCAULEY: As I've said, I've used the same lab for over 30 years and we have a very good rapport with them. The new lab that I'm forced to use in this particular instance, if you would like to talk to my staff, they are just frantic, simply because there are many times when they have to return items.

A perfect example is I've been a member of this panel for about nine months, and the laboratory

has already lost three pairs of glasses. In the last ten years, my previous lab never lost a pair of glasses that I'm aware of.

So many mistakes come by, which has caused delays --

REPRESENTATIVE DeLUCA: I understand that. I'm trying to get a feel for are they inferior lenses or being they are lost? That can happen to anybody. We are talking about a laboratory. We are talking about somebody who is not doing the job right, the lenses have to be returned because of the fact that the prescriptions are wrong. In comparison from the lab you use or anybody else uses out there to what we're talking about, I guess the Davis company here, what is the ratio between returned lenses? Has your organization done a study on that?

DR. McCAULEY: No.

REPRESENTATIVE DeLUCA: We can throw out these --

DR. McCAULEY: Anecdotally.

REPRESENTATIVE DeLUCA: Right, and they all sound good, but we need concrete information when we make our judgment to what's going on.

Now, we're accusing this lab -- not accusing, but if we're saying that there are more inferior

lenses coming back, it's a different story. If you're saying they were lost, well, you know, that could happen. I get mail lost all the time. It doesn't mean that the guy that sent it to me was incompetent or anything like that. That's what I'm trying to get at.

And the fact is that, as you are aware, we do need to look at costs. There is no two ways about it in healthcare. As far as reimbursements, the doctors are saying the same thing. The doctors are saying we're not getting enough reimbursements, and sometimes they don't want to participate in plans. There is going to be a time when a lot of our individuals out there might not even have any health vision care because of the fact, as the Chamber says, they just can't afford it. The small business people are not going to afford it. It's my understanding that eye care is supplemental to the healthcare. You add that on. It's not a mandate that it's provided with the healthcare package, so you choose to have it or your company chooses to get it for you.

So I think that's what we're trying to look at. What I'm trying to look at is a level playing field. If you can compete with the prices that the major carrier wants to provide and you have the option

to compete and participate, then that's my concern. Whether they are going to pay you more than that there, we can't fix that. There is no way we can do that. My main thing is to see if we can establish a level playing field. If you can compete, fine. If you can't compete, it's a different story. We need to reduce costs.

DR. McCAULEY: We agree with you a hundred percent. The problem here is that what I heard in the previous discussion is reverence towards the economy of scale. Economy of scale is, indeed, one aspect of competition. Quality is one aspect of competition. Timeliness of service is one aspect. If their laboratory is so efficient and so inexpensive and so quality oriented, they are going to compete on the same competitive basis that all the other laboratories compete on. Bring it on.

We're not saying we don't want -- we're saying we want the competition. What they're saying is our laboratory is so good and so inexpensive and it brings the economies of scale so well that we don't want anyone else to be able to make our lenses. So, therefore, they are saying they don't need the competition.

REPRESENTATIVE DeLUCA: Competition is

good.

DR. McCAULEY: Absolutely. That's what we're asking for.

REPRESENTATIVE DeLUCA: Any questions, John?

REPRESENTATIVE EVANS: Just one.

REPRESENTATIVE DeLUCA: Go ahead.

REPRESENTATIVE EVANS: Thank you for your testimony.

Are your vision labs licensed by the state?

DR. McCAULEY: Our vision labs?

REPRESENTATIVE EVANS: Vision labs, in general.

DR. McCAULEY: They are not licensed. I don't know any vision labs that are licensed. There will be discussion with the labs. Optometrists are licensed by the state.

REPRESENTATIVE EVANS: If someone has a complaint, where would they go?

DR. McCAULEY: For optometrists, they would go to the State Board of Optometry in Harrisburg.

REPRESENTATIVE EVANS: As far as the product being delivered and there is something that's wrong, a mistake, where would they go? Where would

the patient go?

DR. McCAULEY: The patient would most likely go to the dispensing doctor. That's our job. If there is something wrong with the lenses, that's our responsibility, absolutely.

REPRESENTATIVE EVANS: That will conclude my question, Mr. Chairman. Thank you.

REPRESENTATIVE DeLUCA: Thank you.

Representative Readshaw?

REPRESENTATIVE READSHAW: Thank you, Mr. Chairman.

The Chairman covered most of my concerns, Mr. McCauley. I would just only suggest for the sake of better understanding by the Chairman and the committee as they try to form an opinion on this legislation that on page 2 where you say the turnaround time is many days longer, the error and return rate is high, if there is some manner that you could clarify those statements as to what the percentage might be or the incidences might be, I believe the committee would be interested in seeing statistics, as opposed to --

DR. McCAULEY: Some of my colleagues have gone to, you know, labeling each particular laboratory that they send work, when it went out, when it came

back, but, yes, I think we can get information to you with no trouble.

REPRESENTATIVE READSHAW: Thank you.

REPRESENTATIVE DeLUCA: If you can get that information, we would appreciate it if you would send it to the Chair, please.

Any other questions?

(No response.)

REPRESENTATIVE DeLUCA: Thank you for your testimony.

The next panel to testify is labs. It's Steven Seibert of Three Rivers Optical, Joseph Kasyan of Donaldson Optical, and Paul Kriner with Premier Lens.

Welcome, gentlemen. And, Steve, you'll be the first one to testify?

MR. SEIBERT: Yes, thank you.

Ladies and gentlemen, thank you for the opportunity to speak before you today. My name is Steve Seibert, and I'm the owner of Three Rivers Optical. I'll be speaking on behalf of the independent optical labs in the Pittsburgh area, as well as the Commonwealth. Beside me are Joe Kasyan of Donaldson Optical and Paul Kriner of Premier Lens Lab. The rest of the gentlemen with us are from the Optical

Laboratories Association. Some of them have their own labs here in Pennsylvania. The rest, from other states, are here out of concern of what's going to happen to their laboratories once some of these plans become as big there as they are here.

I'd like to start by saying that the optical industry is not like any other industry. We have ophthalmologists, optometrists, opticians, and optical laboratories, all in one location in some instances. There is no other industry that has medical, retail, and wholesale working as one unit.

Again, I'm here speaking on behalf of optical laboratories. We have seen significant impact in the optical laboratory business since one of the big insurance companies took over the OptiChoice, Security Blue, and all the welfare programs in Pennsylvania. As a result of this action, four optical laboratories have closed. The oldest optical laboratory in Pittsburgh sold to a large lens manufacturer based in France because they could, quote, "not compete." Six laboratories have cut their staff by approximately 50 percent. Most independent laboratory revenues and units are down approximately 28 to 36 percent. This is due to the closed network that the above-mentioned insurance company has forced on the industry. This is

restraining us from doing business here in Pennsylvania.

We've conducted business in Pennsylvania with many other insurance companies, including the most powerful one yet. Before their acquisitions and restrictive process controls, we were still able to be profitable and provide a solid work environment for our employees. Today we hire people outside of Pennsylvania to solicit business from other states to continue to do business at the same rate we were at before the change took place. We've put in new equipment, more sophisticated and expensive, just to remain competitive with each other to keep the accounts we already have. We don't want to fight over a small portion of the business that's left.

International conglomerate corporations have now seized the opportunity to acquire the old and the weak in our industry. They now control more than 50 percent of the wholesale laboratory business in our country, and it continues to grow almost daily.

We're not the ones that are restraining each other from doing business. We are independent optical laboratory owners who do not want to sit back and let an insurance company destroy what we have worked hard to build. The fact, for example, that Davis permits

two corporations, one based in Arkansas and one based in Italy, to be exempt from the rules pertaining to eyeglass frame choices and limitations on locations of lens fabrications is simply unfair to the people of Pennsylvania. Why would you permit an unfair practice like this to continue?

Our accounts ask, why are lens costs going up? The answer is simple: Third party insurance. A decrease in units from the eye care professional causes reduced volume, which drives the cost of raw materials up.

I read somewhere that one big insurance company here in Pennsylvania controls one out of every 13 lives. They currently own seven laboratories, and yet there is only one in Pennsylvania. If Pennsylvania is the largest state for them, why aren't there more labs here? Why are the jobs leaving the state? By jobs, I mean prescription eyeglasses. How is this helping our unemployment rate? How does this benefit our state? The largest vision plan in Pennsylvania lowered the cost of their plans to the state employees, in turn creating loss of employment, higher unemployment rate, more people on welfare. But, wait. They also provide coverage for welfare eye care, so that must mean it's okay, because you lowered

the rate to the state.

Davis Vision is an example of a managed vision and eye care provider that serves more than 10,000 employer client groups and about 35 million eye plan members. Davis employed about 1,000 people throughout their company and have a revenue exceeding $62 million. They own seven laboratories, a frame manufacturing company with all manufacturing outside of the USA, and 325 retail optical stores. They continue to grow their closed loop network and tighten the noose on independent business in Pennsylvania.

Davis Vision's plan is going to be copied by other insurance companies. Spectera, for example, is one of them. Doctors must use a frame supplied by them, send it to a Spectera lab. VSP looks as if they'll also follow suit. Some plans, specifically the ones in which they are competing directly with Davis, eye care professionals must send the prescription to a VSP-owned laboratory to have it completed. VSP has just purchased a lab in Texas. This the third lab that they own. I'm sure if Davis is able to continue doing the business that they currently are, VSP will expand its plans to do the same.

If these three or four insurance companies are

doing this, what's to stop the rest of them, like VBA or NVA or even the smallest insurance company, from following suit? Then the independent labs will all fight for five or six percent of the self-pay work that's done.

Ladies and gentlemen, where is the end? These companies are introducing plans that are restraining us from doing business in the state where we are. They are causing increased unemployment and hardship to the people of our Commonwealth, all the while they continue to grow and benefit because of the hardship they created. You have the ability and responsibility to protect the people of your Commonwealth.

Thank you for your time. I'm happy to answer questions.

REPRESENTATIVE DeLUCA: Anybody else want to testify?

MR. PARMENTERI: Oh, yes.

REPRESENTATIVE DeLUCA: We need your name.

MR. PARMENTERI: My name is Dale Parmenteri, and I am here representing Balester Optical Company, located in Wilkes-Barre, Pennsylvania, as vice president of marketing and operations. In addition, I have served as a regional

board member for the Optical Laboratories Association for six years and a board member for the last three. I am here in support of the POA and the OLA's efforts to ensure the following:

One: Freedom of choice for patients to select providers. Two: Providers' freedom of choice to choose materials, fabrication, and source of products to best serve their patient's prescription needs.

In addition, I want to make clear this is not a statement against managed vision care, only against those plans that create different levels of providers, do not provide freedom of choice for patients to select a provider, and giving providers the choice of materials, fabrication, and source of products to best suit their patient's needs.

Many closed loop vision benefits plans create competitive disparity through a policy of creating different levels of provider participation. The average single location eye care professional is compelled to use the benefit plan laboratory while chains, integrated retailers, and some ophthalmology groups are allowed to choose their laboratory and use their own products, creating a competitive disadvantage in timeliness and quality of eye care delivered.

The result is different quality and service levels emerge, independent eye care practitioners experience service delays and quality issues, creating patient dissatisfaction that has a negative financial impact on the independent eye care professional. Many of my customers and patients of my local community have made this fact clear to me over the past two years.

As an independent lab services provider and an OLA board member, I believe that freedom of choice increases competition for lab services, ensuring quality and timeliness of ophthalmic goods and services delivered to the patient. An as independent lab services provider and an OLA board member, I believe the effect on the consumer's ability to get the best vision care possible is impeded by a closed loop benefit plan that directs the eye care professional in the purchase of materials, brands prescribed, and the access to the best products and services available to the patient/consumer in a timely manner.

The impact of these factors that have emerged in the Pennsylvania market have had a negative financial impact on POA and OLA members, their employees, and the optical community in general,

reducing the quality and timeliness of eye care delivered to the PA consumer.

Personally, the result for me is our lab has seen a loss of sales in Pennsylvania and New York exceeding $1 million or seven percent of our total revenue and approximately 13,000 prescriptions over the past two years. This has forced me to expand my sales force outside of Pennsylvania and a recent reduction to my PA sales force. The overall impact equals approximately six positions or seven percent of my PA work force. I'm a union laboratory, and my average package of wages and benefits exceeds $16 per hour for nonexempt/hourly employees.

REPRESENTATIVE DeLUCA: Thank you.

MR. DZIUBAN: Thank you, Mr. Chairman. I'll be very brief. I'm Robert Dziuban. I'm the executive director of the Optical Laboratories Association. I'm here supporting all the laboratories in Pennsylvania and representing laboratories across the U.S. I'll very briefly note some of the comments in my statement.

OLA does represent 433 optical laboratories in the U.S., including 16 labs in Pennsylvania. Our predecessor organization stretched back to representing this industry since 1894. We provide

information to assist member companies in operating and improving their business and represent the lab industry to government and other industry organizations.

I'd like to say that I believe it's important to note today that the discussion is not about managed vision care and whether it should exist, nor is it about providers or laboratories being paid more. It's about the opportunity for laboratories to compete for business, as opposed to not having the opportunity to even compete for the business.

Some of the longstanding support for that concept, freedom of choice in the marketplace, is included in my statement. You're probably aware of the fact that similar legislation has passed in Tennessee and Illinois and is currently pending in Alabama.

In terms of analogies that have been used in the discussion today, as well as in other situations, I'd like to suggest that in terms of the supermarket analogy, I don't believe we have corner store grocery stores arguing that CVS should not be allowed to sell milk, but that CVS should not be able to say if you want to buy a prescription here, you also have to buy your milk here. They just want an opportunity to

compete and sell the milk.

Thank you.

REPRESENTATIVE DeLUCA: Anybody else on your panel?

(No response.)

REPRESENTATIVE DeLUCA: I guess I just have one question here. So it's my understanding coming from the labs that you say we cannot compete. You cannot compete because of price?

MR. SEIBERT: Because of the closed loop system. We have no ability to provide eyewear at any price.

REPRESENTATIVE DeLUCA: So, in other words, it's my understanding, say, just for the sake of discussion, if Highmark would come in and say, we're going to let you compete and this is what we're going to pay you, you would be willing to accept that? Is that my understanding?

MR. SEIBERT: I certainly would be willing to take a look at the opportunity to accept that.

REPRESENTATIVE DeLUCA: Do you know -- can you compete on what -- of course, you wouldn't even know what they pay in the first place, because it's proprietary information.

MR. SEIBERT: Right.

REPRESENTATIVE DeLUCA: There is no way you're going to know that. So, in other words, you would like the opportunity, because you might not want to compete with what they offer; is that correct? If it's not profitable, you're not going to compete.

MR. SEIBERT: If it's a loss product, then at least I would have the opportunity --

REPRESENTATIVE DeLUCA: -- to make a choice whether you want to compete or not. Okay, thank you.

Representative Evans?

REPRESENTATIVE EVANS: Thank you, Chairman DeLuca.

Just a couple of the same questions I asked the previous group that you may be more in the area of expertise to answer regarding the licensing by the state.

MR. KASYAN: We are not licensed as laboratories. There is no license, although we do have the American Board of Opticianry that we can go to, but it is not anything that is mandated.

REPRESENTATIVE EVANS: I don't know if the Chairman can recognize people in the audience.

REPRESENTATIVE DeLUCA: Certainly.

TRANSCRIPT OF PROCEEDINGS

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REPRESENTATIVE EVANS: They are raising their hands.

MEMBER OF THE AUDIENCE: If I could speak to Representative Evans, optical laboratories are not required by the federal government, by the FDA, to register as medical device manufacturers. Dispensers of the prescribed materials, which are the optometrists and ophthalmologists, are required to register or to be licensed. And in some states, opticians are required to be licensed, and in other states, they are not. But the optical laboratories are business people selling the medically regulated device to the individual who is licensed.

REPRESENTATIVE EVANS: Thank you for clarifying that.

Yes, sir.

MEMBER OF THE AUDIENCE: One point that was made earlier about automation and Colts certification. Many of our laboratories are automated with the same exact equipment that Davis uses and we are also Colts certified as well.

REPRESENTATIVE EVANS: My only rationale for asking the question was if a consumer had an issue with quality of service or felt something was deficient, where would they take that grievance? How

would that be addressed? And we're essentially taking the word of the lab that we're doing it right.

MR. KRINER: If the doctor sees something wrong with our personal lab, they have other choices around the area, state, or whatever they can move on to. They are not stuck with just one lab. They have a choice of moving.

MR. KASYAN: If we're sending out work that's more than one percent wrong, they can leave. They will leave, where right now, they have to stay with them.

REPRESENTATIVE EVANS: What if a person bought a pair of glasses and had those lenses and the doctor said, well, you've paid for them. I can't help you. Sorry.

MR. KASYAN: That wouldn't happen.

MR. KRINER: No, because we would take care of that personally. We would eat the cost ourselves.

REPRESENTATIVE EVANS: You would eat the cost?

MR. KRINER: Yes.

MR. KASYAN: Yes.

REPRESENTATIVE EVANS: We've heard from the different interest groups here today, from the

labs, from the opticians and the manufacturers, and the insurance industry and the Chamber of Commerce. The one group that I feel that is absent, and we're not hearing their voice, is consumers. We don't have patients, we don't have consumers who are concerned about this, apparently, who are contacting legislators. I get probably about 250 e-mails a day on a wide variety of subjects. I can tell you that I've never received a single e-mail from a consumer or patient who is concerned about this or has even brought it to our attention, so I'm just curious as to why we're hearing from these groups and we're not hearing from consumers.

Do you have any insight on that at all?

MR. KRINER: Basically, they come to us, if it helps. People come to the doctors and the doctors refer the information to us and we tell them to either call Davis Vision or call someone like yourself. Whether they do or not, if they don't want to get involved, that's another episode.

REPRESENTATIVE EVANS: Thank you.

REPRESENTATIVE DeLUCA: We'll recognize some. We're going to go through this agenda. We're not going to have individuals just answer questions from the audience. That doesn't make for a very

orderly process.

I'm very interested in -- I would imagine that your laboratories had a reduction in business a long time ago from some of these stores who offer reading glasses, and I would imagine years ago you were able to -- before they came on the market, they'd be buying glasses from your laboratory. Am I correct?

So a lot of people today are going into the chain stores and to the dollar stores and buying these cheap glasses. I would imagine they are really not conducive to good eye care, but why aren't we speaking up about those type of things being permitted to be sold pertaining to something as necessary as eyes?

MR. SEIBERT: Because as to your analogy, while you can go to CVS and buy bread, you also have the option to go to the bakery and buy good bread. You can go to XYZ store and buy readers, but you also have the option to go to your eye care professional and buy good readers or buy good glasses.

REPRESENTATIVE DeLUCA: Have we educated the public on what the difference is? Has your organization educated the public? Does it affect your eyes any?

MR. SEIBERT: It can, absolutely.

REPRESENTATIVE DeLUCA: Is it a detriment

to your eye?

MR. KRINER: Actually, it can, because it can induce prism. Depending on where their eyes sit on their face, if they just go to the rack and pull one off, you are going to induce prism, which is a hard topic for everybody to understand.

REPRESENTATIVE DeLUCA: So we are not interested in it's going affect the eyes. We haven't done a study alerting the public or consumer?

MR. KRINER: If someone does wear a pair of glasses that is induced by prism and then gets a nice pair of glasses, that creates a problem.

REPRESENTATIVE DeLUCA: Again, I want to thank you gentlemen for coming here.

MR. KRINER: Sure. Thank you for the time.

REPRESENTATIVE DeLUCA: The next panel is opticians, James Michael Jones, Linda Boss, and Stacie Warneke. Welcome, panel. I certainly appreciate you taking the time to come here today to inform us about this bill.

Who will be the first to testify?

MR. JONES: If I may, I'd be the first to testify.

My name is Jim Jones. I've been working in

the optical field for 36 years. I am a graduate of Fair State College LA Health Program, Optics. I am a sole proprietor and operator of the retail optical company Jones Optical. I am here today to speak on behalf of the independent opticians concerning the vision insurance program of Highmark.

Opticians make their living by making and selling quality eyewear, and some make, fit, and dispense contact lenses. The most important aspect of eyewear are correctly installing lenses into a frame, and even more importantly, fitting the eyewear to the patient. The lenses must be checked for accuracy before being edged and after they are plated into the frame. Since I fill the prescription, I control the quality and accuracy of each prescription. In any optical establishment, the owner will have his most experienced and knowledgeable optician take care of the consumer. Why? Because this is the most important part of his business.

It is my experience as accepting the latest Highmark vision program that most of the work being completed by the Highmark lab in Philadelphia is not always checked for accuracy. I'm sure some of the other people will let you know or give their explanations.

I personally have received bifocal lenses that are 15 millimeters higher than stated on the job I ordered. I receive lenses that are not on the correct pupillary distance. I receive lenses that require a grooved edge and receive beveled lenses. I have sent back lenses and explained the problem, only to receive back the exact same error. I have sent my own frame to the lab to have it come back ruined. I have received eyeglasses where the bifocal lenses were twisted in the frame to look straight, but the frame is visibly distorted.

I have faxed in a prescription for reading glasses clearly marked in two places and received a distance Rx. I have requested many times for specific temple length and have received whatever length is available for that particular frame model. Frames should be in a standard adjustment, yet I have to do major surgery on them before they can be fitted on anyone. If you wish to speak to some of the consumers who have received this type of work, I will send you a list or have them write you.

I have one patient who purchased a frame from the Highmark tower and it broke. She is carrying her lenses in her pocket because they don't have a frame for her. Also, many of the frames on the Highmark

Vision tower are dated. There are few, if any, fashion frames for the consumer. One consumer wanted a mirror finish on his lenses, and the Philly lab said it's not an available option. My local lab can do the mirror finishes and has done them for me several times, so the consumer opted to use the local lab and not his insurance.

Why is the chain store not required to have a tower of frames for the consumer to select from? Is this program for the consumer? If it is, then every provider should have the same uniform program. I am required to have a tower in order to be a provider. Every participant should. Is this a fair business practice or a predatory practice to require only independents to have a tower to be a provider?

Also, there are some chain stores that are allowed to fill Rxs themselves, not requiring them to use the Highmark labs. Is this fair to mandate that only independent optical establishments must have a prescription filled by a Highmark lab? If the chain stores can make eyeglasses, why can't the independents? If the chain store doesn't need a tower to be a provider, then the independents shouldn't need one, either.

This insurance program not only has negative

effects on my business, but also affects the wholesale labs and frame companies. If the lab doesn't get any work, they don't need a work force. Since the independent optician must send most of the insurance work to the Philadelphia lab, the wholesale labs have to lay off employees. Opticians who are working and paying taxes are now out of a job. The school district loses income. So does the county and local government.

I have listened to many consumer complaints over the last few years. Consumers are under the impression that I provide eyeglasses and contact lenses because my company name is listed as a provider in the vision manual. Under the old Highmark insurance plan, I was a provider. The consumer came to me and I provided quality workmanship and quality service. Under these new Highmark vision insurance programs, the consumer assumes he or she is going to get the same service. Why? Because the insured didn't give them all the details on how the insurance program really works. The consumer assumes that since I am an optician and listed provider, I will be filling their prescriptions. They are surprised to hear it must be filled by someone in Philadelphia. They can't use their own frame unless they can go

without wearing eyeglasses for several days. They are learning that not every provider has a tower of frames. I was not aware of this until a Security Blue consumer told me the chain store he went to didn't have a tower.

If a consumer has a problem with his new eyeglasses, who should he turn to? If I make the eyeglasses, it's me. If someone else made the eyeglasses, they better handle the problem. Who does the consumer turn to if the Philadelphia lab makes the eyeglasses?

On a personal note, I don't like dispensing eyeglasses someone else has made, because if something is wrong, the consumer immediately questions me. I'm the person they are looking at and I don't want to and can't explain why the eyeglasses were not made correctly. When I dispense a pair of eyeglasses made by the Highmark lab in Philadelphia, I expose myself to a possible lawsuit. I am also worried about my reputation in reference to the quality and accuracy of each prescription I have to dispense.

Does a consumer need insurance for eyeglasses? No. People buy insurance to protect themselves from a personal loss of property, health, or life. To replace any of these would cost thousands or hundreds

of thousands of dollars. The deductible on any of these insurances is probably more than the cost of a pair of eyeglasses. The consumer selects a deductible they can afford to pay if something happens. Does he need insurance for eye surgery? Yes. The hospital stay, the anesthesiologist, the surgeon's fees could all add up to thousands of dollars. A good pair of eyeglasses cost less than 500. If the consumer saved the cost of his or her monthly eyeglass/contact lens premiums over the two-year period, they would probably be able to afford a nice pair of glasses.

Several years ago, Highmark had several programs, one called OptiChoice. This program required the optical establishment to give a $60 discount on frames. The insurance company would reimburse $24. The optical company lost $36. Under this program, the optical establishment made the eyeglasses, checked the eyeglasses, fitted the eyeglasses, and made sure the consumer was satisfied. Today, they are required to send the job to Philadelphia, and under the plan, the optical establishment receives nothing up to $5 for using a frame from the tower.

As I said earlier, the optician makes his living selling frames and lenses. If a Security Blue

consumer uses his insurance plan and wants only basic lenses and frames, my gross profit is $15. My net profit is $10.80 after taxes. My rent is $800 per month. I would have to sell 74 pair of eyeglasses in one month just to pay the rent, 53 pair to pay for Highmark medical insurance, 133 pair to pay a part-time secretary $1200 a month. Phone, office insurance, utilities, wages, postage, et cetera, et cetera, et cetera, I have to sell several hundred pair a month. Is this possible? I am one person. I would have to hire one or two opticians and they would have to work for free, because I'm netting only 10.80 per job. If I pay them, I can't pay my rent and I cannot pay my secretary.

The independent optical establishments will no longer exist if this program is not changed to benefit all equally. The quality of eye care will suffer and the consumer will pay more for less. Why can I make this statement? Fifteen years ago, the insurance company felt the standard bifocal lens was a visible flat 28 because it was a bifocal style used more than any other. These lenses were covered under the consumer's policy. Today, the Siemens progressive lens is probably sold more than any other multifocal. Does the insurance company cover these lenses? No.

The consumer must pay an additional $40 to $90.

I understand from reading the newspaper that Highmark is doing very well. The retail establishments need to receive more than a few dollars for their expertise, bookkeeping, recordkeeping, storage, handling of patient's complaints, packing and repacking jobs, et cetera. I feel like an unappreciative housewife who slaves all day, takes care of the kids, does the laundry, irons the clothes, and can't afford a new pair of nylon stockings. Somebody is making money, and I know it is not the independent optician.

Please, there are many family-owned optical establishments across the state that have been making eyeglasses for the past 60, 70 years. Allow us to continue what we have been taught to do and know how to do well, or you can do nothing and watch another industry in the state of Pennsylvania die. Who is making the big bucks? Again, read the paper. Highmark shows record growth due to for-profit vision coverage program. The consumer is paying more and getting less.

All the people here today didn't close their offices to come here because they are making too much money. We are in a battle to save our jobs and

livelihoods. The people behind me, these optical soldiers, are doing the grunt work. They are on the front lines taking care of the consumer. Highmark is getting recognition and the medals. These opticians and doctors should at least get combat pay.

The Federal Trade Commission set up guidelines for the release of a prescription to the consumer for eye exams and contact lenses, allowing freedom to go to any optical establishment they chose and trust. Does a consumer have the same freedom when their employer selects a vision plan that only allows them to have their eyeglasses made by one for-profit company? Was the consumer given all the facts on how this program functions? Does he or she have the freedom to go to any optical establishment?

The Federal Trade Commission Bureau of Competition champions the right of American consumers by promoting and protecting free and vigorous competition. The Bureau promotes competition in industries where consumers' impact is high, such as healthcare, real estate, oil and gas, technology, and consumer goods. Well, the deck has been stacked against me, as it has been many times in my life, but I'm still here. I'm ready to fight to keep my job and to try to help other opticians across the state keep

theirs. I have fought for my country and today I am here to fight for myself and my fellow opticians.

I close with a saying from the Fighting Seabees: "The difficult we do now; the impossible takes a little longer. We build. We fight for peace and freedom." Thank you for listening.

REPRESENTATIVE DeLUCA: Thank you. Your testimony was very compelling. Thank you.

Any questions?

REPRESENTATIVE EVANS: Thank you, Mr. Chairman. A quick question.

The requirement of the tower, what does that mean? What is a tower?

MR. JONES: A tower of frames is -- I have about 600 frames in my office, maybe 700, and in order to be a provider in this program, I have to set up a tower of roughly 270 frames somewhere on the premises so that the people coming in can buy a yellow tag, red tag, blue tag frame. A yellow tag frame for Security Blue is at no cost.

If they were to go to a chain store, there is no tower. The consumer loses out. He has to buy a frame from the chain store from their inventory. There is no yellow tag frame which is free to the consumer, so the consumer has to pay the retailer the

difference. They get a $60 discount and pay the regular retail price. If they had came to me originally and selected from a tower, they could get a free frame, basic lenses, and wouldn't pay anything, but a lot of the people are going to these chain stores unaware that they could have gone somewhere else and actually got a free pair of frames covered by the insurance.

REPRESENTATIVE EVANS: Who is it that mandates that you have a tower? Is it the state or is it the insurance company or who is it?

MS. WARNEKE: It's Davis Vision that mandates that providers who are participating in their program have a "tower," quote, unquote, of frames that are supplied from Davis Vision. It is probably one of the ugliest, outdated things that we've ever seen. And most offices pride themselves on presentation. When you walk into a practice, you obviously are going to judge what kind of care you're going to get on what you see when you first enter a practice. This tower that we're required to keep on display, I think if most people had a choice, it would either be in a closet or in their basement, if they had one. It is not appealing to the consumer or most of our practices' offices.

MR. JONES: It hasn't been cleaned. It has been installed in my store. It has not been touched or serviced or cleaned since it's been there. And I am not their housekeeper, I am not their maid. I am not their stockboy. If they would come in to my office and at least clean the frames or take the dust off of them, I think then you might be able to suitably put one on without getting your face dirty.

REPRESENTATIVE DeLUCA: Let me just follow up on that.

So you have a tower. Myself, as a consumer coming in to your facility, what would you have where I can make a choice of what frames I want to have? What would you have? This is called a tower, but you would have a display, correct?

MS. WARNEKE: We have frame displays.

REPRESENTATIVE DeLUCA: That would be a display, wouldn't it?

MS. WARNEKE: Correct.

REPRESENTATIVE DeLUCA: You call this a tower? It's a display.

MS. WARNEKE: Yes, sir. It's a large stand about six feet, seven feet tall. It spins and it has little placements with frames to go on with small advertisements.

REPRESENTATIVE DeLUCA: Are you required to buy that?

MS. WARNEKE: No, it's not something that is bought. It is something that's supplied.

REPRESENTATIVE DeLUCA: How many frames are on a tower?

MS. WARNEKE: I would say approximately between 250 and 300.

REPRESENTATIVE DeLUCA: I'm just trying to get some information.

So you have 200 to 250 on a tower, right? So wouldn't that give the consumer a better choice of picking frames? Are you saying you would still have 200 if you didn't have the tower?

MS. WARNEKE: Everybody's optical dispensary has anywhere between, I would say, 500 and 1500 frames, feasibly, for a patient to choose from, including children's, men's and women's.

REPRESENTATIVE DeLUCA: On display?

MS. WARNEKE: On display in the office. The tower itself is what is, quote, unquote, "the Davis Vision consumer" is supposed to choose from in order to have a completely covered product under their plan. There are three levels of frames on that particular tower, one being a yellow tag, one being a

red tag, and blue being a premium tag.

Like Mr. Jones has stated, nobody regulates or cleans or mandates or does anything to this particular tower. It's inventoried -- I think I seen it being inventoried three times over the last five years, but nobody comes in and cleans them or, you know, organizes them once a consumer has completely gone through it like that. I would not fit my worst enemy with one of those products, let alone want my every day consumer to use that product as something that I would have to sell as, quote, unquote, "extra inventory." It is not appealing product that I would purchase if I had the opportunity to buy.

REPRESENTATIVE DeLUCA: So you're saying the frames are inferior?

MS. WARNEKE: The frames are not only -- they are outdated, and I don't know if the panel knows or understands. Highmark has recently purchased a frame manufacturing company called Viva International, and that is probably, I don't know, maybe the fifth or sixth leading frame manufacturer in the industry. And they actually gave incentive to the doctors when they did this that if they would purchase X amount of this product, thus putting more money in Highmark's pocket, we would give or they would give you an extra $5 for

every frame that you sell on your own board that happens to be a, quote, unquote, "Viva" product that's not necessarily a tower product to try to appease. So you're going to have to make a 5-, $6,000 investment to make $5 every time you push a Davis provider into that particular product.

REPRESENTATIVE DeLUCA: Any other questions? Representative Biancucci.

REPRESENTATIVE BIANCUCCI: The only question I have is who requires you to have this?

MS. WARNEKE: It's Highmark.

REPRESENTATIVE BIANCUCCI: So if you are in their network, they don't require other --

MS. WARNEKE: That's correct, yes.

MEMBER OF THE AUDIENCE: That's the whole issue.

REPRESENTATIVE DeLUCA: Representative Evans?

REPRESENTATIVE EVANS: Just a quick follow-up.

I'm a little confused, that's all, because, Mr. Jones, you indicated that the reason you're upset about Wal-Mart not having the tower is because low income people can come in and get a free frame from you, where they have to pay at Wal-Mart?

MR. JONES: I'm not upset about anything, other than the fact that the program -- if you look at the program and the chain store does not have to have a tower of frames, the consumer is unaware that he could go almost anyplace that has a tower, get a frame and a basic lens that costs him nothing. Somehow, the chain stores do not require or have to have a tower, which means that when the consumer goes in, yes, they do have a display just like I do, 3- or 400 frames to pick from, retail cost. The consumer must buy a retail cost frame made by the chain store.

REPRESENTATIVE EVANS: That being said, I'm just a little bit disturbed by the other comment you made that you refuse to clean those displays or clean those glass frames. Apparently, it indicates that you're trying to up sell the consumer to the higher priced product and you don't want them to have the ability to get the free product.

MR. JONES: No, sir. They pay me to dispense -- to fit and dispense eyeglasses. I am not their maid.

REPRESENTATIVE EVANS: But you serve the public, do you not?

MR. JONES: I sure do, sir.

REPRESENTATIVE EVANS: Does that send a

message to a person that you're not going to clean their glasses frame?

MR. JONES: What it means is that Highmark wants to pay me nothing to clean the office. Does anybody get their office cleaned free just because they rent from somebody? They use my space in my office. It's free. I have no choice. I can't charge them for space rental, like you would do in a department store.

REPRESENTATIVE EVANS: You cited that as an advantage that you are giving a consumer to come in to your office that they cannot get at Wal-Mart.

MR. JONES: I'm not excited about it.

REPRESENTATIVE EVANS: You cited that as an advantage for the consumer.

MR. JONES: I said the consumer was not getting a fair advantage if they went to a chain store.

MS. WARNEKE: I think where -- one of the things that I think he is trying to say is that when a Davis Vision participant, a consumer comes in with Davis Vision, if that person chooses a frame from the tower --

REPRESENTATIVE EVANS: Dirty frame.

MS. WARNEKE: I have to say that if we

don't maintain it, it's not going to get maintained from Highmark, and that is a little bit unfair, but one doesn't help the other. We receive what they call a dispensary. We get a dispensing fee for dispensing a complete pair of eyeglasses. If it is a frame that is chosen from that tower, we actually get more money. If the consumer chooses a frame that's from our inventory, we get less money.

REPRESENTATIVE EVANS: Why wouldn't you want to be selling off the tower?

MS. WARNEKE: Because the product is outdated and old and it is not appealing. If I could have physically brought the tower with me, trust me, I would have brought it, just for you to see that.

REPRESENTATIVE EVANS: For some consumers that are low income people, I don't think there is concern about fashion, quite honestly, walking down Fifth Avenue. They like to have just glasses for free.

MS. WARNEKE: The low income consumer doesn't have the option of purchasing what they call a frame allowance. They are not -- they can, if they have the money, but, obviously, if it's low income, they don't. And low income or the people that have to choose from the tower to get them completely for free

do not have a frame allowance to choose from the frame boards, our inventory. They are required to pick a frame from the tower. They have no other option unless they want to pay.

REPRESENTATIVE EVANS: That was my point. Don't you feel that that is discriminatory toward people -- not necessarily discriminatory. Don't you think that sends a bad message to people that you're not willing to, in some cases, provide them with a --

MS. WARNEKE: I wouldn't say I'm not willing. That might be his particular presentation. I think every doctor in here is willing, because it's the policy. We do offer it if it's available. It's seen. It's there. The patient knows that there is a tower available to them. They ask for it when they come in to the practice. So they have the choice. It is not appealing is the biggest thing.

And the biggest concern, I think, is the fact that when you dispense a pair of glasses, in my personal opinion, whether it come from a tower or come from our inventory, we should be reimbursed the same fee, and we're not. We get half of the fee if they use one of our frames versus a larger incentive if they use a product from their tower, and I think that that's where that comes into play.

And a little bit -- if I could kind of take that a little bit further, the incentives that were given when they purchased this frame company, Dr. Wende, when he was up here talking, was talking about the state-of-the-art technology that his laboratories have and how proud they are that they have all of this equipment that can do all of today's newest technology. Unfortunately, that's not true.

The industry is consistently changing, just like anything else. You have high definition television. We have all these new toys and tools in the industry to make everything we do in our life better. Well, one of the biggest things that can make our life better are our lenses are that incorporated into those spectacle glasses, and as that technology changes, Davis Vision does not. It maxes out. We cannot offer the newest technology lenses to our consumers through that insurance. It is not available to them. They get what might be considered a premium product, but the newest technology is not.

And not every patient has an out-of-network reimbursement. I have dealt with that on a daily basis where patients come in and want to choose a technology that is available to them and pay out of pocket and choose to be reimbursed. They have no

reimbursement, so that is not a true statement there.

One of my biggest concerns with the technology is that somebody who is myopic, who is very nearsighted and has very thick lenses, the highest index of refraction available through Davis Vision is a 1.67. And I know that means absolutely nothing to you, but the technology has changed significantly over the last year and there are much better products available. And when you're that nearsighted and cosmetically you want the best looking pair of glasses, it is not available to you and that consumer has to pay out of pocket for that particular product.

They offer -- they don't offer the same warranties that the manufacturers offer. The independent laboratories honor their same warranties. Antireflective coatings come with a two-year warranty from the manufacturer. Davis Vision gives you one year, and that's it. That is one of my biggest concerns. They do not give us the incentive tickets, they don't give us the promotions, they don't give us the certificate of authenticity so that when we're dispensing that product to a patient, they know that they're actually getting the product that they paid for. We don't get the cloths that come with them. Only the independent laboratories honor those things

and those warranties.

And it becomes a very time consuming issue with constant remakes and constant phone calls. I don't know about any of you, but I'm sure everyone on this panel's time is valuable, and I think everybody, as a consumer, their time is valuable. You asked for percentage time. The independent laboratory takes, on an average, for a pair of glasses with an antireflective coating seven to ten business days. Davis Vision takes fifteen to thirty. I don't care what piece of paper Dr. Wende has that says it's two to three days turnaround time. It's fifteen to thirty, and I can give you a list of over 150 examples, if you would like, because I do have that with me.

REPRESENTATIVE DeLUCA: Let me just follow up on that. Why would anyone -- why wouldn't the consumers be outraged if they are taking 15 to 30 days --

MS. WARNEKE: They are.

REPRESENTATIVE DeLUCA: I'm just asking you. Why aren't the consumers out there really outraging if they are taking that long to get their glasses? How does somebody go 30 days without a pair of glasses if they need glasses? I'm just trying to

find that information out.

MS. WARNEKE: Most people, when they are getting a whole new pair, are relying on the old pair. If you have a broken pair of glasses --

REPRESENTATIVE DeLUCA: -- it takes me 30 days? I have to go without glasses? I miss work because I can't see for 30 days?

MS. WARNEKE: It would be up to 30 days, yes, fifteen to thirty business days. Children, first time glasses, the same thing.

You know, the compassion of the doctors that we work with, a lot of times we will offer something in the interim to get them by, you know, on our cost and our expense so that we are building a rapport with our patients.

When you said that you wanted to replace your lenses only, we have to send the frame to the facility, even having the ability to fabricate those lenses in-house and having some sort of compensation to help the consumer.

To reiterate something about that with using your own frame as well, in today's industry there is a lot of -- Dr. Wende is wearing a pair himself -- drill-outs, completely rimless glasses like this gentleman has on. There is no frame. The lenses are

fabricated and there is holes put in them. They could be mounted in the practice of the doctors. It is nearly impossible to order lenses only through Davis Vision online or even with one of their provider relations persons, because they don't know how to enter it into the computer. It takes me approximately 40 minutes to get to a customer service representative that can do that manually on the phone.

So we have the ability. They have the ability to do lenses only in certain products, but they don't know how to do it.

REPRESENTATIVE DeLUCA: Again, I want to thank you for your excellent testimony. Certainly, you informed us on that issue. Thank you very much for taking the time.

MR. JONES: Thank you.

REPRESENTATIVE DeLUCA: The next panel is the manufacturers.

MS. BOSS: Can I --

REPRESENTATIVE DeLUCA: Sure. I'm sorry.

MS. BOSS: I'm going to be brief, but I have an issue, and I'm going to just go straight to it.

I used to belong to an organization called the Opticians Association. I served on the board of the

Opticians Association in Pennsylvania. It was an organization whose purpose was to keep the profession of opticianry alive through education. The OAP offered local and state meetings with accredited seminars. We shared ideas, information, and our talents with fellow opticians and product representatives.

The organization fought for many years trying to get licensure or credibility for opticians, but the big chains fought and won. Why should they pay higher salaries for skill and knowledge when all they need is a good salesperson? The organization is dissolved due to independent businesses closing. There is no longer a school of opticianry in the area due to the lack of concern for the consumer. Yet, anyone could fit you with your next pair of eyeglasses with no knowledge of optics.

I am surviving because my customer knows my long-time commitment and our quality service at a reasonable price. Davis did state that their average pair of eyeglasses is 285. Our average pair is 150. We are faced with the threat of losing customers due to insurance policies. The fact is, my patient can no longer get fast service. My patient can no longer feel comfortable with getting the best quality eye

care. My patient has the hassle of waiting while we deal with paperwork and insurance checks. We are the ones that have to deal with the upset patient whose eyeglasses are taking too long. They have no control over the situation.

It's not just Davis Vision that the opticians have issues with. I cannot participate in VSP because I do not have an optometrist in my practice. Yet, I do not know an optometrist that does the adjustments or the fitting. They give it to the optician.

I cannot get into HealthAmerica. I just got a letter from them which says, thank you for your interest in becoming a contracted provider in HealthAmerica's network. At the present time, HealthAmerica's network for your service is adequate to serve the needs of our members. Therefore, HealthAmerica declines to include you in their network. That means to the consumer that there is a chain in a five-mile radius that they can go to. Most of my clients are seniors and welfare or low income families who find it difficult to get to these locations.

I truly feel the consumer should have the choice to go where they feel comfortable ordering a quality pair of eyeglasses. I truly feel the provider

has the right to order that customer's eyeglasses from the best quality lab. And I truly feel the profession of a skilled, knowledgeable optician is dying and being replaced with a salesperson selling you as many extras as possible for profit because of insurances.

Thank you for listening. And I do clean my rack.

REPRESENTATIVE DeLUCA: Thank you very much.

MS. WARNEKE: I just also want to let the members here take a look at -- these are all the Davis Vision plans, each individual plan in this region, every single one of them different. A few of them are the same, but there is quite a variance on what they pay, what we get reimbursed. Some are discount plans, which allow you to cut the work in the process. Some are -- one provider, University of Pittsburgh, has five different plans under the same employer.

So if you wanted to take the time to just take a look at this, this is every plan in the region that we are participating in. These are all the Davis Vision providers here locally in this area that we have to take. So I just wanted you to get a general idea of how many different plans there are.

REPRESENTATIVE DeLUCA: Thank you very

much. Thank you for your testimony.

The next panel will be the manufacturers. We have William Segen and Wess Smith, owner of WC Eyewear. Welcome.

Are you ready? Who will begin?

MR. SEGEN: Gentlemen, I'd like to thank you for the opportunity of speaking before you. My name is Bill Segen. I live in Washington, Pennsylvania. I'm the national sales manager for Batali Optical, located in Poughkeepsie, New York. I am also the company sales representative in Central and Western Pennsylvania. I have 20 years experience in the optical industry, and during the last eight, I have designed and developed new frame models for Batali Optical and previously for international designers.

If I may, I would like to acknowledge the following people in attendance: Wess Smith, owner of WCS Eyewear, Sam Shapiro is the owner of Ideal Optical, and Gene Satira is the owner of Temple Eyewear. These three companies are all located here in the Pittsburgh area.

I would like to start by pointing out how unique the optical industry is. Out of all the medical professions, eye care professionals are the

only offices who combine a medical practice in a retail setting. No longer are glasses just used as a seeing device. Whether it's eyewear or sunwear, eyewear is fashion. Eyewear is an extension of who you are. Patients want to look and feel good when wearing their eyewear. Today's eyewear is considered an accessory, no different than a women's handbag or men's briefcase.

Hopefully, I will be able to show this committee how Highmark, its subsidiary, Davis Vision, Viva Optical, along with their numerous owned retail optical stores in Pennsylvania have created unfair market conditions and restriction of trade.

Example: If an office declines to sign a contract with Davis Vision, their name and office location is excluded from all printed Davis website listings as someone who accepts Highmark insurance. Gentlemen, I'm sorry you don't have a copy of this, but I'll gladly turn it over. This is using my ZIP code on the Davis website. All the doctors listed here are either from Wal-Mart or private practice. They show who carries these gorgeous frames. Exclusive, I believe is the word they use, exclusive frame collection. Wal-Mart does not, and I must point out there is one doctor in Washington, Pennsylvania,

who is allowed to practice under Highmark but has not signed the contract. That doctor's name does not appear on this list.

Although, under certain medical eye conditions, patients are permitted to be seen and treated by their eye doctor, whether the doctor accepts Davis Vision or not, this is not explained in any Highmark or Davis Vision brochure or manuals. This is the way Highmark penalizes the doctor/optician for not signing a contract and I believe constitutes a restriction of trade.

As a matter of fact, in a brochure from Highmark, which, again, I'm glad to turn over, entitled "What's New," at the bottom of this brochure, it states that "At Wal-Mart locations, members will receive Wal-Mart's every day low price on frame and contact lens purchases." Why is Highmark steering their insureds to go to Wal-Mart? Why are they not suggesting a private doctor or optician's office? If they suggest one place of business over another, are they not restricting an equal opportunity for a private office that is located near the patient?

Within a 100-mile radius of where we're sitting here, there are 18 Wal-Mart vision locations. Most eye doctors and opticians only have one office

location. Why solicit patients for Wal-Mart and not for one of the doctors or opticians that are present in this room today?

Problem: When a consumer has a change in their insurance, they generally are unaware of the changes in benefits until they need them. If a consumer does not find his doctor's name listed in a reference booklet, they tend to assume their doctor is no longer a provider. This is especially true for senior patients, who may be on a fixed income. This is just human nature. The private practice goes to great time and effort to build their practice and retain their patients in a very similar way you gentlemen deal with your constituent support. It takes years.

In Western and Central Pennsylvania over the last four years, many eye care professionals have attempted to hold out and not join Davis Vision. By not signing the contract cost these offices many, many patients. Their patients were lost to either a competitor who was listed in the Highmark book or perhaps one of the major chains, like Wal-Mart, Lenscrafters, Pearle Vision, Sears Optical, or even a Highmark Davis Vision optical store. Most of these patients are lost for at least two years until the

patient becomes eligible for their next eye exam. That is if their original doctor has since signed the contract and, very possibly, the patient has now found a new eye care provider.

A few years ago, Highmark purchased Viva Optical International. Viva Optical manufactures and distributes designer brand eyewear as well as their own in-house brands. They operate a sales team, both United States, as well as international. The purchase price was for over $110 million.

At some point after their acquisition of Viva Optical, Highmark began buying and operating retail optical stores. Highmark's retail expansion continued when they purchased Eye Care Centers of America, a 400-store optical chain, and the purchase price was over $350 million.

Highmark's most recent expansion was Cambridge Eye Doctors, 25 locations in Massachusetts. Right now, Davis Vision operates several optical stores throughout the state of Pennsylvania under different company names. As I stated, a lot of money has been spent over the last few years to purchase established companies in the optical industry.

In Pennsylvania, all the pieces are coming together for Highmark. Merge Western, Central, and

Eastern Pennsylvania Blue Cross and Blue Shield; control and retain a large amount of insured consumers in Pennsylvania; purchase Davis Vision and their retail optical chain Empire Vision, Total Vision located in Harrisburg, and acquire Eye Care Centers of America; purchase Viva Optical, an eyewear importer and distribution company, to sell and supply Davis Vision and Highmark's retail optical stores. If you are able to control the majority of healthcare patients in Pennsylvania, have retail optical locations with optometrists on staff for examinations, be able to sell eyewear purchased from your own wholesale company, and use an optical laboratory to make prescriptions lenses all owned by one company, Highmark, located right here in Pittsburgh, at what point is this not unfair trade?

Highmark, Davis Vision, Viva Optical's bonus program: If the patient with Davis Vision insurance selects a Viva Optical frame -- again, a Highmark company -- from their eye care provider's own selection of frames, rather than what is offered by Davis Vision, the office is paid $5 bonus or kickback. Highmark is now paying the office $5 if the patient selects one of my company's frames or, for that matter, any other company's frames. Gentlemen, the

federal government once called this payover.

Four years ago, before Davis Vision took effect in Central and Western Pennsylvania, the consumer had choices. Consumers had many price and quality categories to choose from with their private doctor's office. Today, many of whom are paying a larger and larger portion of their monthly premiums receive very little in return in the way of value or quality from Davis Vision.

After resisting Davis Vision's contract for two years, one of my customers had to give in. They were losing patients. So a couple years ago, they began to participate with the Davis Vision plan. Before this customer became a Davis Vision eyeglass provider, my customer purchased 100 to 110 eyeglass frames from me every month. Today, that same office purchases 30 to 35 frames per month from me. The reduction of my business is not limited to just one account. Most, if not all, of my customers have reduced their inventory, as well as their purchases, but in a few cases, I've lost customers all together. Many customers have reduced the number of eye care companies they are doing business with because they now have 275 eyeglass frames from Davis Vision for their insured consumers to choose from.

Selection: Davis Vision frame selection is color coded: Yellow, no charge or free. Gentlemen, I remind you that word "free" is a four letter word. Red, $20 additional charge; blue, $30 to $40 additional charge.

In the yellow coded frame section or no charge to the patient selection, most of the frame models are too small and the shapes are not correctly sized for the patient who is 50 years or older. Also, a senior or Security Blue patient will not find the selection for their required prescription.

Now, when the patient looks to the red category, sizes and shapes are more appropriate for this prescription. This is purely premeditative on the part of the insurance company to get the consumer to spend an additional $20. There is no additional cost relative to the color-coded system. The larger eye size frame does not cost, in my opinion, more to manufacture than a smaller one.

This is especially true when comparing Davis Vision eyeglass frames. The quality of the frames offered by Davis Vision is often in question. Time and time again, the private office hears the consumer complaints. Stores like Wal-Mart, Lenscrafters, Pearle Vision, and Sears Optical do not hear the same

complaints because these stores do not have to use Davis Vision frames. Davis Vision has contracted a different set of rules with these retail giants. These stores offer their own selection of frames and not the selection a private practice is forced to use.

Why does the patient have to choose from a selection of frames on a special frame tower when the same patient can go to a retail giant and at least feel that they are not being treated any different than, say, a cash paying customer.

I'd like to add that United Mineworkers have a Davis policy that allows them to choose a frame from their doctor's own inventory at discount. The doctor will choose an optical laboratory that will complete the patient's prescription lenses without the interference from Davis Vision.

For many years, I've been discussing the total customer experience with my customers. An office can oversee how an employee answers the phone or greets a patient. The owner can decorate their office in a manner that is relaxing to their patients and staff. They may even select the music that plays in their office. An optometrist is highly trained to perform eye exams and diagnose many other eye conditions. The doctor and his staff go all out to satisfy their

patients, but when a patient chooses a frame from the Davis Vision tower and there is a problem, who can the patient turn to? Not Davis Vision.

After the office staff has done everything they can do in the most professional manner to bring the best possible customer experience, the patient has no other choice but to return to the office. Where is Davis Vision now? This office must ship the patient's frame back to the Davis Vision lab in Philadelphia, two or three days to Philadelphia and two or three days back to the office. The patient must do without their frame for many days. If the frame was purchased from the office frame selection, then the office is responsible for it, right there in the town or city where they live.

There is a great chance that everything the office has worked for could be damaged for years for what is beyond the staff's control. It's like buying a car. A salesperson may sell you the first one, but the service department really sells you the next one.

With the success that Davis Vision has enjoyed here in Pennsylvania, a few other insurance companies practice similar or the same restrictive trade practices as Davis Vision, Vision Service Plans in California, Spectera Optical based in Maryland.

Spectera Optical also has placed frames in a doctor's office and requires the lens work to be completed by only one facility in Baltimore. VSP insurance over the last few years has changed their requirements for an office to carry their frames as part of a doctor's inventory, but given the opportunity, I believe they will reinstate a policy to the office to inventory their company's frames, although new restrictions to a few of VSP's insurance plans now require the lens manufacturing process to be completed only at the VSP lab facility in Ohio. How long will it be before they require all their work to be processed in their lab?

The example set by Davis Vision in recent years allowed other insurance companies to follow in their path, which continues to restrict a doctor to have the opportunity to decide what is best for his or her patient. Not the insurance company's patient, but the doctor's patient. Now they won't be able to assist their patient in selecting the proper eyewear frames and choose a local laboratory of their choice to manufacture the prescription lenses. If you buy a General Motors car, you do not have to go back to a General Motors dealership for an oil change. You may take your car wherever you want for this service. It's all about choices.

Over the last several years, Highmark has sent letters to private offices if the office is not using what Davis Vision feels is a certain amount of their frames for Davis patients. The explanation in the letter is that Davis Vision national penetration is such and such. Your office is doing only at this very low percentage. The letter goes on to request a written explanation for the lack of Davis frames being sold to Davis Vision insureds. I've seen and heard the anxiety when one of these letters is received. Offices are afraid they will lose their privileges as a Highmark Davis group provider. This is purely a form of intimidation.

Four years ago under a Highmark plan, the patient could have purchased quality eyeglasses and frames from a doctor's own selection of frames. Patients were more satisfied with the selection, styling, and quality of these frames.

In closing, whether the consumer receives a hundred percent of their healthcare benefits through their employer or they are paying part or all of their premiums, gentlemen, the consumer should have the right to choose their eye care provider, select their own eyewear, and not from a determined selection from the insurance company. An eye care professional

should not be restricted by any insurance company of the eyeglass frames or optical laboratory they must use in their practice. It all comes down to having choices, both to the patient, as well as for the professionals.

Highmark's slogan is "Have a Greater Hand in Your Health," but with this committee's leadership and commitment in the Pennsylvania House and Senate to support the private eye care provider and the family-owned optical laboratories, you can take Highmark's hand out of our pocket.

REPRESENTATIVE DeLUCA: Thank you. Are you going to testify?

MR. SMITH: (Shaking head negatively.)

REPRESENTATIVE DeLUCA: Let me just ask you, as a manufacturer, I'm very interested in the fact that -- I forget what page it's on. As a manufacturer, if I was an optician/optometrist and I came to you and asked you that I can get rid of a hundred pair of frames, I'm going to buy a hundred pair of frames off you, would I get a better price than somebody who bought two frames off you?

MR. SEGEN: By restrictions set by Vision Service Plan, we are --

REPRESENTATIVE DeLUCA: Forget about the

Vision Service Plan.

MR. SEGEN: No.

REPRESENTATIVE DeLUCA: You would not give me the benefit of that?

MR. SEGEN: We are not allowed to by mandates in contracts that we've signed with VSP out of California. There is a maximum discount that we are allowed to give and nothing more than that.

REPRESENTATIVE DeLUCA: So I couldn't give a bigger discount if I buy more. It's the only industry I know that you're saying right now that I couldn't get a bigger discount the more I buy.

MR. SEGEN: Senator, I called VSP many, many years ago, and they have a simple policy of mandatory maximum discount. Could they be getting them for more or less than someone who buys ten versus a hundred? I wouldn't doubt it, but I'm giving you the honest answer. Vision Service Plan requires a maximum discount.

REPRESENTATIVE DeLUCA: Let me also ask you, I can understand optometrists assisting somebody with the lens and that, but don't the patients on their own make the choice of frames they are going to buy because of the fact they look and see which type they like, how it looks on them? What does somebody

who is a professional optometrist have to do to suggesting what type of frames I buy?

MR. SEGEN: First off, they are the professional.

REPRESENTATIVE DeLUCA: In other words, if this looked good on me and the optometrist says, you know what? These here are better frames for you. And they might look twice as worse as these and I am going to buy them.

MR. SEGEN: I understand exactly what you are saying, sir. Here is the problem.

REPRESENTATIVE DeLUCA: What's the problem?

MR. SEGEN: Eventually, it comes down to economics. If you particularly feel good about your household situation financially, it doesn't matter what the frames cost. If you want the $500 suit, you're going to buy a $500 suit, period. If you're not feeling good about it, you will buy a $200 suit. It's the same thing in eyewear. But when you put 275 frames and the patient is told that these are the frames they select from, it comes down to more than economics.

There is no question. There are people who are going to buy whatever brand they want and some of

them can afford it, but as an eye care professional who is well trained, both at the doctor's level and maybe more importantly at an optician's level, because that's really who works with the patient, there is a tendency for a patient in our industry to go from a patient to then becoming a consumer, because they are now buying and selecting.

The professional should help and I know do help you and anybody else to select their frame. There are certain requirements for certain lens prescriptions. Some will work in some sizes frames and some will not. That's the point I was making in their yellow coded section.

REPRESENTATIVE DeLUCA: I'm not talking about their yellow code. I'm talking about a professional optometrist making a decision on what frame you are going to buy.

MR. SEGEN: All they can do is make suggestions.

REPRESENTATIVE DeLUCA: That's all they can do. The consumer is going to make the choice. The lens is different.

MR. SEGEN: The lens is different because they don't have the choice.

REPRESENTATIVE DeLUCA: Any questions?

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(No response.)

REPRESENTATIVE DeLUCA: Again, I want to thank you for testifying here today, and let me thank everyone who participated here today. I know a lot of you took time off because of this situation.

We'll certainly be taking these back to Harrisburg. It's my understanding that one of the representatives from the east is having some problems from his professionals up there, and he's requested a hearing and we'll see if we can accommodate him.

Again, I want to thank you, thank you for this participation, and this meeting is now adjourned. Thank you very much.

(Public hearing concluded at 3:49 o'clock p.m.)

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TRANSCRIPT OF PROCEEDINGS

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C E R T I F I C A T I O N

I hereby certify that the foregoing transcript is a true record of the House Insurance Committee Public Hearing on House Bill 2101 on Monday, April 28, 2008.

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Lisa Ann Bauer
Certified Realtime Reporter