



Department of Justice

FOR IMMEDIATE RELEASE
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JUSTICE DEPARTMENT STOPS AGREEMENTS THAT INHIBITED VISION CARE DISCOUNTING NATIONWIDE

WASHINGTON, D.C. -- The Department of Justice acted today to stop illegal agreements used by a national vision care insurer that operates in about 42 states and the District of Columbia that made many optometrists unwilling to cut their prices or offer discounts on vision care services. This is the first challenge of this type of agreement on a national scale by the Department's Antitrust Division.

In a civil antitrust suit and proposed settlement filed in U.S. District Court in Washington, D.C., Vision Service Plan was accused of reducing discounting and price competition through a contract provision known in the industry as a "most favored nation" clause, that inhibited doctors from reducing their fees to competing vision care insurance plans and to individual patients.

Vision Service Plan is the nation's largest vision care insurance plan with annual revenues of more than \$500 million.

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In August, the Department filed its first challenge of this type of agreement, which is common in the health care industry, in Arizona.

Agreements that stifle price competition, such as Vision Service Plan's provision, are likely to be challenged, the Department warned.

"This is a case of nationwide importance because it involves a contract provision that Vision Service Plan has used in conducting its business in about 42 states plus the District of Columbia and that likely harmed consumers of vision care services in all or parts of many of those states," said Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division.

"Vision Service Plan's use of the most favored nation clause facilitated anticompetitive behavior by providing a strong disincentive to optometrists' discounting of fees for vision care services and by impairing entry and competition from competing vision care insurance plans.

"As a result of the most favored nation clause, vision care insurance plans that had previously contracted with doctors at discounts between 20 and 40 percent were no longer able to obtain discounts at that level," Bingaman added.

Vision Service Plan, headquartered in Rancho Cordova, California, carried out the anticompetitive conduct through a series of agreements with its participating doctors that contained most favored nation clauses. Because in all or parts

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of many states where Vision Service Plan operates a high percentage of an area's optometrists participate in the plan, and because Vision Service Plan's patients account for a significant part of its participating doctors' professional income, Vision Service Plan's most favored nation clause inhibited many of its doctors from discounting and severely restricted the ability of competing vision care insurance plans to attract and retain enough doctors to serve their members.

At the same time the suit was filed, a proposed consent decree was filed that, if approved by the court, would settle the suit and eliminate the most favored nation clause and prevent Vision Service Plan from engaging in other actions that would limit future discounting by its participating doctors.

Bingaman said, "This Administration is committed to making health care available and affordable to all Americans. As a result of the Department of Justice's prosecution and settlement of this suit, consumers will have access to a wider choice of vision care insurance alternatives, including discount vision care insurance plans and other managed care options, and will also receive the benefits of increased price competition among Vision Service Plan panel doctors for vision care services."

The proposed consent decree, if approved by the court, would be in effect for five years.

As required by the Tunney Act, the proposed consent decree will be published in the Federal Register, along with the

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Department's competitive impact statement. Any person may submit written comments concerning the proposed decree during a 60-day comment period to Gail Kursh, Chief, Professions & Intellectual Property Section, Antitrust Division, U.S. Department of Justice, 600 E Street, N.W., Room 9300, Washington, D.C. 20530.

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