

**STATE OF VERMONT
AGENCY OF HUMAN SERVICES
Department of Vermont Health Access (DVHA)**

AHS Bulletin No: 12-03

Secretary of State's ID Number: 12P-015

FROM: Mark Larson, Commissioner
Department of Vermont Health Access

DATE: 05/18/12

SUBJECT: Eyeglasses and Vision Care Services

CHANGES ADOPTED EFFECTIVE: 07/01/12

TYPE OF RULE CHANGE

Adopted Rule Changes

Final Proposed Rule Change

Proposed Rule Change

RULE REFERENCE(S):

7316

This proposed bulletin changes the Medicaid rule to allow new eyewear yearly (instead of every two years) for children under age 6 years and better clarifies coverage of medically necessary routine eye exams. Implementing the clinically-appropriate provision of one pair of eyeglasses per year for children under age 6 will avoid provider and DVHA administrative costs associated with requesting prior authorization for extra eyeglasses. Also there has been provider mis-interpretation of Rule 7316 in the past year.

Clinical best-practice indicates providing annual replacement of eyewear (frames and lenses) for beneficiaries under the age 6 because physical growth rates for this age group necessitate more frequent replacement. DVHA has been in the practice of providing replacement eyewear for beneficiaries under age 6 through prior authorization.

This bulletin also clarifies the rule language to indicate that only routine eye exams are limited. Coverage of routine eye exams is limited to the following combinations within a two year period: one comprehensive and one intermediate or two intermediate eye exams.

Specific Changes to Rule Sections

Section	Description of Change
Interpretive Memo	Delete: preceding Interpretive Memo dated 7/29/02 as incorporated into Rule 7316.2 and 7316.6.
7316	7316 Title Delete: <i>Eyeglasses</i> and add: <i>Eyewear</i> ; first sentence, Delete: <i>Eyeglasses</i> and add: <i>Eyewear</i> .

7316.1	Move second sentence to first bullet; move first sentence to second bullet; and after 'eyewear' add: <i>(eyeglasses, lenses, contact lenses)</i> .
7316.2	Move original 7316.2 and replace with 7316.6 Qualified Providers; separate sentence one into subsection A, delete from first sentence: <i>certified to participate in Vermont Medicaid</i> ; and from sentence two delete: <i>enrolled with Vermont Medicaid</i> ; and original sentence two into subsection B, delete: <i>department's</i> , and add: <i>DVHA</i> .
7316.3	Move from original 7316.2 section; and first sentence, delete: <i>Eyeglasses and vision care services that have been pre-approved for coverage are limited to:</i> ; add first bullet: <i>Refraction and eye exams when provided by an enrolled ophthalmologist or optometrist.</i> ; add second bullet: <i>Routine eye exams with to following limitations:</i> ; move original first bullet under second bullet as sub-bullet, delete: <i>visual analysis</i> , and <i>interim</i> , and add: <i>eye exam and intermediate</i> , and <i>or</i> and the end; add second sub-bullet: <i>two intermediate eye exams within a two year period.</i> ; move original second bullet to third sub-bullet under second bullet, and delete: <i>visits and tests</i> , and add: <i>testing</i> ; and delete original bullets 3-5: <i>dispensing fees (all dispensing fees for beneficiaries age 21 and older are suspended indefinitely); a prescription for frames and lenses every two years (all frames and lenses for beneficiaries age 21 and older are suspended indefinitely); contact and special lenses, when medically necessary and with prior approval (all contact and special lenses for beneficiaries age 21 and older are suspended indefinitely)</i> ; remove bullet before bullet 6 and add before: <i>Non-eyewear</i> , add parenthesis before and after: <i>such as closed circuit television</i> , and delete: <i>would</i> , and add: <i>will</i> ; add new bullet 4: <i><u>Eyewear with the following limitations: For beneficiaries under the age of six (6): one pair of eyeglass frames per year, one new lens per eye per year, one fitting per year, For beneficiaries age six (6) and older and under age 21: one pair of eyeglass frames per two years, one new lens per eye per two years, one fitting per two years</u></i>
7316.4	Move 7316.5 to 7316.4; and add bullet before Eyeglasses, and delete: <i>are not covered</i> , and delete: <i>department's</i> and add: <i>DVHA. With the exception of services authorized for coverage via rule 7104, services</i> ; add second bullet: <i>Services and eyewear not included under rule 7316.3</i> ; add third bullet: <i>Services and eyewear that do not meet criteria specified in rule 7316</i> ; add fourth bullet: <i>Eyewear for beneficiaries age 21 and older</i> ; and add: <i>fifth bullet: Safety eyeglasses.</i>
7316.5	Move 7316.3 to 7316.5 Title line, add: <i>of Eyewear</i> after ' <u>Conditions for Coverage</u> '; Delete: <i>Coverage is limited to one pair of glasses every two years per beneficiary. Earlier replacement is limited to the following circumstances: When eyeglasses (frames or lenses) have been lost, broken beyond repair, or scratched to the extent that visual acuity is compromised. (Dispensing providers will make the decision about being broken beyond repair or visual acuity being compromised.) When a change of at least one-half diopter in lens strength is documented by the dispensing provider on the Medicaid order form.</i> , and add: <i>Earlier replacement of eyewear is limited to the following circumstances as documented on the order form: eyeglasses (frames or lenses) have been lost, or eyeglasses (frames or lenses) have been broken beyond repair, or beneficiary's vision has changed by at least one-half diopter in a single lens, or frame size changed due to significant inter-pupillary distance change</i> ; move last bullet: <i>The purchase or replacement of eyeglasses shall be through the department's sole source supplier.</i> To 7316.7 <u>Reimbursement</u> .

7316.6	Change number from 7316.4 to 7316.6; delete form sentence one: <i>the following</i> ; delete last two bullets: <i>a repeat comprehensive visual analysis within the 24-month limit; and the replacement of frames or lenses other than those that are broken or lost within the 24-month Period.</i> , and add bullet one: <i>routine eye exams in excess of the number allowed</i> , add bullet two: <i>frames and/or lenses in excess of the number allowed for any reason other than being broken beyond repair or lost. For example, when lenses are scratched to the extent that visual acuity is compromised (per determination of the qualified provider), approval must be obtained prior to early replacement.</i> , and add bullet three: <i>other aids to vision, such as closed circuit television, when the beneficiary is legally blind and when providing the aid to vision would foster independence by improving at least one activity of daily living (ADL or IADL).</i>
7316.7	Add from Conditions for Coverage of Eyewear Section, second sentence: <i>The purchase or replacement of eyeglasses shall be through the DVHA's sole source contract.</i>

Comment Period

A public hearing was held on Friday, May 4, 2012 from 12:00 PM to 2:00 PM in the Department of Vermont Health Access (DVHA) Small Conference Room, 312 Hurricane Lane, Suite 201, Williston, Vermont. Written Comments were accepted through 4:30 p.m. on Friday, May 11, 2012. Comments were received from Vermont Legal Aid, their comments and the DVHA responses are listed below:

Bulletin 12-03 – Eyeglasses and Vision Care Services

Comment: The proposed rules are inconsistent with federal Early Periodic Screening, Diagnostic, and Treatment (EPSDT) law found at 42 U.S.C. Sections 1396a(a)(43), 1396d(a) and (r). The purpose of EPSDT is to ensure that all Medicaid eligible children receive regular screening, vision, dental, and treatment services consistent with established pediatric standards. The law requires that children receive “such other health care, diagnostic services, treatment and other measures described in [Section 1396d(a)]... to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screen services, whether or not such services are covered under the State plan.” 42 U.S.C. Section 1396d(r)(5) Specific EPSDT requirements have also been elaborated upon in federal regulations and in such documents as the federal State Medicaid Manual, and policy transmittals of general applicability issued by the Centers for Medicare and Medicaid Services.

EPSDT thus stands as a broad directive that states which accept federal Medicaid subsidies, like Vermont, must actively screen eligible children for medical conditions, and must provide comprehensive health services that are medically necessary to treat any condition that the child may have. Without discussing every provision of Section 7316, it is sufficient to say that the Section conflicts with federal and state EPSDT law in numerous ways by placing limitations on the services and eyewear that persons under the age 21 may receive (e.g., coverage for new lens is limited to one pair per year for children under the age of six and to one pair every two years for children ages six to age 21). The only limitation permissible under EPSDT law is that the services and eyewear be medically necessary. In order to be consistent with federal EPSDT law, the proposed rule must be amended.

Response: This rule change eases coverage restrictions that have been in place in rule since December 1, 2003 allowing more frequent eyeglasses for beneficiaries under the age of 6 and by allowing providers additional options for billing routine eye exams in a two year time period. States may reasonably limit Medicaid services to those that meet the state’s definition of medical necessity. The provision of eyeglasses and vision care services are based on medical necessity. Per Vermont Medicaid Rule 7103: medically necessary care must be consistent with generally accepted practice parameters as

recognized by health care providers in the same or similar general specialty as typically treat or manage the diagnosis or condition and a determination that a service is needed to achieve proper growth and development or prevent the onset or worsening of a health condition. In this rule change clinical best-practice is the rationale for covering more frequent eyeglasses for beneficiaries under the age of 6. For all beneficiaries under age 21 earlier replacements of eyeglasses and repeat routine visual analysis are provided without absolute limitation when medically necessary and with prior authorization. Non-routine visual exams are provided to all Medicaid beneficiaries without limitation when medically necessary.

To get more information about the Administrative Procedures Act and the Rules applicable to state rule making go to the website of the Department of the Vermont Secretary of State at: <http://vermont-archives.org/aparules/index.htm> or call Louise Corliss at 828-2863. [General information, not specific rule content information]

For information on upcoming hearing before the Legislative Committee on Administrative rules go to the website of the Vermont Legislature at: <http://www.leg.state.vt.us/schedules/schedule2.cfm> or call 828-5760.

07/01/12

Bulletin No. 12-03

7316

7316 Eyewear and Vision Care Services

Eyewear and vision care services are those services requiring the application of theories, principles and procedures related to vision and vision disorders for the purpose of diagnosis and treatment, including lenses, frames, other aids to vision, and therapeutic drugs. This definition is consistent with the federal definition of services found at 42 CFR §440.60(a), 440.120(d), and 441.30.

7316.1 Eligibility for Care

- Vision care services are provided to beneficiaries of any age.
- Coverage of eyewear (eyeglasses, lenses, contact lenses) is limited to beneficiaries under the age of 21.

7316.2 Qualified Providers

- A. Eye and vision care services must be provided by a licensed physician or optometrist. An optician, optometrist, or ophthalmologist can provide eyeglass-dispensing services.
- B. Eyeglasses (frames and lenses), repairs and replacements are covered under the terms of the DVHA's sole-source contract.

7316.3 Covered Services

- Refraction and eye exams when provided by an enrolled ophthalmologist or optometrist.
- Routine eye exams with the following limitations:
 - one comprehensive eye exam and one intermediate eye exam within a two year period, or
 - two intermediate eye exams within a two year period.
- diagnostic testing
- Non-eyewear aids to vision (such as closed circuit television) when the beneficiary is legally blind and when providing the aid to vision will foster independence by improving at least one activity of daily living (ADL or IADL).
- Eyewear with the following limitations:
 - For beneficiaries under the age of six (6):
 - one pair of eyeglass frames per year
 - one new lens per eye per year
 - one fitting per year
 - For beneficiaries age six (6) and older and under age 21:
 - one pair of eyeglass frames per two years
 - one new lens per eye per two years
 - one fitting per two years

07/01/12

Bulletin No. 12-03

7316 p. 2

7316.4 Non-Covered Services

- Eyeglasses (frames and/or lenses) purchased outside of the DVHA's sole-source contract.
- Services and eyewear not included under rule 7316.3.
- Services and eyewear that do not meet criteria specified in rule 7316.
- Eyewear for beneficiaries age 21 years and older.
- Safety Eyeglasses.

7316.5 Conditions for Coverage of Eyewear

Earlier replacement of eyewear is limited to the following circumstances as documented on the order form:

- eyeglasses (frames or lenses) have been lost, or
- eyeglasses (frames or lenses) have been broken beyond repair, or
- beneficiary's vision has changed by at least one-half diopter in a single lens, or
- frame size changed due to significant inter-pupillary distance change.

7316.6 Prior Authorization Requirements

Prior authorization is required for:

- contact lenses
- special lenses
- photo-sensitive lenses
- other aids to vision
- routine eye exams in excess of the number allowed
- frames and/or lenses in excess of the number allowed for any reason other than being broken beyond repair or lost. For example, when lenses are scratched to the extent that visual acuity is compromised (per determination of the qualified provider), approval must be obtained prior to early replacement.
- aids to vision (such as closed circuit television) when the beneficiary is legally blind and when providing the aid to vision would foster independence by improving at least one activity of daily living (ADL or IADL).

7316.7 Reimbursement

The purchase or replacement of eyeglasses shall be through the DVHA's sole source contract. Reimbursement for vision care services is described in the Provider Manual.