



STATE OF DELAWARE  
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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**MEMORANDUM**

DATE: January 27, 2012

TO: Ms. Sharon L. Summers, DMMA  
Planning & Policy Development Unit

FROM: Wendy Strauss, <sup>WS/KH</sup>Vice-Chairperson  
State Council for Persons with Disabilities

RE: 15 DE Reg. 968 [DMMA Proposed Medicaid Child Dental Services Reimbursement Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Medicaid and Medical Assistance's (DMMA's) proposal to revise its reimbursement standards for dentists providing services to children under the Medicaid State Plan. The proposed regulation was published as 15 DE Reg. 968 in the January 1, 2012 issue of the Register of Regulations. SCPD informally obtained some additional perspective on the rationale for the proposal.

As background, the Division's current standard reimburses dentists for most treatment at 85% of billed charges. There are a few problems with this approach. First, CMS disfavors such payment methodology which is not based on a uniform fee schedule. Second, inequities arise when DMMA pays different amounts to providers for the same service. Third, DMMA is interested in cost containment which is better secured through use of a fee schedule than a percentage of dentists' typical billing.

The new reimbursement standard would be the lower of: 1) the provider's billed amount that represents their usual and customary charge; or 2) the Delaware maximum allowed amount based on a fee schedule. DMMA worked with representatives of the Dental Society to arrive at an approach to the fee schedule which is based on a National Dental Advisory Service (NDAS) survey. DMMA

plans to use the latest survey results (not yet released) to create the final schedule which will be effective in April, 2012.

SCPD has the following observations.

First, the current “85% of charges” approach is actually more generous than the State VCAP dental reimbursement rate of “80% of U&C charges” adopted in November, 2011. [15 DE Reg. 176 (August 1, 2011) (proposed); 15 DE Reg. 678 (November 1, 2011) (final)].

Second, use of a uniform fee schedule is ostensibly a preferable approach to dental services than use of an individual provider’s usual and customary billing. The Councils previously endorsed a similar approach to renal services in which DMMA historically had a similar “85% of charges” standard. DMMA changed its approach and adopted a cap of “100% of the Medicare rate” for uniformity. See 13 DE Reg. 375 (September 1, 2009) (proposed); and 13 DE Reg. 658 (November 1, 2009) (final). DMMA’s rationale for that change was as follows:

Currently, DMMA pays providers based on their U&C charges for each procedure and different providers can charge different rates for the same service. The purpose of this methodology is to promote predictability of payments, equity and consistency of those payments among providers while maintaining access to quality care.

13 DE Reg. 375, 376 (September 1, 2009)

Third, based on a comparison of actual Medicaid dental expenditures versus expenditures that would have resulted from use of the 2011 NDAS survey results, the overall differences are not dramatic. The biggest reduction would be in the context of orthodontic care. In some cases (e.g. diagnostic and restorative services), the reimbursement rate would actually be somewhat higher.

Fourth, the prospect for the State not revising the rates on an annual basis is obviated by the inclusion of the following sentence in the standards: “Delaware will rebase its dental fee schedule rates each time the NDAS publishes a new survey.”

Fifth, the regulation does authorize DMMA to adjust the maximum allowable amount if “not appropriate for the service provided”. It would be preferable for DMMA to clarify that this could result in enhanced reimbursement for services rendered to particularly “involved” individuals. For example, providers such as Practice Without Pressure may need to conduct some acclimation sessions with individuals with severe disabilities which might not be fairly compensated through a standard fee schedule.

Sixth, SCPD recommends that DMMA “track” the number of Medicaid dental providers to determine if the number of such providers decreases given the implementation of this initiative. The Division should establish a current baseline number and monitor this number in the outlying years subsequent to implementation of the new reimbursement standards.

SCPD endorses the proposed regulation subject to the clarification request consistent with the fifth observation and the recommendation in the sixth observation.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulation.

cc: Ms. Rosanne Mahaney  
Mr. Brian Hartman, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

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