

A brief history of the non-covered services issue

In the fall of 2008, I came across an article in the American Dental Association Journal that indicated that Delta Dental USA intended to roll out a plan to implement a noncovered services policy. Delta Dental nationally its intended to require that its participating dentists adhere to a fee schedule for procedures that were covered by Delta Dental and for all other dental procedures performed on patients who were Delta Dental cardholders. After that article appeared, I personally contacted government affairs division at the American Dental Association to confirm the article.

The Rhode Island Dental Association studied the issue and asked me to propose legislation to address that issue before the Rhode Island General Assembly. In mid-February of 2009, Representative John McCauley of Providence and Senator Erin Lynch of Warwick introduced House Bill 5454 and Senate Bill 390 that provided: **“No contract between a dental plan of a healthcare entity and a dentist for the provision of services to patients may require that the dentist provide services to its subscribers at a fee set by the healthcare entity unless said services are covered under the applicable subscriber agreement.”** Delta Dental of Rhode Island provided positive input in the drafting process. Our basic argument was that if the dental plan is not paying for the service, it has no right to tell the dentist or any other healthcare provider what to charge for that service.

Soon after Rhode Island passed its law, we worked with Virginia to help them pass the second non-covered services law in the nation. I was then retained by the Kansas Dental Association, the Tennessee Dental Association, and the Massachusetts Dental Association to assist them in preparing and successfully enacting a noncovered services law.

Working closely with the American Dental Association and the American Association of Oral and Maxillofacial Surgeons, we reached out to the then - Chairman of the R.I. House Corporations Committee, Brian P. Kennedy, who had recently ascended to the Chair of the National Conference of Insurance Legislators [NCOIL]. Chairman Kennedy was instrumental in helping us write and pass this law here at Rhode Island and he went on to complete a 2year effort to adopt a model non-covered services law for the National Conference of Insurance Legislators. At this point, at least 42 states have gone on to pass some form of a noncovered services law. Massachusetts actually passed the law a few years ago, but the Governor vetoed it at the request the insurance commissioner.

I'm attaching the most recent copy of a map indicating which states that have enacted a noncovered services law.

Every day, Rhode Island dentists battle with out of state dental benefit companies over compliance with the language of our non-covered services law. Our purpose in amending our noncovered services law is to further clarify and specify the language to prevent some out-of-dental benefit companies from interpreting our law in a way that creates a barrier between the patient and their dentist.

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