

September 20, 2010

Ellen Kuhn
Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Attention: OCIO-9993-IFC

Dear Ms. Kuhn:

On behalf of the American Dental Association (ADA) and its 157,000 members, I appreciate the opportunity to submit these comments on the Interim Final Rule (IFR) concerning Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Processes. The Association believes the consumer protections contained in the IFR make improvements to ensure consumers have opportunities to appeal adverse claims determinations but more should be done to ensure adequate protection for dental patients.

By 2014 and beyond, the Affordable Care Act (ACA) requires all plans offered through a state exchange to provide a pediatric oral health benefit. This requirement can be satisfied by purchasing the dental coverage from a medical plan or from a free-standing dental plan. The ADA believes that dental patients deserve the protections offered by the requirements in this IFR and that extending such protections should not hinge on the type of plan the individual elects to use. As such, the ADA requests the agency make it clear that dental benefits provided by medical plans are covered by the terms of this rule. All benefits offered by a medical plan (medical and dental) should be required to adhere to the review and appeals processes.

In addition, all free-standing dental plans that elect to compete in a state exchange should be subject to the requirements of this IFR. A provision in the ACA permits stand-alone dental plans to compete with medical plans within the state exchanges for dental patients. Along with that right comes the responsibility of ensuring dental patients are treated fairly. To find otherwise establishes an inconsistency that is unfair to dental patients as well as to competing plans that must adhere to the IFR standards. The bottom line is that dental patients should have the same rights to appeal claim denials as medical patients and such a right should not be dependent upon which product the patient purchases. Finally, the ADA also believes the IFR protections should apply to grandfathered plans, since some consumers will continue to receive coverage from plans that meet the grandfathered criteria but will not have the same access to an appeals process. Many consumers receive dental coverage through their existing medical plans.

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To help accomplish the above objectives of ensuring uniformly fair treatment for dental patients, the Association urges the Department to work with the National Association of Insurance Commissioners (NAIC) to revise the NAIC's Uniform Health Carrier External review Model Act. It appears that dental plans are excluded from the model act, under section 4B. We urge the Department to work with the NAIC in updating the Act so that dental plans are included.

Lastly, with respect to the state level carve-outs for insurance plans that are not required to abide by external appeals laws, we suggest this be altered so that all plans are required to provide access to the external appeals process. The IFR uses Health Maintenance Organizations (HMOs) as an example of an insurance entity that may not be required to abide by all of the external review rules. We believe this may be problematic for consumers and that it is important to ensure access to a uniform appeals process regardless of the type of plan.

Should you have any questions please feel free to contact Ms. Janice Kupiec at 202-789-5177 or kupiecj@ada.org.

Sincerely,

A handwritten signature in black ink that reads "Ron Tankersley". The signature is written in a cursive, slightly slanted style.

Ronald L. Tankersley, D.D.S.
President

RT:JK:nh