

Dentist Alleged to Have “Systematically Bilked” MassHealth Dental Fraud Scheme



(December 23, 2013): A recent state audit of a Massachusetts dentist has reportedly uncovered numerous instances of MassHealth dental fraud, alleging that dentist fraudulently billed the state’s ***“MassHealth Insurance Program.”*** According to the state’s auditor, the dentist ***“systematically bilked the MassHealth Dental Program.”*** In all, the audit claims to have found over \$150,000 in improper MassHealth dental fraud claims.

I. MassHealth Dental Program - Overview of Coverage and Benefits:

The MassHealth Dental Program provides dental benefits for MassHealth beneficiaries. Younger members (those under the age of 21), receive a larger share of dental benefits than adults (those who are 21 or older). The MassHealth Dental Program provides a broad scope of services to eligible state citizens. While many states limit eligibility to children, the MassHealth Dental Program also provides dental benefits to eligible adults. These dental services include diagnostic and preventive services (such as checkups, cleanings, and x-rays), extractions, emergency treatment, and composite fillings for the 12 front teeth. Coverage of all fillings for adults begins in 2014.

The MassHealth Dental Program does not cover a number of complex, often expensive, dental services sometimes needed by eligible adult beneficiaries. Examples of non-covered services include crowns, root canals, dentures, and other restorative services that may be needed by eligible adults. In contrast, restorative services (such as fillings), braces, root canals and a variety of other dental service benefits are typically covered for eligible beneficiaries who are under age 21. The MassHealth Dental Program is managed by Dental Services of Massachusetts and its subcontractor, DentaQuest LLC.

II. MassHealth Dental Fraud Audit Findings:

Massachusetts’ Office of the State Auditor has been tasked with conducting audits of the

MassHealth Dental Program. When earlier audits found that the existing claims processing system did not have adequate controls to identify and reject improper dental claims, MassHealth implemented a number of corrective measures to help prevent dental fraud from occurring.

A recent audit was conducted of the Medicaid dental services submitted for payment of one Massachusetts dentist. The audit included a partial review of MassHealth payment information and the files of MassHealth members seen by the Massachusetts dentist between 2008 and 2011. The audit found repeat patterns of the dentist obtaining payment for dental procedures that were not allowed by MassHealth regulations. Specifically, the audit found that:

1,429 *unallowable detailed oral screenings, intended for patients receiving radiation therapy, chemotherapy or organ transplants. However, the dental patients for which the provider submitted claims were not undergoing any of these procedures;*

865 *claims for dental services including X-rays, fillings, and denture repairs that were not documented in beneficiary files;*

259 *oral evaluations in excess of MassHealth limits;*

176 *claims for “dental enhancement fees,” which are payments meant for more general health centers to improve their dental services;*

13 *cases of the dentist circumventing MassHealth limits on denture replacements by instead replacing every tooth in the denture individually;*

98 *tooth restorations in excess of state limits.*

The audit also identified **95** claims for medically excessive fluoride treatments. For example, the dentist is alleged to have billed **53** fluoride treatments over 12-month period for a single child-aged member. However, guidelines set forth by the American Academy of Pediatric Dentistry holds that a dentist should provide no more than **four** fluoride treatments in a year.

The auditors ultimately concluded that the dentist engaged in MassHealth dental fraud. Describing the identified conduct as “**pervasive fraud**,” the auditors calculated that approximately **\$154,019 in fraudulent billings** had been improperly submitted for payment to the state. During the four year audit period, it was estimated that MassHealth paid the dentist nearly \$1 million for more than 10,000 claims of service. As a result of this internal review, MassHealth has reportedly terminated

the dentist's status as a participating provider in the MassHealth Dental Program.

III. Patient Complaints Lead to Dentist's Suspension:

This recent audit isn't the only problem facing this dentist. In a separate matter unrelated to the audit, the Massachusetts Board of Registration in Dentistry is reported to have suspended the dentist's license to practice for a year. The Board made this move after it received complaints from patients related to their dental treatments.

IV. Final Remarks:

Now, more than ever, it is essential that dentists participating in any state Medicaid dental programs review both their operational and documentation practices to ensure that entities processing and examining their patient treatment records can readily ascertain why certain care and treatment decisions were made and that the services billed to the Medicaid program were not merely medically reasonable and necessary, but also that they qualify for coverage and payment.

What should you take away from this case? Dentists participating in their state's Medicaid program should review their practices and documentation with a critical eye. It is important that Medicaid dentists recognize that they are behind the proverbial curve when it comes to compliance. Unlike their physician counterparts, very few dentists have historically been targeted by law enforcement, regulatory auditors or private payor investigative units. As a result, only a small percentage of dental practices have implemented a Compliance Plan. Where compliance efforts have been initiated, they are often limited to preventative measures aimed at guarding against a HIPAA privacy breach and/or an OSHA violation. Frankly, these measure aren't nearly enough to keep a practice out of trouble. The government's previous lack of enforcement may provide dentists with a sense of cold comfort that is both misleading and undeserved. Federal and state enforcement investigations of possible incidents of dental fraud have steadily increased in recent years. Moreover, there is every indication that these efforts will continue to rise.

Are your Medicaid dental services fully compliant with all applicable state Medicaid requirements? Assuming that they are, it is still imperative that you keep in mind that an otherwise **"perfect"** Medicaid dental services claim may still fall short if it is somehow **"tainted"** because of a violation of the federal or state Anti-Kickback Statute violation. The claim is therefore non-payable.

While there is no sure-fire way to avoid being audited, there are concrete steps you can take in your dental practice today to reduce the risk that a federal or state audit of your Medicaid dental claims will find that you have been wrongfully overpaid for the Medicaid services you and your staff have been providing (and are continuing to provide). Call us to discuss how we can assist you with your compliance efforts.

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