

Dentist Indicted on Nearly 200 Counts of New Hampshire Medicaid Dental Fraud



(January 3, 2014): A 57-year-old Queen City, New Hampshire dentist has recently been charged with **189 counts of Medicaid dental fraud**. As a result, he could face many years in prison. The New Hampshire Medicaid program is a joint federal and state-funded health care program that serves individuals and families in that state who meet certain eligibility requirements. It is run by the State's Department of Health and Human Services (DHHS) and reimburses providers who deliver health care services for numerous covered medical services. Under a program called "**New Hampshire Smiles**," the New Hampshire Medicaid program offers comprehensive dental treatment to eligible children. Adults enrolled in Medicaid may also receive emergency dental treatments. To receive payment for dental services rendered, an individual or group must be enrolled with New Hampshire Medicaid as a dental billing provider. Dental services must be performed by a dentist, or under the supervision of a dentist, who is enrolled as an individual provider and is currently licensed by the state. The dentist must, if required, request and obtain service authorization from Xerox, the DHHS's fiscal agent. Importantly, providers must agree to bill for procedure(s) using Code on Dental Procedures and Nomenclature (CDT) codes that most accurately describe the services provided.

I. Allegations of State Medicaid Dental Fraud are Increasing Around the Country:

Unfortunately, states across the country are seeing an increase in instances of dentists abusing the system. One of the most common instances of Medicaid dental fraud is billing for services not performed. Under this scheme, a dentist will bill Medicaid for a treatment, procedure, or service that was not actually performed. For example, a dentist may bill the program for a dental filling that never was rendered.

Dentists may also try to "**double bill**" Medicaid. Here, the provider attempted to bill both Medicaid and either a private insurance company or the patient himself, for the same treatment. Dentists may also attempt to get for services provided to a patient that have already been rendered.

Another fraudulent arrangement is billing for medically **“unnecessary services.”** A dentist may attempt to misrepresent a diagnosis and accompanying symptoms on a patient’s dental record, and then bill Medicaid to obtain payment for unnecessary lab exams.

Other common Medicaid dental fraud schemes include obtaining kickbacks for services, misrepresenting cost reports, upcoding CDT codes, and unbundling.

To combat Medicaid dental fraud, the federal and state governments have joined in State Medicaid Fraud Control Units (MFCUs). In 2012, the combined task forces received a total of \$217.3 million in funds. Collectively, in FY 2012, the MFCUs conducted 15,531 investigations, of which 11,660 were related to Medicaid fraud. These investigations resulted in 1,359 individuals being indicted or criminally charged. Nearly 1,000 of these indictments were for fraud, with a conviction rate was nearly perfect: 982.

III. Dentist Defrauds the New Hampshire Medicaid System and Falsifies

Evidence:

In this recent New Hampshire Medicaid case, the dentist is alleged to have made false claims to the New Hampshire Medicaid program for services performed over the past five years. These procedures included oral exams, X-rays, tooth extractions and orthopedic treatment. The indictments contend that the provider’s claims were either not medically necessary based on member treatment records or had already been paid for through the program (double billing). Each charge in the indictment carries a possible 3½ to 7-year prison sentence.

The defendant dentist has been practicing since he received his dental license in 1985. According to his attorney, none of the charges against the dentist have anything to do with the level of care provided on behalf of his patients. Since the indictment was only recently released, the attorney could not specify the exact details that the State’s attorney general’s office was basing its accusations on. However, he did note that Medicaid regulations are extremely complicated and change regularly. He contends that the whole issue could simply come down to a basic misunderstanding.

IV. Closing Thoughts:

It is essential that dentists participating in any state Medicaid dental program 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. Moreover, **dentists must ensure that the services billed to the Medicaid program are not just medically reasonable and necessary, but that they also qualify for coverage and payment.**

By participating in your state’s Medicaid program, dentists must recognize that your practice and

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documentation procedures must be scrutinized with a fine toothed comb. Many Medicaid dentists have yet to implement an effective Compliance Plan within their practice. While it is not too late, dental practices without an operative compliance program will see an increase in audits by Medicaid contractors and face greater targeting by MFCUs. Federal and state enforcement investigations of possible incidents of dental fraud will continue to increase in the coming years.

Therefore, it is imperative that all dental practices (especially those participating in Medicaid), carefully examine its documentation practices. Dentists must ask themselves,

Is the medical necessity of each dental service fully reflected in the patient's medical record?

Have each of the care and treatment services provided been documented in the patient's medical record?

Do the dental services meet the state Medicaid's regulatory requirements for coverage and payment?

Have the dental services been properly coded?

Have the dental services been properly billed?

Can you answer positively to each of these questions? If not, you and your practice may be in trouble. Need help drafting a Compliance Plan for your practice? We would be more than happy to assist you. Call us to discuss how we can help you with your compliance efforts.



Robert W. Liles, Esq., serves as Managing Partner at Liles Parker, Attorneys & Counselors at Law. Liles Parker attorneys represent dentists and other health care providers around the country in licensure disputes, audits by government agencies and in contract disputes with private payors. For a free consultation, call: **1 (800) 475-1906**.