



President's Report

Bryan Geremia

► The Board just completed our annual Strategic Planning Meeting. We all agreed that the primary mission of this Association is and will continue to be supporting our member plans and assisting you in navigating through the turbulent waters of California regulations and legislation.

California continues to struggle with the worst economy in decades. We continue to see some of the highest unemployment in the country, with no end in sight. At the same time, at least at this writing, we still do not have a state budget. I think this sets a new record! On top of all this, we need to understand and formulate how each of our companies will approach the implementation of Health Care Reform (PPACA) within California. How "essential benefits" will be defined, what effect this law will have on the dental industry and how we market our products, and what will the state exchange look like for dental benefits – are all questions that need clarity and better understanding.

Of course, let's not forget that we have November elections, and with them comes the prospect of new people coming in and old contacts moving on and out. As an Association we will be vigilant in seeking information and having as much impact as possible

regarding how PPACA and other legislation, as well as regulatory issues, play out in California.

We continue to work on providing input concerning Discount Dental Plan regulations, which will more than likely be implemented before the end of this year. We have already successfully revised the Non-Covered Services legislation which will probably be signed into law shortly.

Our work continues with the CDA through the Task Force. This communication group has served as a major educational resource which in turn has prevented the CDA from moving forward with two troublesome bills.

With all the uncertainty and complexities that lie ahead, it is important that you mark your calendars and plan to attend the Annual Legislative Conference in January!!

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The CADP News is published quarterly. Your suggestions and/or comments are encouraged. Please write or call:

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Dots and Dashes

Charles D. Stewart, DMD
Chair, Quality Management Committee

▶ There have been many interesting actions in 2010 that affect the Dental Benefits Industry. The uncertainty of what is included as a core benefit under health care reform, whether one qualifies to participate in one of the state exchanges that will be developed, challenges encountered in complying with language assistance regulations or access and availability regulations or, even more daunting, the proposed discount regulations – surely any outsider would think that Dental Directors and Compliance Managers are gluttons for punishment. Maybe we are!

The recent Quality Management Committee Meeting hosted by MDC/The Guardian was well attended and many items were discussed that deserve coverage here. We reiterated the acceptance of the Shared Assessment program as the standard for quality evaluation, and this has been confirmed by the most recent Medical Surveys conducted by the DMHC. In addition to the program, the CADP Quality Assurance Consultant (Auditor) Course has also been recognized in recent Medical Surveys by the DMHC as the standard to demonstrate that a Plan's QA consultants are appropriately calibrated. I was very pleased to report that the Shared Assessment Warehouse now has a total of 10,240 assessments in the warehouse, currently representing data on 4,781 separate provider offices, many with multiple assessments, therefore allowing some trending and analysis of provider offices. The Structural Review Criteria (updated 1-17-2010) contains agreed-to language to assure compliance with the Language Assistance Regulation. A copy of this was again distributed during the meeting.

Two QA Consultant Courses will be taking place in 2011. The first is February 7-8, 2011, at the LAX Marriott. The second will be in conjunction with the CADP Annual Meeting June 3-4, 2011 at the Hilton San Diego Resort.

The Task Force formed with representatives of the California Dental Association (CDA) and CADP to address common issues as well as situations that may influence legislative and regulatory functions, has had a successful year. A key accomplishment of the task force was helping CDA better understand claims processing, handling and adjudication (even including a tour of the Delta Dental Rancho Cordova campus). Now that CDA staff are more familiar with these processes, they are better able to assist members with third party payer issues and recognize that such issues are not systemic within the industry. These joint meetings have also resulted in an agreement to discuss issues before seeking legislative solutions which may not solve a problem and may have unintended consequences. I would like to acknowledge Jeff Album and Courtney Barnes-Ransom who join me on this Task Force.

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Regulatory Update

Mary Powers Antoine, Nossaman LLP

DMHC PERSONNEL UPDATE

▶ Jana Dubois, formerly senior supervising counsel, Division of Licensing, has left the DMHC to become general counsel for the California Hospital Association. Ellen Badly has returned to the DMHC's Office of Legal Counsel.

REGULATIONS UPDATE

Below is a chart updating the latest information on the Department of Managed Health Care's currently pending regulations and regulations under consideration.

CURRENTLY PENDING REGULATIONS		
Regulation	Status	Remarks
AB 2179 – Timely Access to Health Care Services (Adds Rule 1300.67.2.2)	The regulations became effective on January 17, 2010 .	The DMHC has recently provided CADP with a revised working draft of dental filing checklist. This is the last version that we will see from the DMHC, and it has now been distributed to CADP members. The deadline for the filing is Monday, October 18, 2010 .
Discount Plan Regulations – (Adds Rules 1300.49.1.1, et seq.)	The second public comment period on these regulations has been extended to October 11, 2010 .	Nossaman is working in conjunction with CAHP to propose language to the DMHC that would exempt licensed plans from most of the discount plan regulations. In place of the discount plan license, licensed plans would file a material modification. Our recommendations will be contained in the comment letter we submit on your behalf.
REGULATIONS CURRENTLY IN DRAFTING PROCESS		
Regulation	Status	Remarks
Licensing Applications – (Revisions to Rules 1300.51 and 1300.52)	The DMHC had been considering a project to revise Rules 1300.51 and 1300.52, and to clarify what types of filings are material modifications versus amendments. The Department was contemplating convening a work group to address the practical problems created by the current exhibit structure.	It now appears that this project has been placed on indefinite hold.

Legislative Update

Meg Catzen-Brown, Nossaman, LLP

▶ The 2009-2010 Regular Legislative Session ended with a whimper when the gavels came down in both houses around 12:30 a.m. on Monday, September 1. While the State Constitution requires that the Regular session conclude at midnight August 31 in an even-numbered election year, Extraordinary sessions may continue to meet until the 2011-2012 Regular Session is called to order on Monday, December 6. Inasmuch as the Legislature still has not adopted a Fiscal Year 2010-2011 Budget, it will have to meet in Extraordinary session between now and December if a budget is to be passed by this Legislature. [For now, we won't contemplate the possibility that the budget could be delayed until after the start of the 2011-2012 session, or until the next Governor takes office in January – a scenario both Governor Schwarzenegger and Senate President Pro Tempore Darrell Steinberg have alluded to in recent weeks.]

You may remember that in May, Governor Schwarzenegger released his proposed revisions to the budget he proposed in January, and his proposal included the wholesale elimination of various health and welfare programs (as well as a \$1 billion appropriation from the water bond that has subsequently been removed from the November ballot) to make up the \$19+ billion shortfall between anticipated revenues and expenditures. In the intervening months – and with the City of Bell salary scandal adding fuel to the fire – the Governor has announced that he will not approve a budget that doesn't include some public sector pension reform as part of the budget package – recognizing, of course, that public sector labor unions are key supporters of the Democrats, who dominate the Legislature. Democrats continue to look for revenue increases, notably a suspension of corporate tax relief that is due to take effect in 2011 (a repeal of this tax relief is also on the ballot as Proposition 24). On the last day of the regular Legislative Session, both houses ran a "budget drill," putting both the Democrats' and Republicans' budget proposals up for floor votes – to no one's great surprise, neither proposal was able to muster the necessary 2/3 votes for passage in either house.

When the budget is finally passed, it will be coupled with several budget "trailer bills" that implement certain elements of the budget. One of those bills will include language that imposes a one-time fee on all health plans – full-service and specialty – to fund the administrative costs the state will incur in moving Medi-Cal patients from fee-for-service to managed-care plans. CADP sent a letter to the budget conferees noting the inappropriateness of imposing the fee on specialty dental plans, which will not "benefit" in any way from this administrative action, and encouraged the conferees to keep the fee as low as possible so as not to put rate pressure on the plans. The assessment on dental plans will be just under one penny per enrollee; the total collection from dental plans is estimated to be \$155,246.

For the most part, CADP had a successful legislative session this year. As you know, CDA approached CADP in late May, and offered to drop the two CDA-sponsored bills that were most problematic for CADP (AB 2035 – Coto, pertaining to disclosure language; and AB 684 – Ma, pertaining to late payments) in exchange for CADP's acquiescence to a bill that would prohibit plans from imposing fee caps on non-covered services. CADP agreed to the deal, and the non-covered services language that CADP agreed to went into AB 2275 (Hayashi). The bill immediately ran into trouble in the Senate Health Committee, when the Committee Chair, Senator Elaine Alquist, insisted that the bill include certain disclosure language on dental plans' evidence of coverage. This then triggered a month of negotiations between CDA, the dental plans, the consumer groups, and Senator Alquist. In its final iteration, the bill requires the following notice to be included in dental plans' evidence of coverage:

"IMPORTANT: If you opt to receive dental services that are not covered services under this plan, a participating dental provider may charge you his or her usual and customary rate for those services. Prior to providing a patient with dental services that are not a covered benefit, the dentist should provide to the patient a treatment plan that includes each anticipated service to be provided and the estimated cost of each service. If you would like more information about dental coverage options, you may call member services at [insert appropriate telephone number] or your insurance broker. To fully understand your coverage, you may wish to carefully review this evidence of coverage document."

AB 2275 cleared both houses of the Legislature and as of this writing is pending action (signature or veto) by the Governor.

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▶ CADP was also successful in exempting dental plans from many of the measures that sought to impose additional restrictions or regulations on health plans. We secured an exemption for dental plans from Assembly Member Dave Jones' health plan rate regulation bill, AB 2578; the measure failed on the Senate floor in the face of opposition from the full-service plans. CADP sought a similar exemption to another rate regulation bill, AB 591 (De La Torre) – while we secured the author's commitment to our amendments, he ultimately dropped the bill. CADP also sought an exemption from SB 1169 (Lowenthal), a bill which at one time would have required plans to assign tracking numbers to claims; again, we secured the author's commitment to our amendments, but the bill was subsequently amended to pertain to water resources.

The primary elections were held a few weeks after our last report to you, and it bears mentioning that CADP PAC-supported State Senate candidate (and former Assembly Member) Juan Vargas prevailed in the Democratic primary race for the 40th Senate District against current Assembly Member Mary Salas – by 22 votes! This is a safe Democratic seat, and he is expected to win handily in November.

We're now less than two months out from the statewide General Election, to be held on Tuesday, November 2nd. The news at the national level suggests that a "Republican tide" may sweep the U.S. Congress; it's not uncommon for the party in power to lose seats in a mid-Presidential-term election, and the Democrats are bracing for a strong Republican year. Conventional wisdom suggests, however, that a Democratic "seawall" may stop that tide at the California border.

Certainly, the Legislature will continue to be dominated by Democrats after November 2nd, the last election that will be held in the seats "designed" by the Legislature following the 2000 census. Most legislative seats are "safe" Republican or Democratic seats, and it's unlikely that more than a few seats will change partisan hands in November. Among the open Senate seats currently considered "in play" are the 12th Senate District, currently held by termed-out Republican Jeff Denham, who is running for Congress. Battling to succeed him are Democrat Assemblywoman Anna Caballero (Salinas) and Republican Anthony Cannella (Mayor of Ceres). This race is currently considered a toss-up, as is the race to succeed termed-out Democrat Senator Dean Florez (SD 16). The candidates in this race are Democratic Kern County Supervisor Michael Rubio and former Republican Tim Thiesen (who defeated long-time legislator Phil Wyman in the GOP primary).

Assembly seats considered as competitive include the 5th Assembly District, an historically Republican seat held by termed-out Assembly Member Roger Niello. Competing in this race are Republican lawyer Andy Pugno versus Democrat physician Richard Pan. Another Sacramento area seat, AD 10, is considered competitive as first-term Democrat Assemblywoman Alyson Huber meets former San Joaquin County Supervisor Jack Sieglock in a rematch of their 2008 race, where Huber eked out a narrow win in an historically Republican seat. The race for the 15th AD is also a rematch between first-term Democrat Assemblywoman Joan Buchanan and Republican Abram Wilson, Mayor of San Ramon.

There will also be a Special Election primary on November 2nd, as termed-out Republican Assembly Member Roger Niello (AD 5) meets Republican Ted Gaines (AD 4) for the GOP nomination to the 1st Senate District seat, which became vacant upon the death of Senator Dave Cox in July. Gaines is also running for his third (and last) term in AD 4, so his name will appear on the ballot twice, which may confuse some voters, and certainly complicates his campaign(s). Also running for the seat is Democratic Rancho Cordova Mayor (and Senate Banking, Finance and Insurance Committee staffer) Ken Cooley. If none of the candidates garners 50%+1 of the votes cast in this election, the runoff will be held in early January.

And it's pretty safe to assume that unless one of them commits a huge campaign blunder, all of the Democratic constitutional officers who were elected in 2006 and are running for re-election to their current posts – Debra Bowen (Secretary of State), Bill Lockyer (Treasurer) and John Chiang (Controller) – will be re-elected. However, the open seats – Governor [Jerry Brown v. Meg Whitman], Lt. Governor [appointed incumbent Republican Abel Maldonado v. SF Mayor Gavin Newsom], Attorney General [SF DA Kamala Harris v. LA DA Steve Cooley], and Insurance Commissioner [Assembly Member Dave Jones v. Assembly Member Mike Villines] – are all considered competitive at this juncture. Who wins these offices may be influenced by national politics, as well as turnout, which itself may be influenced by some of the initiatives on the November ballot.

California voters face a mixed bag of initiatives on November's ballot, including several "competing" measures. Among those touted as good-government reform measures are Proposition 20, which would extend the jurisdiction of the state's reapportionment commission to include the drawing of congressional districts (in addition to its current responsibility to design districts for the Assembly and Senate). A countermeasure, Proposition 27, would repeal the law by which the reapportionment commission was established and return responsibility for reapportionment to the Legislature. Similarly, while Proposition 25 would change the state Constitution to allow a state budget to be passed on a simple majority vote in each house (rather than the current 2/3 vote requirement), Proposition 26 would require a 2/3 vote in each house for the Legislature to impose "fees", and subject local government fees to voter approval as well. Other measures that might impact voter turnout include Proposition 19, which would regulate and tax the personal use of marijuana; Proposition 21, which would impose an \$18/vehicle tax to support state parks; Proposition 23, which would repeal California's landmark greenhouse gas reduction statute until such time as the state's unemployment rate has stabilized below 5.5%; and Proposition 24, which would repeal business tax credits and reductions scheduled to take effect next year.

In the months ahead we will be monitoring these races and other political trends that may affect dental plans. Please do not hesitate to call me if you have any questions regarding any of the information contained in this update.

In the News . . .

► **Census Data Show Increase in Uninsured U.S. and California Residents**—About 50.7 million U.S. residents went without health insurance last year, up by 4.4 million over 2008 in the largest annual jump since the government began assessing comparable data in 1987, according to data from the U.S. census. The trend was driven largely by decreases in employer-sponsored coverage. The data indicated that around 63.9% of people were covered by private insurance last year – the lowest percentage since 1987 – while 30.6% were covered by government programs, the highest percentage in that time span. The number of U.S. residents with employer-sponsored coverage fell to 169.7 million last year from 176.3 million in 2008, a 6.6 million decrease and the largest one-time drop since 1987. The data also indicated that U.S. residents are losing employer-based insurance at a faster rate than government programs can enroll them.

According to the data, 20% of California residents lacked health insurance coverage in 2009, up from 18.6% in 2008, and nearly 11% of California children lacked health insurance. More than 30% of California residents received government-run insurance last year, with 18.9% of those residents obtaining coverage through Medi-Cal. Among Californians younger than age 65, about 52.3% had job-based insurance coverage last year, down from 55.5% in 2006.

The census data show that California counties with the highest rates of uninsured residents tend to be smaller, rural communities that are more dependent on agricultural employment. The five counties with the highest rates of uninsured residents under age 65 were Mono (28.6%), Colusa (26.2%), Monterey (25.9%), Riverside (25.5%) and Alpine (25.6%).

► **More Employers Plan To Increase Health Care Costs for Workers**—Almost two-thirds of large U.S. employers in 2011 plan to ask employees to pay for a larger portion of their health coverage to reduce an expected increase in costs, partly attributed to the federal health reform law, according to a survey by the National Business Group on Health. The survey, which drew responses from 72 large employers with 3.7 million workers, was conducted in May and June. According to the survey, respondents said they expect their overall health benefit costs to increase by an average of 8.9% in 2011, compared with 7% in 2010. Provisions included in the recently-enacted health reform law are expected to contribute an estimated one percentage point toward that total, according to the NBGH. Among the respondents:

- 63% intend to make workers pay a higher percentage of their premium costs next year, up from 57% in 2010
- 46% plan to raise the maximum level of out-of-pocket costs that workers would pay
- 44% plan to raise deductible rates for in-network providers
- 61% plan to offer a consumer-directed health plan in 2011
- 53% are willing to revise the design of their employees' health care plans, such as removing lifetime dollar limits on overall benefits and specific benefits, and eliminating provisions that exclude coverage for children with pre-existing medical conditions
- 37% plan to change annual or lifetime limits on specific benefits, including dental, mental health and infertility benefits
- 25% plan to raise copayments or co-insurance costs for prescription drug benefits at retail pharmacies, while 21% are planning to implement similar increases for mail-order pharmacy benefits

► **NADP Negotiates Expanded Protection for Plan Use of CDT Codes**—The National Association of Dental Plans (NADP) has negotiated expanded protection for use of CDT codes as well as maintaining several key provisions of the 2011/2012 ADA CDT Content License for its members. The NADP Agreement: (1) Negotiated away limits on the number of codes used in design and marketing of dental plans; (2) Includes the express ability to comply with state and federal laws without violating the agreement; (3) Allows use of common terminology in conjunction with the Codes numbers (NADP is developing a list for approval); (4) Adds new authority to use the CDT to administer claims in foreign countries through business associates; (5) Covers uses of CDT Codes to process claims; (6) Contains the ability to use CDT Codes in communications to brokers and employers; (7) Provides for the utilization of the ADA Claim Form; (8) Offers the ability to receive approved translations from the ADA or to secure a translation if one is not available; (9) Distributes one, free copy of the 2011/2012 CDT book (one per member company); and (10) Affords discounts up to 25%.

The above list does not include all the business uses of the CDT Codes. The ADA owns the copyright on the CDT Codes and unlicensed use of them constitutes copyright violation. Fines for copyright infringement can be quite costly. During this last round of negotiations, NADP successfully worked with the ADA to work out additional provisions (1-4 above) not offered in agreements distributed by other health care associations. For questions regarding the NADP/ADA CDT Content Licensing Program, contact NADP at (972) 458-6998.

► **Large California Health Plans See Rise in Complaints, Drop in Total Enrollment**—The number of complaints filed with California's Department of Managed Health Care against large health insurers increased by 9% in 2009, even though the number of Californians enrolled in HMOs declined that year, according to *Payers and Providers*. Large health plans were defined as those with 400,000 or more policyholders. In 2009, policyholders filed 4,274 complaints against large health plans, up from the 3,864 complaints filed in 2008. During that time, enrollment in large plans fell by 105,000 to about 15.52 million. Among smaller health plans – those with enrollment below 400,000 – complaints decreased by 42%, from 212 in 2008 to 123 last year. In 2009, enrollment in the smaller health plans declined by 22.6% to 2.86 million. Both Blue Shield of California and Kaiser had an increased number of complaints while Anthem Blue Cross, Health Net and PacifiCare saw modest decreases. Complaints involving coordination of care increased by about 22.7% in 2009. Most other categories of complaints had more modest increases.

► During 2010, QMC members have been active in outreach projects which directly support many of our strategic plan initiatives. Current examples include the Oral Health Access Council, Give Kids a Smile, Remote Area Medical, National Children's Dental Health Month, and the ADA Council on Dental Benefits. These activities demonstrate that the members of CADP are striving to be part of the solution in providing ways to help serve the underserved and underinsured populations in California. For those interested, registration for the 2011 Give Kids a Smile Program opens on October 1, 2010, at the ADA website www.ada.org. All dental plans are encouraged to register and participate in the 2011 program, scheduled for February 4.

A major focus for the QMC in 2010 is the increase in suspected dental fraud. Members have reported that an increased number of claims from dental provider offices include billing for procedures that have not been performed. Dr. Stewart Balikov presented a lecture on dental fraud in August to the ADA Council on Dental Benefits. He described the reaction to the presentation as being an awakening.

The Access and Availability regulations have a filing due in October. The compliance subcommittee discussed what is required to be filed and in what format. Copies of these required items were distributed via e-mail.

Our next QMC meeting is scheduled for Tuesday, November 9, 2011 (note the new date), location TBA. I hope to see you there!

Save the Date!

CADP's 21st Annual Legislative & Regulatory Conference

January 18-19, 2011

Sheraton Grand, Sacramento

Details in November!