



President's Report

Jeff Album

There was one big problem at our legislative conference in Sacramento last month. The sun was out, the weather warm, and travel conditions were worry-free. The Capitol itself seemed to glisten during these two pseudo-spring days in late February. Unfortunately, what our ailing state really needs, among other things, is a big, strong blustery rain storm to nurture our parched watersheds and fill our thirsty reservoirs.

About the only bad weather experienced by last month's 60-odd conference attendees was the conditions described by speaker after speaker, occurring over at the Capitol building itself. That's where near-empty state coffers and gridlocked political parties continue to battle over a \$42 billion state budget deficit. The simple fact is, everything CADP fights for this year on your behalf will be colored by that deficit. Winds will blow in one direction or another based on the eventual success or failure of our elected representatives to pass a coherent, balanced spending plan.

CADP's legislative, regulatory and educational initiatives will all be subject to what occurs over the next couple of weeks in Sacramento. But at least thanks to the combination of lawmakers, lobbyists, regulators and experts brought together by CADP Executive Director Jackie Miller and CADP Legislative Consultant Jo-Linda Thompson, attendees left the conference knowing nearly as much as any Sacramento insider could about the depth and complexity of the economic and political issues attacking our state and our industry.

Speaking of weather, conference attendance was down a good 10 to 15 slots, which in and of itself is kind of a cold gust blowing across our organization. At the conference business meeting, Board Treasurer Kirk Andrews did his best to explain that while member dues remain unchanged in 2009, the board will be hard pressed to repeat that performance if we can't recruit more of you and your colleagues to participate this year as more than just "members" via your dues. Specifically, we really need you and your colleagues to turn out for our upcoming 20th Annual Conference in San Diego, May 27-30, at the Hilton San Diego Resort and Spa on Mission Bay.

As with our legislative conference, the annual meeting will respond to the weather conditions surrounding this mother of all economic downturns. A combination of expert panelists, knowledgeable speakers and maybe an economist or two will address how dental plans, providers, regulators and purchasers are responding to rapidly changing market conditions. Now if that sounds like just more dark clouds, rest assured the conference will also be rich with many sunny, pleasant, warmly rewarding networking opportunities. And the locale itself, a lovely, newly renovated resort on Mission Bay, should prove the perfect tonic for those of you feeling under-the-weather.

I don't think I can squeeze anything more from this tired, overworked weather metaphor, so please just mark down the conference dates and tell us we can count on you once the clouds clear and the dust settles.

Oh, and don't forget to pray for rain.

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Dots and Dashes

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Chair Quality Management Committee

▶ **The Economy Sours: Job Picture Bleak:** Now that you feel some familiarity with the headline because of the constant repeat of similar information in the news, let's explore this issue further. In May 2008, at the CADP Annual meeting, keynoter Mary O'Hara Devereaux stated that we were in for a downturn in the economy. At the time this information seemed to come from a visionary, and most of us discounted that information. If we had only heeded that warning, would it be different now? With such vital information coming from the Annual Conference – you should not miss the 2009 Conference – could there be another accurate prediction?

Not a day goes by that we hear of additional companies with financial concerns or actions. It began with the housing market, went on to the banking industry, then the automakers, and now many others. Large companies with familiar names are reporting employee layoffs. During CADP's recent Legislative Conference, it was announced in the media that over 60,000 jobs were cut from multiple companies on that one day alone! The speakers at the conference spoke about two things – the California budget and the economy.

The dental benefits industry has been affected, as well. There have been adjustments to the workforces of many plans, and this has raised the question of why would this happen – people will continue to have teeth, and therefore dental problems, and without benefits, how will they be able to pay for those problems?

That is correct.to a point. To look at this picture in a simple model, look at the jobs lost (estimated over 2+ million). Each job represents a person with an average of 1.4 dependents (so a job represents 2.4 people). Further, each job is a potential premium source for a plan. The loss of premium dollars requires a company to make adjustments to its business models and staffing levels. So, simply speaking, a loss of a number of jobs in a bank or hardware store or auto maker, though it seems remote, has a direct effect on those in the insurance benefits industry.

Looking even closer, the dental office is the end line of a dental plan's business model. Basically a dental office is the main component of the item that a plan tends to market: its dental network.

What effect is the economy having on the dental office? This brings to mind some interesting questions:

- Are offices having trouble with receivables?
- Are offices seeing fewer patients?
- Are dental offices adjusting staff levels?
- Are dental offices closing?
- Are dental offices limiting their hours?
- Are dental offices compromising on infection control and sterilization procedures?
- Are patients putting off preventive care?
- Are patients putting off more expensive procedures?
- Has the mix of services changed?
- Are offices using creative billing practices; i.e., is there a trend of billing for procedures not rendered, or billing for procedures using a description of a more costly procedure?
- Is there an increase in fraud?
- What are offices doing to enable financing for patients?
- Are dentists putting off buying new equipment?
- Is there a difference in utilization patterns between group practices/DPMs and single practices?
- Are plans getting calls from dentists who now want to participate in dental PPO networks?
- Are plans getting calls from dentists who now want to participate in dental HMO networks?
- Is the economy causing enrollment in dental schools to increase or decrease? Has there been any change in the amount of money spent on research as a result?
- Are dental practices using more dental specific drugs?

The questions are very thought provoking. They demonstrate the severity of the current economic situation and how we view our industry as isolated and protected, when in reality we are deep in the mix.

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Legislative Update

Jo-Linda Thompson, Nossaman LLP

▶ We begin the New Year in Sacramento much as we left the old year... working on a State Budget.

At this writing, California has no State budget. We do have a \$41 billion deficit and about an \$18 billion cash flow problem. Spending on current programs continues and State revenues are falling, thus contributing to the unprecedented size of California's problem.

If we have no budget by February 1, 2009, the Controller will begin to pay many of California's bills with IOU's and State tax refunds will be delayed (Note: This report was submitted in January, prior to February 1). Thousands of public works projects have already been shut down, California bonds cannot be sold, some Medi-Cal/Denti-Cal payments may also be delayed, and the pain is now spreading beyond the Capitol and affecting all cities and counties around the State.

The Legislative leaders and the Governor continue to meet and debate the various tax and spending cuts you have read about. The crisis has now become real, and we are now told that there will be a budget by mid-February. This may be true, since there is hope for a Federal "bailout" of sorts as our DC lawmakers work on an economic stimulus package that will contribute to managing the deficit.

As far as we know today, the economic stimulus package congressional leaders are drafting would wipe out nearly a quarter of California's budget shortfall, a potential windfall that could help end the impasse over how to close the nearly \$41-billion gap. The House bill would bring the state more than \$11 billion in healthcare and education money that could go directly to reducing the deficit through mid-2010.

The money would come from the \$825-billion stimulus package that President Barack Obama has made a top priority; however we still cannot rely on this Federal contribution, since the amount of money slated for California could change. The Senate is preparing to write its own version of the bailout plan for the states, but Republicans are increasingly objecting, saying it would not do enough to stimulate the economy. Congressional Democrats continue to hope that they can send a bill to the White House by Presidents' Day.

Most of the money that California could use to reduce its deficit would come in the form of healthcare spending. According to an analysis by the Washington, D.C.-based Center for Budget and Policy Priorities,

California's Medi-Cal healthcare program for the poor would get a \$7.3-billion boost through the coming state fiscal year. The money is intended to keep states from cutting the programs as they struggle with ballooning deficits.

CADP, CDA and several individual dental plan representatives spent time over the holidays and throughout January engaging in these negotiations. We sent letters and met with individual legislators in a comprehensive effort to save the Adult Dental program in Medi-Cal. As of this writing, the Governor's proposed budget eliminates all optional Medi-Cal benefits, including Adult Dental.

The good news is that legislators have refused to eliminate this program. BOTH Republican and Democratic legislators recognize the importance of retaining Adult Dental to the overall health of individuals and have kept the benefit in their budget proposals. Assembly Member Bill Emmerson and Senator Sam Aanestad, both dentists, have played important and positive roles in explaining the benefits of the program to their fellow legislators.

At the request of several legislators last year, CADP and CDA drafted a pared down list of Denti-Cal benefits (Plan B) that was given to the Legislative Analyst and legislators. We did that in order to save some vestige of the Adult Dental program, should legislators be forced to back away from the benefit in order to reach a budget solution. Many we spoke with congratulated our organizations for giving them something to fall back on should the current benefit become impossible to retain, although they are not anxious to drop back to Plan B.

Everyone we have spoken to does recognize that the Adult Dental program actually saves the state money by treating problems in a dental office rather than in a hospital emergency room. We are optimistic that Adult Dental will be retained as the budget negotiations continue; however, we realize that California's fiscal situation is so extreme and so unusual that it remains difficult to predict with any certainty what will happen over the next several days and weeks.

Finally, the budget has slowed the bill introduction schedule, and very few bills have come into print to date. The bill introduction deadline is February 27th. We expect at least 1,000 to be introduced before that date.

Mark Your Calendars!

CADP's 20th Annual Conference

May 27-30, 2009

Hilton San Diego Resort & Spa

We'll have some special events for this special anniversary meeting, so make plans now to attend. Watch for your conference brochure in late February



Regulatory Update

Mary Powers Antoine, Nossaman LLP

Below is a chart updating the latest information on the Department of Managed Health Care's currently pending regulations and regulations under consideration. The Department is currently reviewing its list of pending and proposed regulations and has not yet disclosed its priorities for 2009. Here is what we know at present.

CURRENTLY PENDING REGULATIONS

| Regulation | Status | Remarks |
|---|--|---|
| AB 2179 – Timely Access to Health Care Services (Adds Rule 1300.67.2.2) | These draft regulations were formally released for comment on January 9, 2009. The comment period ends on February 23, 2009. | CADP participated extensively in the work groups with the Department, which culminated in this latest draft. The provisions pertaining to dental plans are consistent with the language that we had negotiated with the Department, and we feel comfortable with this latest version. |

REGULATIONS CURRENTLY IN DRAFTING PROCESS

| Regulation | Status | Remarks |
|---|--|---|
| Independent Dispute Resolution Process – Proposed Revisions to Rules 1300.71.38 and 1300.71: Criteria for Determining Reasonable and Customary Payment for Non-Contracted Providers | These regulations had been coupled with the balance billing regulations, but were withdrawn early in 2008. They were not re-issued when the balance billing regulations were issued. Those regulations have since been enacted, but we have not heard anything further on resurrecting any IDRPs regulations.. | CADP will review the new regulations when they are released to evaluate their impact on dental plans. |
| Discount Plan Regulations – Addition of Rule 1300.49.1, et seq. | The Department informally circulated a draft of the discount plan regulations. CADP submitted extensive comments on December 12, 2008. | The Department has been close-mouthed about when it expects to release its next version of the regulations. |
| Licensing Applications – Revisions to Rules 1300.51 and 1300.52 | This project has turned into what the Department is calling their Regulations Review Process. This process is being undertaken at the direction of the Department's umbrella agency, the Business and Transportation Agency. On June 25, 2008, the Department sent out the following email message: "During the next 3 months, Licensing and Financial Oversight are conducting a more comprehensive review of all regulations adopted under the Knox-Keene Act. The goal is to identify any regulations that pose an undue economic impact on California businesses with a focus on streamlining regulations. Licensing is approaching this assignment as a way to look at 1300.51 and 1300.52 with 'fresh eyes' and allow for additional thoughts and suggestions. Accordingly, Licensing will postpone sending out the draft of 1300.51 or 1300.52, which we discussed, until this project is completed." | No word from the Department as to when they expect to release these regulations for review. |

In the News . . .

▶ **Daniel Zingale Leaves Administration**—Daniel Zingale, the Governor's senior policy advisor on health care and chief of staff to First Lady Maria Shriver, has left the Governor's office to become a senior vice president for policy and communications for The California Endowment, a leading health care foundation based in Los Angeles. He will remain based in Sacramento, where he will be charged in part with establishing the foundation's presence. Zingale, the first director of the Department of Managed Health Care, emerged as a principal figure in developing the Governor's universal health care proposal in 2007.

▶ **Chris Ohman Leaves CAHP**—Chris Ohman, President and CEO of the California Association of Health Plans since 2005, has left the Association to join Kaiser Permanente as a Senior Vice President for Health Plan Operations for all Kaiser health plans outside of California. Charles Bacchi, Vice President of Legislative Affairs, will serve as interim President and CEO until a successor is found. Bacchi has been with CAHP for over three years and has 14 years of legislative experience and six years of experience working with Sacramento-based trade associations, including the California Chamber of Commerce.

▶ **DMHC Senior Staff Appointment**—In late 2008, Rick Martin was appointed as Deputy Director for Plan and Provider Relations, Department of Managed Health Care. In that position, he is responsible for fostering relations between the DMHC and its licensed health plans, while serving as primary advisor to the Director on plan and provider issues and providing strategic planning and policy direction on emerging issues and industry trends. He most recently served as Deputy Director, Financial Solvency Standards Board, where he led the DMHC's efforts to implement the recent regulations to ban the balance billing of health care consumers and facilitating a process to develop current regulations to guarantee timely access to health care services. Previously, he was the Assistant Deputy Director for the DMHC's Office of Provider Oversight, where he oversaw the creation of the Provider Complaint Unit and was Supervising Examiner for the Division of Financial Oversight.

▶ **Judge Upholds Regulations Prohibiting Balance Billing**—In December, Sacramento County Superior Court Judge Michael P. Kenny affirmed state regulations promulgated by the Department of Managed Health Care aimed at protecting consumers in payment disputes between hospitals and insurers. The case will likely be appealed by hospital and medical associations. Two years ago, Governor Schwarzenegger directed the Department of Managed Health Care to end balance billing. Regulations that deem it an unfair practice went into effect October 15. Judge Kenny had tentatively sided with the state but agreed to hear further arguments from the California Medical Association and the California Hospital Association, which tried to stop the regulations from going into effect as scheduled in October. The hospitals argued the order was unfair and could undermine the networks and agreements already in place between insurers and their member hospitals.

▶ **Majority of Uninsured Kids Eligible for Healthy Families, Medi-Cal**—More than half of the 683,000 uninsured children in California in 2007 were eligible for Medi-Cal or Healthy Families, according to a recent survey by the UCLA Center for Health Policy Research. In addition, the survey found that 23% of children were eligible for the Healthy Kids program in their county but were not enrolled. Healthy Kids programs use a combination of public and private funds to provide health coverage to children. Of the 4.1 million uninsured adults, 6.6% were eligible for Medi-Cal, according to the survey. Overall, the study found that the percentage of Californians younger than age 65 who were uninsured at some point in the year dropped to 19.5% in 2007 from 20.2% in 2005.

▶ **Lawsuit Seeks To Block Latest Round of Medi-Cal Payment Cuts**—On January 29, a group of hospitals, pharmacies, other care providers and Medi-Cal beneficiaries filed a lawsuit in U.S. District Court in Los Angeles seeking to stop Medi-Cal payment cuts from taking effect on March 1. The rate cuts were enacted in September 2008 as part of the fiscal year 2008-2009 budget. Beginning on March 1, legislation directed the Department of Health Care Services to cut Medi-Cal reimbursement rates by 5% for pharmacies, rural and skilled nursing facilities, some hospitals, and sub-acute care. In addition, the legislation called for a 1% reduction for all other Medi-Cal fee-for-service benefits. The suit contends that lawmakers did not undertake a thorough analysis of how the latest round of reimbursement cuts would affect Medi-Cal beneficiaries' access to care. The lawsuit also argues that the state did not get federal permission before adopting the changes. Earlier legal challenges had derailed 10% cuts to Medi-Cal reimbursement rates that were set to take effect July 1, 2008.

19th Annual Legislative and Regulatory Conference Recap

▶ The 19th Annual Legislative and Regulatory Conference was one of the most informative in recent memory. In addition to the keynote by Dr. Mark Smith, President and CEO of the California HealthCare Foundation, we heard regulatory updates from Toby Douglas of the Department of Health Care Services and DMHC's Ed Heidig, and an excellent recap of the election and what it means by well-known consultant Greg Larsen. In addition to our popular lobbyist pundits, a legislative panel of Senator Alex Padilla and Assembly Member Bill Emmerson provided the Democratic-Republican perspectives on the budget. We also got a first-hand description of the current budget negotiations from Senate Majority Leader Dean Florez, who was our guest speaker at lunch. It was a packed, day-and-a-half meeting!

As always, we couldn't do these events without the support of our sponsors. We thank them for their support of the Association.

Conference Sponsors:

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DOTS AND DASHES continued from page 2

▶ We do have at our disposal some methods to help navigate the troubled waters of this economic tidal wave. CADP has the shared assessment warehouse, of which all member plans have the opportunity to utilize. This warehouse has the potential to reduce the costs of quality assurance assessments for participating plans. The evident savings come from the use of extracted assessments and then coordinating schedules. The coordination is where a company can realize the most savings, and also help a dental office. The dental office in theory could host a QA assessment once, and then have that assessment accessed by all plans needing it...if we only coordinate our schedules!...This aspect of the shared assessment warehouse is in a roll-out phase, being championed by Dr. Donna Nagata. As more and more plans have access to this, the savings intended can be realized.

Associated with this is the Quality Assurance Consultant Training program. This course program allows a plan to have consultants trained and calibrated (as required by the DMHC) for minimal costs. It also is the basis for the success of the Shared Assessment Warehouse, as there is confidence that any assessment in the warehouse has been performed by a certified, calibrated QA consultant.

There will be a two-day QA consultant course in conjunction with the CADP Annual Conference, May 29-30, 2009 in San Diego. Registration will be handled by the CADP office; (916) 446-3122. Your continued support of the QA courses and CADP conferences helps to assure these money saving programs can continue!

Another program that CADP offers as a benefit to member plans is legislative advocacy and legal input regarding legislation and regulations. In 2008, CADP was involved in issues such as the Language Assistance Regulations, Timely Access Regulations, and the informal Discount regulations. If a plan were to try to do this advocacy on its own, the costs would be prohibitive. In addition to these services, at each Quality Management Committee meeting, we discuss current issues relating to dental benefit plans. These issues may be trends of financing, coding and other issues, as well as regulatory oversight.

The next Quality Management Committee Meeting is scheduled for March 17, at Western Dental in Orange. I look forward to seeing you there!