



CALIFORNIA
ASSOCIATION
OF DENTAL
PLANS

News

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FALL 2005

President's Report

Susan M. Klarner

As the seasons change and we near the end of 2005 we, as leaders of dental benefits organizations, are continually challenged with keeping our products and strategies more contemporary, flexible, and innovative. At a number of recent meetings we learned from representatives from the Department of Managed Health Care to anticipate some type of regulation that may impact discount plans. As an Association, we are staying close to this situation to ensure a level playing field for Knox-Keene licensed entities.

The CADP Board of Directors continues its activities and efforts toward building and sustaining the appropriate relationships. CADP has been actively involved in a series of task force meetings that are intended to make reporting, and the overall regulatory process, more consistent for all concerned parties. CADP representatives have also met with John Puente, recently appointed as DMHC Deputy Director, Plan and Provider Relations, to discuss regulatory issues and the dental working group, which had taken a hiatus following the successful completion of the e-filing process for innovative dental products. We anticipate that the work group should reconvene in early 2006.

The new, reconstituted Board of Directors held our annual strategic planning session several weeks ago. Our objectives for the forthcoming fiscal year have been revised and further defined to reflect the business interests and needs of our member plans, and the regulatory environment for the period 2005-2006. Our primary objectives continue to focus on CADP's ability to (1) represent member plans' regulatory and legislative interests, (2) be recognized as a dental benefits authority, and (3)

establish guidelines and outcomes that improve quality management. As we move into 2006, our focus (as determined by our member plans) will continue to be legislative and regulatory in nature.

Executive Director Jackie Miller and Jo Linda Thompson, our Lobbyist, are diligently working on the development of another exciting Legislative Meeting program, scheduled for late January 2006 – Look for the registration information soon! Board members Bryan Geremia and John Gaebel have enthusiastically volunteered to chair the program for our annual conference in Indian Wells scheduled in May 2006. The initial program is already outlined! Similarly, Drs. Karen Feldman and Charles Stewart, Co-Chairs for the Dental Directors/QMC, are working on the conference program that is scheduled beginning the last day of our annual meeting.

I would like to acknowledge the contributions and level of service that Allen West (formerly with CIGNA Dental) gave to our Association and the CADP Board of Directors. Allen left the industry in June 2005 and concurrently resigned his position on the Board. Allen did an outstanding job as a Co-Chair for the Annual Meeting in 2005, so we wish him much success in Dallas and on the brokerage side of the business.

On behalf of the Board of Directors of CADP I would like to extend our appreciation of your ongoing commitment and support of our association. As always, we welcome your comments and feedback on any of the efforts we undertake. Feel free to contact me by phone at (714) 708-5360 or by e-mail at sklarner@smilecare.com.

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News

The CADP News is published quarterly. Your suggestions and/or comments are encouraged.

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Dots and Dashes

Charles Stewart, DMD, and Karen Feldman, DDS, Co-Chairs, Quality Management Committee

▶ Much has happened since the last *Dots and Dashes* was written. Hurricanes have hit the nation's Gulf Coast region, and California is in the midst of the fire season (remember we don't have traditional seasons here – we have Spring, West Nile Virus, Fire and Flood!).

On a sunnier note, we're pleased to report that things have been consistent yet busy for the CADP Quality Management Committee. The Annual Conference in May was well attended and received high marks, and staff from the Department of Managed Health Care presented the draft dental Technical Assistance Guide (TAG) at our July meeting. They challenged the committee to review, comment and make recommendations for revising the document. As a result, a subcommittee was formed and comments were memorialized, culminating in a presentation to the Department a mere two weeks after the request was made. Drs. Donna Nagata, Stewart Balikov and Karen Feldman made the presentation on behalf of CADP. The resultant TAG was presented at the September QMC meeting. CADP's comments were incorporated into the document, and we would like to extend our appreciation to the subcommittee and Department for this successful collaboration.

Included in this effort was the review of the TAG's Utilization Management section, with the most important aspects of the discussions related to utilization review. We must reiterate that a plan must determine if it is performing utilization review. For example, if a plan does not allow treatment due to prognosis concerns and a dentist is deter-

mining the prognosis of a tooth via review of an x-ray, the plan is performing utilization review. Therefore, the plan must comply with the standards as outlined in the TAG. In addition, according to the standards in the TAG, the plans must review for under- and overutilization of services. Along with the standards, the TAG lists guidance to assist plans in complying with requirements. Plans must carefully review the TAG, especially the UM Section.

The QMC will also be involved in other projects suggested by the Department or the CADP Board of Directors. Details will be shared during subsequent meetings.

The Shared Audit project is in a final test phase, with the vendor collecting and distributing the completed audits to the participants. Five plans are participating in this test, with others scheduled to participate effective January 1, 2006. The next Auditor Certification course is scheduled for March 1-2, 2006, at the LAX Marriott.

The next QMC meeting will be November 15, 2005, hosted by Western Dental Services in Orange. The Legislative and Regulatory Conference is scheduled for January 23-24, 2006, at the Hyatt Regency, Capitol Park in Sacramento. Your attendance at this legislative conference is encouraged. The excellent group of invited speakers will outline potential legislation, give regulatory and budget updates and discuss political trends that are anticipated for 2006.

We look forward to seeing you November 15th!



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Legislative Update

Jo-Linda Thompson, Nossaman Guthner Knox & Elliott LLP

▶ The first year of California's two-year legislative session ended rather quietly on September 8. While more controversial legislation has been held over until January, 961 measures were sent to the Governor for his action. Of those, he signed 729 and vetoed 232.

Although the November special election is *the* hot topic around the Capitol, a report issued recently by the Kaiser Family Foundation and the Health Research Educational Trust may actually affect next year's legislative activity from the health care perspective as much as or more than the election. The report found the average annual cost of health insurance for a family of four has passed \$10,800. This number exceeds the total annual income of a minimum wage worker and has accelerated the already increasing numbers of uninsured individuals and the number of employers dropping health insurance. Starbucks Corporation Chairman Howard Schultz was quoted as saying his company will spend more on health insurance for its employees in 2005 than the company will spend on raw materials needed to make coffee. Clearly, employers will be looking for some other source to pick up this tab.

It's becoming more and more obvious that both employers and individuals are trying new strategies to manage these increasing costs. To buttress this, the *Los Angeles Times* has reported that individuals are now abandoning their employer's plan (if there is one) and purchasing their own insurance, often on line, and this trend is beginning to affect the traditional insurance market. As individuals purchase more insurance and employers leave the market, legislation addressing issues raised in this new environment will undoubtedly appear in the approaching election year. Candidates will realize the universal anxiety caused by the growing unaffordability of health care. This is no longer a problem of poor non-voters, but reaches well into the voting middle class, as premiums increased 73 percent since 2000, nearly five times higher than wages and in-

flation during that period.

As these individual health care plans begin to look and feel more like the 401k retirement plans now replacing the defined benefit retirement plans of the past, they may need different regulation. The legislative and regulatory responses to constituent complaints about these products will undoubtedly intensify as providers, employers, insurers and consumers battle over who pays and how much. One immediate result of this individual approach to health care coverage may be additional motivation for the passage of the discount plan legislation that CADP has been watching and working with for the past three years.

Currently, both discount bills, AB 562 (Levine) and AB 1094 (Parra) are alive, although stuck in the Assembly, their house of origin. They would need to make it to the Senate before the end of January 2006 to remain alive next year. In 2006, the second year of the two-year session, the authors also have the option of starting over with new bills on the same subject if these two do not work out. According to Assembly Member Parra's staff, she will decide in December whether to move the bill. The Levine bill is not expected to move unless the Department of Managed Health Care decides it needs legislation to achieve authority over discount plans. For the moment the Department believes it has sufficient authority, continues to accept complaints and take action against discount plans and is working on regulations.

CADP actively opposed AB 966 (Saldaña), AB 977 (Nava), AB 1670 (Nation and Richman), SB 417 (Ortiz) and SB 425 (Ortiz); those measures are still bottled up in the Legislature. It also closely watched AB 598 (De La Torre) (establishes new protections re fair and reasonable contracts) and AB 757 (Chan) (silent PPO reform), both two-year bills. In addition, the following is an update of those bills of interest to CADP that made it to the Governor's desk:

AB 89 (J. Horton) – requires a legisla-

tive report identifying all employers with 25 or more employees who have employees who are beneficiaries of Medi-Cal, Healthy Families or the Access for Infants and Mothers programs. Update: vetoed.

AB 169 (Oropeza) – gender pay equity – increases the damages employees may obtain if they are successful in a civil action against an employer violating wage discrimination laws. Update: vetoed.

AB 356 (Chan) – increases requirements for health plans relative to coverage rating and underwriting criteria in the individual market and requires that policies, procedures and guidelines be submitted annually to the Department of Managed Health Care or the Department of Insurance. Update: signed by the Governor.

AB 779 (De La Torre) – requires Department of Health Services to implement an automated procedure to give Medi-Cal providers access to certain information with respect to patients who are Medi-Cal beneficiaries. Update: vetoed.

AB 1735 (De La Torre) – prohibits the Department of Health Services from reducing, retroactively, Medi-Cal provider reimbursement rates for dates of service from January 1, 2004, to December 31, 2005 (budget language in the 2003-2004 budget would have allowed DHS to reduce provider rates for that period). Update: signed by the Governor.

SB 367 Speier – allows providers to file complaints with the Department of Insurance and allows the Department to take enforcement actions against insurers under its jurisdiction. Also requires insurers to state the factual and legal reason for denying a claim. (These provisions are similar to those currently required of health plans regulated by the Department of Managed Health Care). Update: signed by the Governor.

SB 377 (Ortiz) – requires Department of Health Services to notify providers, immediately, that non-emergency benefits for the prevention and treatment of dental and

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In the News...

► **DMHC Holds Hearings re Proposed Acquisition of PacifiCare by UnitedHealth** – During August and September, the Department of Managed Health Care conducted two hearings regarding UnitedHealth Group's proposed acquisition of PacifiCare Health Systems. Earlier in 2005, Minnesota-based UnitedHealth announced plans to acquire Cypress-based PacifiCare for \$9.2 billion in cash, stock and assumed debt. PacifiCare Health Systems currently serves more than 3 million health plan members and approximately 10 million specialty plan members nationwide with annual revenues of more than \$12 billion. As occurred during the Anthem/WellPoint merger hearings, consumers and physician organizations expressed concern to regulators about the potential for increased premiums, reduced competition and changes to health plan benefits. The acquisition would increase the membership of UnitedHealth, the second-largest health insurer in the nation, to 25 million. Scheduled to be completed by February 1, 2006, the acquisition requires approval by the firms' shareholders and California's Department of Managed Health Care, Department of Insurance and Attorney General. Democratic State Controller Steve Westley, who is running for Governor in 2006, has announced his opposition to the acquisition.

► **State Forfeits \$90 Million In Federal Funding** – Conceding that California isn't ready to shift 500,000 aged and disabled Medi-

Cal patients into managed care, the Schwarzenegger administration has agreed to forfeit \$90 million in federal funds so the state can have more time to plan. As a result, legislators will not consider it until January 2006. The \$90 million loss does not represent a funding cut. The money would have been part of an increase in Medicaid funds the Bush administration was prepared to give the state, provided the managed care proposal went forward along a strict timeline. When legislators and Administration officials could not agree to terms, Health and Human Services Secretary Kimberly Belshé said it made sense to ensure that healthcare providers were ready to absorb the new patients before implementing the shift to managed care.

Since the beginning of the year, the Schwarzenegger administration has made moving more Medi-Cal recipients into managed care a centerpiece of its proposals for cutting costs in the \$33 billion healthcare program that covers one in six Californians. About half of Medi-Cal recipients already use HMOs, but most do not have disabilities. State officials and the Bush administration earlier this summer had agreed to the timeline for implementing the shift to managed care. Under the terms of the original waiver proposal, California would get \$360 million in new federal money to move the disabled and elderly into HMOs, but the first \$90 million was contingent on legislative approval before the end of the 2005 Legislative Session, September 9.

Advocates for the disabled have opposed the change, saying mandatory HMOs don't make sense for people with extensive healthcare needs who rely on medical specialists. And the Legislature had already rejected most of Governor Schwarzenegger's first attempt to expand the use of managed health care as part of this year's budget. While Democratic legislators did agree to some managed care expansion in selected counties, they opposed compulsory HMO enrollment for people with disabilities for the same reason that the state is now forfeiting the \$90 million: a clear structure has not been set up to govern how managed care provid-

ers would care for patients who require specialized treatment.

A report by health policy experts at George Washington University last month found the state had not adequately addressed what benefits would be provided, how the plans would be allowed to regulate use of medical services by people with severe disabilities, and what rights people would have to appeal when their requests for care were turned down.

► **Most Insurers to Offer Consumer-driven Plans** – A vast majority of the nation's commercial health insurers intend to offer a consumer-driven health plan within the next year, according to a survey by consulting and actuarial firm Milliman. Among HMOs and PPOs serving large- and midsize-group markets, 93 percent said they expect to offer employers a high-deductible insurance plan paired with a personal spending account, such as a health savings or health reimbursement account. While few employers and employees have adopted these products thus far, survey respondents said they expect consumer-driven products to bring in 5.2 percent of their total commercial premium revenue in 2006, up from 2.5 percent this year. The survey also found that 44 percent of health insurers expect to offer a tiered provider network within the next year and more than half already provide members with price and quality information on hospitals and physicians or plan to do so within the next year. The full results of Milliman's 2005 Group Health Insurance Survey will be released later in October.

► **Employers Shifting Health Care Costs to Employees** – According to a preliminary survey of more than 1,800 firms recently released by Mercer Human Resource Consulting, employers anticipate an almost ten percent increase in health care costs next year, about three times the rate of general inflation, if they leave benefits unchanged. As a result, employers are likely to shift more of that burden to their employees. Companies that were polled in the survey – both those that purchase insurance and firms that are

Legislative Update (continued from page 3)

periodontal disease is a covered benefit for pregnant beneficiaries. Update: signed by the Governor.

SB 634 Speier – extends protections afforded to providers in DMHC-regulated plans to those regulated by the Department of Insurance, including disclosures of the fee schedule and payment rules used to pay contracted providers and prohibitions against unreasonable claims deadlines for submitting a claim. Update: signed by the Governor.

To review any of the above measures, go to www.leginfo.ca.gov.

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Regulatory Update

Mary Powers Antoine, Nossaman Guthner Knox & Elliott LLP

▶ John Puente, former DMHC Chief of the Division of Licensing, has been named to replace Bill Barcellona as Deputy Director, Plan and Provider Relations. John has been with the Department since September 2004; prior to joining DMHC, he served for four years as Associate General Counsel for Molina Healthcare, Inc. By the time you read this, CADP Vice President Jeff Album, Executive Director Jackie Miller and I will have met with him to en-

sure that dental plan issues continue to be raised with the Department and that the dental work group continues to meet on a regular basis.

In addition, CADP representatives are actively participating in a stakeholder work group regarding the draft language assistance regulations. CADP was a signer, along with the California Association of Health Plans, California Hospital Association and California Association of Physi-

cian Groups, to a letter to Suzanne Chammout of the Office of Legal Services which raised significant concerns regarding the draft proposal. We will continue to provide dental plan input to the regulators as the regulations are being crafted.

The following is a chart describing the latest information on current, draft and proposed regulations promulgated by the Department of Managed Health Care that are of interest to dental plans.

RECENTLY ADOPTED REGULATIONS

Regulation	Date of Adoption	Remarks
AB 1286 – Block Transfer Filings (Adds Rule 1300.67.1.3)	This regulation became effective on 09/21/05.	Nossaman is reviewing the model P/P that was approved by the DMHC in 3/04 to determine if revisions are necessary in light of the new regulations. We will work with the DMHC regarding changes to the model language that will be needed. We will then circulate the revised model language to CADP members.
Independent Medical Review Medicare and Urgent Care Language (Amends Rule 1300.74.4)	This regulation became effective on 07/17/05.	This regulation is intended to clarify the application of IMR to Medicare enrollees and to add denial of urgent care or emergency services as defined in Rule 1300.67(g)(2) as a basis for the enrollee's right to IMR. CADP did not comment on this change.
Independent Medical Review Medicare Language (Amends Rule 1300.74.30)	The revised regulation became effective on 08/24/05.	The revision amends Rule 1300.74.30 relating to IMR to address the application of the Rule to Medicare enrollees. CADP did not comment on this change.
SB 260 – Data Collection, Disclosure Language, Grading/ Reviewing and Corrective Action for Risk Bearing Organizations (Amends T28 CCR §§1300.75.4 and 1300.75.4.5, and adds §§ 1300.75.4.2, 1300.75.4.4, 1300.75.4.7 and 1300.75.4.8)	These revisions became effective on 08/24/05.	CADP did not comment on these revisions since most dental plans do not contract with risk bearing organizations.

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PACIFIC
Dental Services

CURRENTLY PENDING REGULATIONS

Regulation	Date of Adoption	Remarks
DMHC Conflict of Interest (Amends Rule 1000)	First comment period closed 08/29/05.	These revisions added the positions of Graduate Legal Assistant and Senior Legal Analyst to the list of designated DMHC employees who must file statements of economic interests with the Department. CADP did not comment on these revisions.
Public Hearings and Meetings (Adds Rule 1002.4)	First comment period closed 09/19/05.	This proposed regulation package establishes the criteria for public meetings or hearings, ensuring that the public is aware of the factors utilized by the Director when determining to hold a public meeting or hearing and how the public can request a public meeting or hearing. CADP did not comment on these draft regulations.
Outpatient Prescription Drug Copayments, Coinsurance. (Adds Rule 1300.42.7)	The second comment period closed 09/26/05.	CADP has not commented on these draft regulations.

REGULATIONS CURRENTLY IN DRAFTING PROCESS

Regulation	Date of Adoption	Remarks
SB 853 – Cultural and Linguistic Services (Adds Rule 1300.67.04)	The DMHC has been holding meetings with stakeholders to discuss the proposed regulations.	CADP continues to provide dental plan input to the regulators as the regulations are being crafted. The physician stakeholders are requesting additional meetings, but so far, none have been scheduled. We anticipate draft regulations will be published for formal comments in November.
AB 2179 – Access to Needed Health Care Services (Amends Rule 1300.67.2)	Second draft issued then withdrawn on 04/19/05.	Suzanne Chammout met with stakeholders on 05/25/05. CADP plan representatives attended the meeting and provided extensive feedback to her on access standards.

POTENTIAL FUTURE REGULATIONS

Regulation	Date of Adoption	Remarks
Centers of Excellence Issue posted on DMHC website 06/30/2005.	The DMHC is considering whether regulations are needed relating to this topic.	For that reason, it has posted the topic on its website and has invited the public to submit comments. There are no details as to what the topic entails.
Advertising Issues	Issue posted on DMHC website 06/02/2005.	The DMHC is considering whether regulations are needed relating to this topic. For that reason, it has posted the topic on its website and has invited the public to submit comments. There are no details as to what the topic entails.
Dental Plans	Issue posted on DMHC website 06/02/2005.	The DMHC is considering whether regulations are needed relating to this topic. For that reason, it has posted the topic on its website and has invited the public to submit comments. There are no details as to what the topic entails.
Obesity Issues	Issue posted on DMHC website 05/09/2005.	The DMHC is considering whether regulations are needed relating to this topic. For that reason, it has posted the topic on its website and has invited the public to submit comments. There are no details as to what the topic entails.

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POTENTIAL FUTURE REGULATIONS (continued)

Regulation	Date of Adoption	Remarks
Rural Access to Plan Providers and Emergency Providers	Issue posted on DMHC website 05/09/2005.	The DMHC is considering whether regulations are needed relating to this topic. For that reason, it has posted the topic on its website and has invited the public to submit comments. There are no details as to what the topic entails.
AB 1455 – Claims Settlement Practices/Dispute Resolution Mechanism (T28, §§1300.71 and 1300.71.38)	Revisions under consideration.	The DMHC is considering revisions to these regulations to address concerns plans have raised about UCR methodology and the annual report requirements. CADP is participating in these discussions, which are being spearheaded by CAHP.
Retroactive Terminations	On hold.	The DMHC issued an informational bulletin on March 16, 2005, regarding requirements for the conditional order of exemption process.
AB 2907 – Implementation Regulations	Status unknown.	The DMHC was considering regulations designed to implement the Health Care Providers’ Bill of Rights that was enacted by AB 2907. However, the topic does not appear on its website.
Health Plan Advertising of Discounts	Status unknown.	The DMHC is considering whether to issue regulations that may impact discount programs. However, the topic does not appear on its website.
Out of State Records	Status unknown.	The DMHC is said to be preparing these regulations and intends to issue them in the near future. However, the topic does not appear on its website.

In the News (continued from page 4)

self-insured — are only earmarking an average increase of 6.4 percent in their spending. That will mark the third consecutive year that employers are seeing their actual health care costs slow as they pass on more of the costs to their workers. According to Mercer, two-thirds of the large employers surveyed said they would shift costs to employees, requiring them to pay higher deductibles, premiums and co-payment fees and are limiting workers’ choice of insurance plans. The preliminary survey was conducted in August and September, and Mercer expects to compile the final results from about 3,000 companies by the end of the year.

▶ **Fewer Employers Offering Health Insurance** – Sixty percent of US businesses offered employer-sponsored health insurance to workers in 2005, compared with 69 percent in 2000 and 66 percent in 2003, according to a survey released by the Kaiser Family Foundation and Health Research and Educational Trust. The decline in employer-sponsored health insurance comes mostly from small

businesses, with 68 percent of employers with 3-199 workers offering coverage in 2000, compared with 59 percent in 2005. Additional findings: 73 percent of businesses not offering coverage said high premiums were very important in their decision not to offer insurance to employees, while 52 percent said their company’s small size and 33 percent said workers’ access to other coverage led to their decision not to offer coverage.

▶ **Federal Medicaid Commission Releases Reform Recommendations** – The federal Medicaid commission charged with recommending short- and long-term reforms to the program has released its proposals to Congress, stating that, if implemented, they would reduce Medicaid spending growth by \$11 billion over the next five years. The commission, whose members were appointed by HHS Secretary Mike Leavitt, was required to submit a report by September 1 with recommendations on how to reduce Medicaid spending growth by \$10 billion over the next five years. The second report, due Dec. 31,

2006, will include recommendations for stabilizing Medicaid over the long term. The recommendations, which were approved by the commission on Aug. 19, include:

- Restricting beneficiaries’ transfer of assets to qualify for long-term care under Medicaid, which is expected to save about \$1.6 billion over five years;
- Permitting states to use the average manufacturer price instead of the average wholesale price to determine payments to drug companies, expected to save \$4.3 billion over five years;
- Allowing Medicaid managed care plans to be involved with the drug manufacturer rebate program, which is expected to save \$2 billion over five years;
- Expanding the number of beneficiaries who are permitted to be charged copayments and the amount of copayments for prescription drugs, physician visits and other services, projected to save \$2 billion over five years.

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