

TO: CALIFORNIA ASSOCIATION OF DENTAL PLANS

FROM: Jo-Linda Thompson, Esq., Nossaman, Guthner, Knox, & Elliott, LLP

DATE: March 20, 2001

RE: LEGISLATIVE UPDATE

As I draft this report, California is experiencing a series of rolling blackouts, the Investor Owned Utilities (IOU's) are days from bankruptcy, the state is purchasing energy at the rate of \$50 million dollars each day, and dentists are closing their offices during blackouts and investigating purchasing generators; in short, not much has changed since the last report. Even with all of the activity in the energy area, few if any of the energy-related problems have been resolved and the legislative process remains preoccupied with this crisis. Even so, legislators have had the time and interest to introduce several bills in the managed care, insurance and dental subject areas. The bills discussed in this memo deserve discussion and may present the biggest challenges of those we have identified to date.

Many of these bills will probably become two-year bills and remain with us for the entire two-year session. The deadlines for passage out of the first policy committee and passage out of the house of origin are rapidly approaching, and many bills have not been heard or set for hearing at this writing. Reapportionment discussions have not yet begun in earnest while budget hearings are just beginning as everyone waits for the May budget revision.

The Department of Managed Health Care is also involved in developing regulations regarding emergency care; Jackie Miller, Mary Antoine of Nossaman and the CADP Board of Directors are working with Joy Higa on the proposed regulations, which are still in internal discussions within the Department.

- SB 686 (Ortiz): CADP supports this bill to address the current inequity between the fees charged by DMHC to full service and specialty health plans. Every year the specialty plans pay more than they should pay to run the department. This bill would require the director to adopt a new and more equitable fee schedule for the specialized plans. Senator Ortiz is the principal author with principal co-author Senator Alpert; additional co-authors in the Senate are Ackerman, Figueroa, Machado and Soto. In the Assembly we have added Bates, LaSuer, Pescetti, Steinberg, Wayne, Wyland and Zettel. We are building legislative interest and hopefully momentum for this fee adjustment so that the Department will agree to draft a new schedule without the need for

a bill. We are scheduled for hearing on April 4th in the Senate Insurance Committee. (Update: the measure passed on a vote of 6-0, with amendments).

- SB 103 (Speier): In its original form, the bill established a statewide effective date for all contracts of January 1st and termination date of December 31st, with a universal open enrollment date of the month of September. The bill was amended on March 19th to require that if the parties can not agree to the terms of a new contract, a health care service plan would have to extend its existing contract with the provider until the plan enrollees next open enrollment period. The California Association of Health Plans is working with the author on this measure; although no one has signed off on this amended language, it is considered a move in a better direction.
- SB 1037 (Polanco): This is a spot bill that is supposed to turn into the vehicle dealing with discount plans. Currently, it has not been amended and remains in spot form. The Department of Managed Health Care continues to work on this issue. We continue to monitor all bills in this area in case one of them becomes the new discount plan vehicle; we also make frequent inquiries at the Department about a release date for the promised guidelines or regulations for the discount plans.
- AB 275 (Aroner): This bill would require the State Director of Health Services to adopt regulations that establish emergency dental care parameters for Medi-Cal members. The real issue is to ensure that no plan member who needs emergency care is delayed in getting that care. The problem will be to adequately describe and decide what is a real dental emergency. At this writing the bill is not set for hearing.
- AB 798 (Shelley): This is a bill sponsored by the California Senior Legislature and supported by various senior lobbying groups, including AARP. It would require all health care service plans to refer a plan member over 60 to any specialist the member would like to see. I have spoken with the author's staff, who have indicated a belief that it is not their intent to cover specialized plans. If not, I believe we would be required to send patients to various dental specialists they might request even though the general dentist did not believe such a referral was necessary. The plans would also be required to pay non-contracted rates to our out of network specialists.

- AB 1379 (Thomson): This is the vehicle that would put all health insurers currently regulated by the Department of Insurance under the jurisdiction of the Department of Managed Health Care.
- AB 1522 (Thomson and Frommer): This is another continuity of care bill. It would increase the notification periods for enrollees when a plan has terminated a contract with a medical group, individual practice association, primary care provider, specialist, and hospital or health system. It would also extend the period of coverage with a terminated provider under certain conditions. It further narrows the exemption under existing law for plans filing a written policy statement with DMHC describing how they provide continuity of care. Plans that include out of network coverage allowing the enrollee to receive services from a provider no longer with the plan under the same terms and conditions will be the only plans exempt from the filing requirement. I checked with staff in Ms. Thomson's office and although they are not focused on the specialized plans the bill would apply.
- There are several bills dealing with mandatory and binding arbitration and medical privacy. SB 1040 (Machado and Polanco) is very similar to SB 1934 (Polanco) of 2000, primarily allowing the same damages to be awarded in arbitration as in litigation along with many other provisions from last year's bill. It is not set for hearing.

In addition, Governor Davis has issued a press release, in which he announced that he was making "Dental Fraud" in the Medi-Cal program a priority.

We will continue to monitor bills and amendments as they churn out in the next month please call if you have questions about issues raised in this report.