

January 16, 2018

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-4182-P
P.O. Box 8013
Baltimore, MD 21244-8013

Re: Medicare Program; Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program

Dear Administrator Verma:

I am writing on behalf of Delta Dental Plans Association (Delta Dental) in response to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) notice of proposed rulemaking, entitled the "Medicare Program; Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program" (NPRM), published in the Federal Register on November 28, 2017.

Across the nation, over 75 million Americans trust Delta Dental and our 39 member companies to ensure they have access to the oral health care they need. Delta Dental has been an active participant in the Medicare Advantage (MA) program and currently provides supplemental dental coverage to nearly one million beneficiaries covered under MA plans.

Summary of Specific Proposal

Under current regulation, beginning January 1, 2019, dentists providing supplemental dental services to Medicare Part C beneficiaries or prescribing medications to Medicare Part D beneficiaries must enroll as Medicare providers using the CMS Form 855i Medicare Enrollment Application for Physicians and Non-Physician Practitioners. 42 C.F.R. § 422.222. In place of this approach, the NPRM proposes a "preclusion list" for Medicare Parts C and D under which CMS would deny payments to providers that fall within either of the following categories:

- The provider is currently revoked from Medicare, is under a reenrollment bar, and CMS has determined that the underlying conduct that led to the revocation is detrimental to the best interests of the Medicare program;
- The provider has engaged in behavior for which CMS could have revoked the provider had it been enrolled in Medicare, and CMS has determined that the underlying conduct that would have led to the revocation is detrimental to the best interests of the Medicare program.

Comments

Delta Dental strongly supports the NPRM because it improves beneficiaries' access to dentists in MA networks. The current regulatory policy makes it difficult for dental plans to recruit dentists for MA supplemental plans since it requires them to fully enroll in Medicare. Dentists have not traditionally enrolled in Medicare because dental benefits are explicitly excluded by the program. Further, the numerous burdensome administrative requirements, including onsite audits and duplicative paperwork, have apparently kept many dentists from enrolling in the Medicare program.

The NPRM's proposal of a monthly preclusion list should protect the integrity of the Medicare program while removing the current onerous enrollment requirement. Under the NPRM, dental plans will be able to more

easily recruit dentists and grow their MA supplemental dental plan networks. Additionally, older Americans stand to gain much under this proposal because they will be able to obtain access to a larger number of dentists.

We do have some concern that Medicare Advantage Organizations (MAOs) may contractually continue to require dental plans, as First Tier, Downstream, and Related Entities, to impose on dentists the current, more onerous administrative Medicare requirements. We have a related concern that different MAOs may impose different requirements, leading to confusion and unnecessary administrative burdens for dental plans and dentists. If these things occur, they will discourage dentists from participating in MA networks and largely defeat the purpose of the proposed NPRM. We stand ready to work with CMS and other stakeholders to find an agreeable solution, should these issues arise.

Thank you for the opportunity to comment on the NPRM. We are available to provide additional information, in writing or through discussion, on ways to strengthen oral health care in the MA program. Delta Dental looks forward to the publication of the final rule.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason Daughn', with a stylized flourish at the end.

Jason Daughn
Vice President, Government Relations