



October 11, 2010

Department of Managed Health Care  
Office of Legal Services  
Attention: Regulations Coordinator  
980 9th St, Suite 500  
Sacramento, California 95814  
Sent via Email: regulations@dmhc.ca.gov

Re: Discount Health Plans – Second Comment Period; Proposed Adoption of Article 2.5 and Amendment of Article 3 in Title 28, California Code of Regulations; Control No. 2001-0024

Dear Sir or Madam:

The National Association of Dental Plans (NADP) would like to comment on the proposed discount regulations re-released by the Department of Managed Health Care on August 6, 2010. Discount dental plans have been part of the dental benefits industry for the past 20 years, and now serve more Americans than the traditional dental HMO. In the past six years, NADP has promoted policy standards within the dental discount arena and worked with plans and government officials on best practices for the industry.

NADP forwarded comments on the same discount regulations in February 22, 2010. We encourage the Department to reevaluate NADP's earlier recommendations (attached) and consider implementing them into the pending discount regulations. As health care reform significantly impacts the dental industry in the small group and individual market, there is likely to be an increase of requests for low cost alternatives to traditional dental insurance, and discount dental plans aptly fill that need.

While our recommendations are attached, NADP would like to take this opportunity to highlight some grave concerns, including:

- Transparency to the consumer is critical. Requiring recognized carriers to rebrand their discount product under an unaffiliated name is dishonest to the consumer and not a fair business practice to the carrier. As requested in the regulations, all marketing materials must clearly state the discount product is "not insurance." Carriers have established a relationship and a brand name with their existing members; to force carriers not to utilize their company's name if they choose to offer a discount product or sell a discount product in California which they offer in other states under their name, will be extremely confusing to consumers as well as costly to the carrier.

OFFICERS & DIRECTORS

**Chairman**

BRUCE R. HENTSCHEL,  
CLU, FLMI, HIA, ALHC  
Principal Financial Group  
Des Moines, IA

**Vice Chair**

KAREN M. GUSTIN, LLIF  
Ameritas Life  
Insurance Corp.  
Lincoln, NE

**Secretary**

DOYLE C. WILLIAMS, DDS  
DentaQuest  
Boston, MA

**Treasurer**

BRENT WILLIAMS  
Dental Select  
Salt Lake City, UT

JEFF ALBUM  
Delta Dental of  
CA, NY, PA & Affiliates  
San Francisco, CA

JULIA BAKER  
Ameriplan Corp.  
Plano, TX

FORREST FLINT  
HealthPartners  
Minneapolis, MN

JEANNE HENSEL  
Humana Specialty Benefits  
Insurance Co.  
Green Bay, WI

JIM KNOX  
Citizens Security  
Life Insurance Co.  
Louisville, KY

**Executive Director**

EVELYN F. IRELAND, CAE  
National Association  
of Dental Plans  
Dallas, TX

**National Association of Dental Plans**

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]



- Discount plans are able to provide a low cost product because risk, claims, underwriting and other similar tasks are not required. To insert burdensome regulations that do not offer additional consumer protection adds expenses discount plans would no longer be able to meet. Requirements such as the pro-rated refund and the geographic accessibility standards are such examples. Extending a refund for 12 months allows consumers to utilize a discount from their discount plan, and then request a refund before the year ends; as many dental services can be scheduled at the customer's convenience, costs will need to be increased. Consumers have 30 days to decide if they want to exit a dental product and can always file a grievance during the remaining year. Similar refund policies are operating in many other states with discount regulations without consumer complaints.
- Discount products should be able to be offered in conjunction with other types of health coverage. Consumers and employers may want to purchase a discount product as an add-on benefit, and there should be no reason to deter this option; any consumer confusion will be negated by the marketing restrictions all plans must abide by. As well, the Department should allow California licensed insurance and managed care carriers to follow the same procedures they currently use to offer an insurance product when applying to offer a new discount product. Otherwise, both the state and the carrier will be duplicating their efforts and expenses.

NADP greatly appreciates this opportunity to share our concerns with the Department and have attached our earlier comments with recommendations as well. NADP is extremely grateful of the efforts made by the DMHC and fully supports regulating discount plans; however, as we have seen in many states, and via the NAIC Discount Model Act, this can be achieved with complete consumer protections and without burdensome regulations. NADP looks forward to answering any questions you may have.

Sincerely,



Kris Hathaway, Director of Government Relations  
National Association of Dental Plans  
Ph 972-458-6998x111, khathaway@nadp.org

National Association of Dental Plans

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]





February 22, 2010

Department of Managed Health Care  
Office of Legal Services  
Attention: Regulations Coordinator  
980 9th St, Suite 500  
Sacramento, California 95814  
Sent via Email: regulations@dmhc.ca.gov

Re: Discount Health Plans – Proposed Regulations (2001-0024)

Dear Sir or Madam;

The National Association of Dental Plans (NADP) would like to comment on the proposed discount regulations released by the Department of Managed Health Care in January 2010. Discount dental plans have been part of the dental benefits industry for the past 20 years. In the past six years NADP has promoted policy standards within the dental discount arena and worked with plans and government officials on best practices for the industry.

NADP is the largest non-profit trade association focused exclusively on the dental benefits industry, i.e. dental HMOs, dental PPOs, discount dental plans and dental indemnity products. NADP's member dental plans provide dental coverage to 152 of the 173 million Americans with dental benefits, including over 12 million California residents. Our members include major commercial carriers, regional and single state companies, as well as companies organized as non-profit plans.

NADP has testified in previous hearings held by the DMHC regarding discount plans, and have encouraged the department to consider the National Association of Insurance Commissioners' (NAIC) Discount Medical Plan Organization (DMPO) Model Act while drafting the current regulations. NADP's 11 recommendations are below, and would encourage the DMHC to also review comments by the California Association of Dental Plans for additional recommendations, which we highly support. Californians can remain protected from illegitimate companies without some of the burdensome policies outlined by the DMHC, allowing residents to receive additional affordable choices for their oral health care.

OFFICERS & DIRECTORS

**Chairman**

BRUCE R. HENTSCHEL,  
CLU, FLMI, HIA, ALHC  
Principal Financial Group  
Des Moines, IA

**Vice Chair**

KAREN M. GUSTIN, LLIF  
Ameritas Life  
Insurance Corp.  
Lincoln, NE

**Secretary**

DOYLE C. WILLIAMS, DDS  
DentaQuest  
Boston, MA

**Treasurer**

BRENT WILLIAMS  
Dental Select  
Salt Lake City, UT

JEFF ALBUM  
Delta Dental of  
CA, NY, PA & Affiliates  
San Francisco, CA

JULIA BAKER  
Ameriplan Corp.  
Plano, TX

FORREST FLINT  
HealthPartners  
Minneapolis, MN

JEANNE HENSEL  
Humana Specialty Benefits  
Insurance Co.  
Green Bay, WI

JIM KNOX  
Citizens Security  
Life Insurance Co.  
Louisville, KY

**Executive Director**  
EVELYN F. IRELAND, CAE  
National Association  
of Dental Plans  
Dallas, TX

**National Association of Dental Plans**

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]



### Recommendation #1

#### Section 1300.49.1.2(c) Licensing:

Section 2 (c)(2)(A&B) requires that trade names not be used to identify a discount program. Unfortunately this regulation goes against the very grain of keeping the identification of the discount program clear to consumers as stated in 2(c). All marketing and advertising materials must clearly state that the discount policy is not insurance, making it clear to consumers exactly what type of program they are purchasing. Not one of the other 24 states currently regulating discount plans have similar legislation, and to our knowledge, this has not been an issue or complaint from the general public.

- NADP recommends deleting both A and B from this section.

### Recommendation #2

#### Section 1300.49.1.3(c)(3) Marketing of Discount Health Plan Contracts:

Section 3 under (c) requires the audio recording of solicitors marketing to potential subscribers. This mandate would prohibit sales by individuals from cost alone, which is a key component to many discount plans; making availability extremely limited to California residents. Audio recording of sales is not required by Knox Keene licensed plans, nor of any discount or insurance plan licensed in any state.

- NADP would recommend deleting this section in its entirety.

### Recommendation #3

#### Section 1300.49.1.3(e) Marketing of Discount Health Plan Contracts:

This section requires the 'ethical obligations of a solicitor', and while NADP absolutely agrees with this requirement, the term 'ethical' is not defined. Specifications of the term would be helpful for plans to make sure they abide by all requirements from the DMHC.

### Recommendation #4

#### Section 1300.49.1.4(b)(1)(A) Requirements Regarding Discount/Demonstrating Bona Fide Discounts:

A requirement to illustrate a 'bona fide discount' is the charge must be equal or less than the Medicare Fee Schedule. At this time, there are no dental services listed under this fee schedule, and not all dentists may take part in Medicare if dental procedures were to be included in the Medicare Fee Schedule.

- NADP recommends this section be deleted or specialized procedures be exempted until dental codes are included, and then at such a time this section can be reevaluated.

### Recommendation #5

#### Section 1300.49.1.4(b)(1)(B)(ii) Requirements Regarding Discount/Demonstrating Bona Fide Discounts:

This section requires plans to ensure a 20% discount on services off of the provider's billed charges. While the majority of discounts offered by discount plans are 20% and lower, there may be a few specific services that do not reach the 20% threshold. NADP discussed specific discounts with their members, and 15% was the threshold.

- NADP would recommend a compromise for all services to remain under a 15% level, or allow the discount to be for a category of services, not specifically per code.



## Recommendation #6

### Section 1300.49.1.5(a)(4) Availability and Accessibility of Discounted Provider Services:

Section a (4) requires the geographic accessibility standards of Knox Keene plans be required of discount plans. Knox Keene plans consist mainly of 'closed panels' which have higher administrative costs to manage and more stringent geographic standards than non Knox Keene licensed plans. Such standards should not be applicable to discount plans as consumers will have an updated provider directory accessible to them at all time.

- NADP recommends this section be deleted or exempt dental and vision discount plans from this specific regulation.

## Recommendation #7

### Section 1300.49.1.5(b) Availability and Accessibility of Discounted Provider Services:

Section 5 (b) requires plans to have a sufficiently staffed call center to ensure all calls are answered in less than 5 minutes by a live person.

- NADP recommends the call wait time to parallel the DMHC's Timely Access regulations, at 10 minutes.

## Recommendation #8

### Section 1300.49.1.6(b) Grievance Systems:

Section b mandates quarterly reports of all complaints and grievances; while compiling this data should be available if requested by the DMHC, a summary should be reasonable to file for the DMHC.

- NADP recommends altering this regulation to allow for the summary of complaints and grievances. This modification would parallel what is required of Knox Keene licensed plans.

## Recommendation #9

### Section 1300.49.1.8(b) Language Assistance:

This section requires procedures to assess the linguistic needs of its enrollees which will add administrative costs to a lower priced discount product. Section (a), which precedes this requirement is the key for protecting consumers with limited English proficiency by requiring discount plans to provide free interpretation services.

- NADP recommends the deletion of this section, as the action will substantially increase administrative costs to discount plans while not adding consumer protection for LEPs which is guaranteed in Section a.

## Recommendation #10

### Section 1300.49.1.9(a) Financial and Administrative Requirements:

Section 9 (a) requires discount plans to pay the same fees as specialized plans under the Knox Keene Act; these costs vary, and could reach upwards to \$10,000. Discount plans are less expensive than insurers because they do not assume risk, they do not pay claims, they simply offer discounts on specific dental services. As such, discount plans should not be expected to pay the same as licensed dental managed care plans; the difference of revenues generated are not comparable. Almost half the states have passed legislation and are regulating discount plans - the annual license fee averages between \$250 - \$500, and there are a few states that cost up to a \$1000. NADP recognizes the DMHC would spend additional time and revenue on regulating discount plans, however to charge insurers fees is not appropriate for this line of business and moderation is necessary to keep the discount option as a viable low cost oral health care alternative.

- NADP recommends the costs to the DMHC be reevaluated and a different formula or pay structure be included in these regulations that are more moderate.

National Association of Dental Plans

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]

Recommendation #11

Section 1300.49.1.10(c) Subscriber and Enrollee Disclosure Forms:

This section requires discount plans to provide the percentage of discount offered on each service, which becomes extremely burdensome to the plan as well as to the consumer due to the small differences which may be part of many provider contracts.

- NADP recommends a modification to this section so that a 'range' of discounts is deemed as acceptable in the regulations.

NADP greatly appreciates this opportunity to share our recommendations to the DMHC on their recent draft discount regulations and agree that all appropriate steps should be taken to provide comprehensive consumer protection to California residents. Utilizing major changes as recommended by NADP and CADP will allow discount dental plans to have a better opportunity to offer cost effective dental programs that can be beneficial to the citizens of California.

NADP would be happy to share our research and knowledge with the DMHC, and look forward to answering any questions you may have.

Sincerely,



Kris Hathaway, Director of Government Relations  
National Association of Dental Plans  
Ph 972-458-6998x111, khathaway@nadp.org

National Association of Dental Plans

12700 Park Central Drive • Suite 400 • Dallas, Texas 75251

972.458.6998 • 972.458.2258 [fax]

