



April 5, 2018

Colorado Department of Regulatory Agencies
Division of Insurance
1560 Broadway, Suite 850
Denver, CO 80202

The National Association of Dental Plans (NADP) submits the following comments regarding proposed rule 4-2-17: Prompt Investigation of Health Claims Involving Utilization Review and Denial of Benefits and Rules Related to Internal Claims and Appeals Processes.

We have concerns about multiple provisions of the proposed rule, which would amend existing utilization review requirements by making changes to the minimum standards and processes for handling claims appeals.

First, sections 11 and 12 of the rule would require carriers to create additional procedures for claim review. These sections would require carriers to:

- a) provide covered persons new or additional evidence used by the carrier in connection with the claim sufficiently in advance of the date on which the notice of the final adverse benefit determination (ABD) is required; and
- b) provide covered persons reasonable opportunity to respond if the ABD is based on a new or additional rationale.

This would impose an administrative burden on carriers by complicating existing workflows with no benefit to enrollees. By requiring carriers to provide ABD rationales before issuing the ABD, the rule would force carriers to delay claim payment and communication with the covered person. In addition, the “reasonable opportunity” time requirement is ambiguous. This requirement provides no concrete guidance for carriers and could create confusion in the workflow of the appeals process.

Additional processes would then be required to:

- a) Determine whether an ABD will be issued;
- b) Send communication to the covered person that the ABD will be issued;
- c) Delay the claim for an undefined time to allow time for the covered person to respond; and
- d) Release the claim after such time with a final ABD or review the claim again with new information provided by the covered person or the provider.

For carriers that have a voluntary second level of appeal, this requirement is duplicative. Enrollees in these situations already have another chance to appeal the claim decision. It

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would therefore be more appropriate to make the provisions of Subsection (G)(5) applicable only to carriers that do not have a voluntary second level of appeal.

Second, Section 6(A) would require that in the English version of all notices, a statement must be displayed in any applicable non-English language indicating how to access the language services provided by the carrier, and that the carrier shall, upon request, provide a notice in any applicable non-English language (defined as a non-English language that 10% or more of the population residing in the county is literate in), and allow the covered person the option of electing to receive all subsequent notices in the requested applicable non-English language. This requirement would add significant cost to each notice, and the 10% threshold could include many languages, which would create additional translation costs.

Third, Section 7(E)(4) of the proposed rule would eliminate the existing exemption for a licensed dentist's signature on retrospective reviews under the standard utilization review process. Removing this exemption would unnecessarily slow down the claims adjudication process. We recommend preserving the exemption as it currently exists.

Finally, all of the elements of the proposed regulation discussed above may be an effort to comply with existing federal regulations promulgated as part of the Affordable Care Act, namely 45 CFR 147.136 and 29 CFR 2590.715-2719. It is important to note that these federal regulations do not currently apply to stand-alone dental plans (SADPs). The proposed regulation would therefore do more than simply align state and federal regulations; it imposes significant new burdens on SADPs and creates additional costs and complexities where they do not currently exist.

In sum, the proposed rule would create unintended consequences that should be carefully considered and resolved before a final rule is promulgated. NADP appreciates the opportunity to share our views, and we are available to answer questions or provide additional information. Thank you again for your attention to this important matter.

Sincerely,



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NADP Description: NADP is the largest non-profit trade association focused exclusively on the dental benefits industry. NADP's members provide dental HMO, dental PPO, dental Indemnity and discount dental products to more than 195 million Americans with dental benefits. Our members include the entire spectrum of dental carriers: companies that provide both medical and dental coverage, companies that provide only dental coverage, major national carriers, regional, and single state companies, as well as companies organized as non-profit plan

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