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§1 - C.17:48C-8.3
§2 - C.17:48D-9.6
§3 - C.17:48E-10.2
§4 - Note

P.L. 2003, CHAPTER 250, *approved January 14, 2004*
Senate, No. 1409 (*Third Reprint*)

1 AN ACT concerning the ²[assignment] collection² of dental benefits
2 and supplementing P.L.1968, c.305 (C.17:48C-1 et seq.), P.L.1979,
3 c.478 (C.17:48D-1 et seq.) ²[and] ³[²] and³ P.L.1985, c.236
4 (C.17:48E-1 et seq.) ³[²and chapter 20 of Title 2C of the Revised
5 Statutes²]³.

6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9

10 ²[1. a. (1) Every contract that is delivered, issued, executed or
11 renewed in this State pursuant to P.L.1968, c.305 (C.17:48C-1 et
12 seq.), or approved for issuance or renewal in this State by the
13 Commissioner of Banking and Insurance on or after the effective date
14 of this act that provides for out-of-network benefits, shall provide that
15 in the event a person covered under the contract uses an out-of-
16 network dentist, the person may assign reimbursement for dental
17 services directly to the dentist providing those services.

18 (2) A dentist who accepts assignment of reimbursement for dental
19 services pursuant to paragraph (1) of this subsection shall:

20 (a) charge no more for those services than the dentist would charge
21 an uninsured patient for the same services¹ [, and];¹

22 (b) ¹obtain written authorization of the assignment of
23 reimbursement directly to the dentist from the person covered under
24 the contract, which written authorization shall include a separate
25 notice, in 12-point bold type, that the person shall be responsible for
26 any charges that exceed the reimbursement amount paid to the out-of-
27 network dentist, and certify receipt of the authorization when
28 submitting a claim for that reimbursement; and

29 (c)¹ forward to the dental service corporation the pertinent records
30 of those patients from whom the dentist has accepted assignment of
31 reimbursement, in accordance with regulations adopted by the
32 Commissioner of Banking and Insurance, as required by the dental
33 service corporation to confirm the accuracy of claim submissions.

34 b. Any dental service corporation making a payment to a covered
35 person, after the rights of reimbursement have been assigned to the
36 dentist, shall be liable to the dentist for the payment, and the payment,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted May 9, 2002.

² Senate floor amendments adopted June 16, 2003.

³ Assembly floor amendments adopted June 30, 2003.

1 plus interest and reasonable attorney's fees, may be recovered in a
2 court of competent jurisdiction.

3 c. The provisions of this section shall apply to all contracts in
4 which the dental service corporation has reserved the right to change
5 the premium.

6 d. A dental service corporation shall be exempt from the provisions
7 of this section if the Commissioner of Banking and Insurance
8 determines, following a hearing that is conducted in accordance with
9 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), that the number of dentists participating in the dental service
11 corporation network has decreased by at least 12.5% subsequent to
12 the enactment of this act.

13 e. The Commissioner of Banking and Insurance, pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.), shall adopt rules and regulations to effectuate the purposes of
16 this section.]²

17

18 ²[2. a. (1) Every contract that is delivered, issued, executed or
19 renewed in this State pursuant to P.L.1979, c.478 (C.17:48D-1 et
20 seq.), or approved for issuance or renewal in this State by the
21 Commissioner of Banking and Insurance on or after the effective date
22 of this act that provides for out-of-network benefits, shall provide that
23 in the event an enrollee under the contract uses an out-of-network
24 dentist, the enrollee may assign reimbursement for dental services
25 directly to the dentist providing those services.

26 (2) A dentist who accepts assignment of reimbursement for dental
27 services pursuant to paragraph (1) of this subsection shall:

28 (a) charge no more for those services than the dentist would charge
29 an uninsured patient for the same services¹ [, and];¹

30 (b) ¹obtain written authorization of the assignment of
31 reimbursement directly to the dentist from the person covered under
32 the contract, which written authorization shall include a separate
33 notice, in 12-point bold type, that the person shall be responsible for
34 any charges that exceed the reimbursement amount paid to the out-of-
35 network dentist, and certify receipt of the authorization when
36 submitting a claim for that reimbursement; and

37 (c)¹ forward to the dental plan organization the pertinent records
38 of those patients from whom the dentist has accepted assignment of
39 reimbursement, in accordance with regulations adopted by the
40 Commissioner of Banking and Insurance, as required by the dental
41 plan organization to confirm the accuracy of claim submissions.

42 b. Any dental plan organization making a payment to an enrollee,
43 after the rights of reimbursement have been assigned to the dentist,
44 shall be liable to the dentist for the payment, and the payment, plus
45 interest and reasonable attorney's fees, may be recovered in a court of
46 competent jurisdiction.

1 c. The provisions of this section shall apply to all contracts in
2 which the dental plan organization has reserved the right to change the
3 premium.

4 d. A dental plan organization shall be exempt from the provisions
5 of this section if the Commissioner of Banking and Insurance
6 determines, following a hearing that is conducted in accordance with
7 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), that the number of dentists participating in the dental plan
9 organization network has decreased by at least 12.5% subsequent to
10 the enactment of this act.

11 e. The Commissioner of Banking and Insurance, pursuant to the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.), shall adopt rules and regulations to effectuate the purposes of
14 this section.]²

15
16 ²[3. a. (1) Every contract that is delivered, issued, executed or
17 renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et
18 seq.), or approved for issuance or renewal in this State by the
19 Commissioner of Banking and Insurance on or after the effective date
20 of this act that provides for out-of-network benefits, shall provide that
21 in the event a person covered under the contract uses an out-of-
22 network dentist, the person may assign reimbursement for dental
23 services directly to the dentist providing those services.

24 (2) A dentist who accepts assignment of reimbursement for dental
25 services pursuant to paragraph (1) of this subsection shall:

26 (a) charge no more for those services than the dentist would charge
27 an uninsured patient for the same services¹ [, and];¹

28 (b) ¹obtain written authorization of the assignment of
29 reimbursement directly to the dentist from the person covered under
30 the contract, which written authorization shall include a separate
31 notice, in 12-point bold type, that the person shall be responsible for
32 any charges that exceed the reimbursement amount paid to the out-of-
33 network dentist, and certify receipt of the authorization when
34 submitting a claim for that reimbursement; and

35 (c)¹ forward to the health service corporation the pertinent records
36 of those patients from whom the dentist has accepted assignment of
37 reimbursement, in accordance with regulations adopted by the
38 Commissioner of Banking and Insurance, as required by the health
39 service corporation to confirm the accuracy of claim submissions.

40 b. Any health service corporation making a payment to a covered
41 person, after the rights of reimbursement have been assigned to the
42 dentist, shall be liable to the dentist for the payment, and the payment,
43 plus interest and reasonable attorney's fees, may be recovered in a
44 court of competent jurisdiction.

45 c. The provisions of this section shall apply to all contracts in
46 which the health service corporation has reserved the right to change

1 the premium.

2 d. A health service corporation shall be exempt from the provisions
3 of this section if the Commissioner of Banking and Insurance
4 determines, following a hearing that is conducted in accordance with
5 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), that the number of dentists participating in the health service
7 corporation network has decreased by at least 12.5% subsequent to
8 the enactment of this act.

9 e. The Commissioner of Banking and Insurance, pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), shall adopt rules and regulations to effectuate the purposes of
12 this section.]]²

13

14 ²1. a. (1) A dental service corporation that makes a dental benefit
15 payment to a covered person for services rendered by an out-of-
16 network dentist shall issue the payment to the covered person in
17 accordance with the time frames set forth in section 8 of P.L.1999,
18 c.154 (C.17:48C-8.1), and shall, within three days of issuing the
19 payment, provide a notification to the out-of-network dentist of the
20 amount and date of the payment and the services for which the
21 payment was made.

22 (2) In the case of a dental service corporation that supplies an
23 administrative services only contract and makes a dental benefit
24 payment to a covered person for services rendered by an out-of-
25 network dentist under that contract, paragraph (1) of this subsection
26 shall not apply, but the dental service corporation shall, within three
27 days of issuing the payment, provide a notification to the out-of-
28 network dentist of the amount and date of the payment.

29 b. A covered person may enter into an agreement with an out-of-
30 network dentist to sign over the dental benefit payment received from
31 the dental service corporation to the dentist. The agreement shall:

32 (1) be in writing;

33 (2) be signed by the person who is entitled to receive the dental
34 benefit payment from the dental service corporation;

35 (3) be retained by the dentist for at least six years following the
36 date of the most recent payment from the covered person; and

37 (4) give the covered person at least 10 business days within which
38 to sign over the dental benefit to the dentist.

39 c. A covered person who agrees to sign over a dental benefit
40 payment in accordance with this section, shall comply with the terms
41 of the agreement; except that, if the covered person owes the out-of-
42 network dentist less than the amount of the dental benefit payment, the
43 covered person shall pay the dentist the balance owed to the dentist.

44 d. A covered person who fails to sign over the dental benefit
45 payment in accordance with this section, shall be liable to the out-of-
46 network dentist for payment of attorney fees and costs reasonably

1 incurred by the dentist in enforcing the agreement established pursuant
2 to this section.

3 ³[e. A covered person who purposely or knowingly, and without
4 the treating out-of-network dentist's authorization, fails to sign over
5 a dental benefit payment within 30 days of the person's receipt of the
6 payment, in violation of an agreement entered into in accordance with
7 this section, is guilty of theft of dental benefit proceeds pursuant to
8 section 4 of P.L. , c. (C.)(pending before the Legislature as
9 this bill).²]³

10
11 ²a. (1) A dental plan organization that makes a dental benefit
12 payment to an enrollee for services rendered by an out-of-network
13 dentist shall issue the payment to the enrollee in accordance with the
14 time frames set forth in section 9 of P.L.1999, c.154 (C.17:48D-9.4),
15 and shall, within three days of issuing the payment, provide a
16 notification to the out-of-network dentist of the amount and date of
17 the payment and the services for which the payment was made.

18 (2) In the case of a dental plan organization that supplies an
19 administrative services only contract and makes a dental benefit
20 payment to an enrollee for services rendered by an out-of-network
21 dentist under that contract, paragraph (1) of this subsection shall not
22 apply, but the dental plan organization shall, within three days of
23 issuing the payment, provide a notification to the out-of-network
24 dentist of the amount and date of the payment.

25 b. An enrollee may enter into an agreement with an out-of-network
26 dentist to sign over the dental benefit payment received from the
27 dental plan organization to the dentist. The agreement shall:

28 (1) be in writing;

29 (2) be signed by the person who is entitled to receive the dental
30 benefit payment from the dental plan organization;

31 (3) be retained by the dentist for at least six years following the
32 date of the most recent payment from the enrollee; and

33 (4) give the enrollee at least 10 business days within which to sign
34 over the dental benefit to the dentist.

35 c. An enrollee who agrees to sign over a dental benefit payment in
36 accordance with this section, shall comply with the terms of the
37 agreement; except that, if the enrollee owes the out-of-network dentist
38 less than the amount of the dental benefit payment, the enrollee shall
39 pay the dentist the balance owed to the dentist.

40 d. An enrollee who fails to sign over the dental benefit payment in
41 accordance with this section, shall be liable to the out-of-network
42 dentist for payment of attorney fees and costs reasonably incurred by
43 the dentist in enforcing the agreement established pursuant to this
44 section.

45 ³[e. An enrollee who purposely or knowingly, and without the
46 treating out-of-network dentist's authorization, fails to sign over a

1 dental benefit payment within 30 days of the enrollee's receipt of the
2 payment, in violation of an agreement entered into in accordance with
3 this section, is guilty of theft of dental benefit proceeds pursuant to
4 section 4 of P.L. , c. (C.)(pending before the Legislature as
5 this bill).^{2]}³

6
7 ²3. a. (1) A health service corporation that makes a dental benefit
8 payment to a covered person for services rendered by an out-of-
9 network dentist shall issue the payment to the covered person in
10 accordance with the time frames set forth in section 4 of P.L.1999,
11 c.154 (C.17:48E-10.1), and shall, within three days of issuing the
12 payment, provide a notification to the out-of-network dentist of the
13 amount and date of the payment and the services for which the
14 payment was made.

15 (2) In the case of a health service corporation that supplies an
16 administrative services only contract and makes a dental benefit
17 payment to a covered person for services rendered by an out-of-
18 network dentist under that contract, paragraph (1) of this subsection
19 shall not apply, but the health service corporation shall, within three
20 days of issuing the payment, provide a notification to the out-of-
21 network dentist of the amount and date of the payment.

22 b. A covered person may enter into an agreement with an out-of-
23 network dentist to sign over the dental benefit payment received from
24 the health service corporation to the dentist. The agreement shall:

25 (1) be in writing;

26 (2) be signed by the person who is entitled to receive the dental
27 benefit payment from the health service corporation;

28 (3) be retained by the dentist for at least six years following the
29 date of the most recent payment from the covered person; and

30 (4) give the covered person at least 10 business days within which
31 to sign over the dental benefit to the dentist.

32 c. A covered person who agrees to sign over a dental benefit
33 payment in accordance with this section, shall comply with the terms
34 of the agreement; except that, if the covered person owes the out-of-
35 network dentist less than the amount of the dental benefit payment, the
36 covered person shall pay the dentist the balance owed to the dentist.

37 d. A covered person who fails to sign over the dental benefit
38 payment in accordance with this section, shall be liable to the out-of-
39 network dentist for payment of attorney fees and costs reasonably
40 incurred by the dentist in enforcing the agreement established pursuant
41 to this section.

42 ³[e. A covered person who purposely or knowingly, and without
43 the treating out-of-network dentist's authorization, fails to sign over
44 a dental benefit payment within 30 days of the person's receipt of the
45 payment, in violation of an agreement entered into in accordance with
46 this section, is guilty of theft of dental benefit proceeds pursuant to

1 section 4 of P.L. , c. (C.)(pending before the Legislature as this
2 bill).^{2]}³

3
4 ³[²4. A person is guilty of theft of dental benefit proceeds if the
5 person knowingly or purposely, and without the treating out-of-
6 network dentist's authorization, fails to sign over a dental benefit
7 payment within 30 days of the person's receipt of the payment as
8 provided in P.L. , c. (C.)(pending before the Legislature as this bill).

9 a. Theft of dental benefit proceeds constitutes a crime of the third
10 degree if the dental benefit proceeds total \$500 or more;

11 b. Theft of dental benefit proceeds constitutes a crime of the fourth
12 degree if the dental benefit proceeds total more than \$200, but less
13 than \$500; and

14 c. Theft of dental benefit proceeds constitutes a disorderly persons
15 offense if the dental benefit proceeds total less than \$200.^{2]}³

16
17 ²[4.] ³[^{5.}^{2]} 4.³ This act shall take effect on the ²[180th] ^{60th}²
18 day after enactment ²[and shall not apply to contracts written on an
19 administrative services only basis]².

20
21
22 _____
23
24 Provides procedures for payment to out-of-network dentists when
25 covered person receives payment directly from dental insurer.

SENATE, No. 1409

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MARCH 26, 2002

Sponsored by:

Senator JOHN J. MATHEUSSEN
District 4 (Camden and Gloucester)
Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)

Co-Sponsored by:

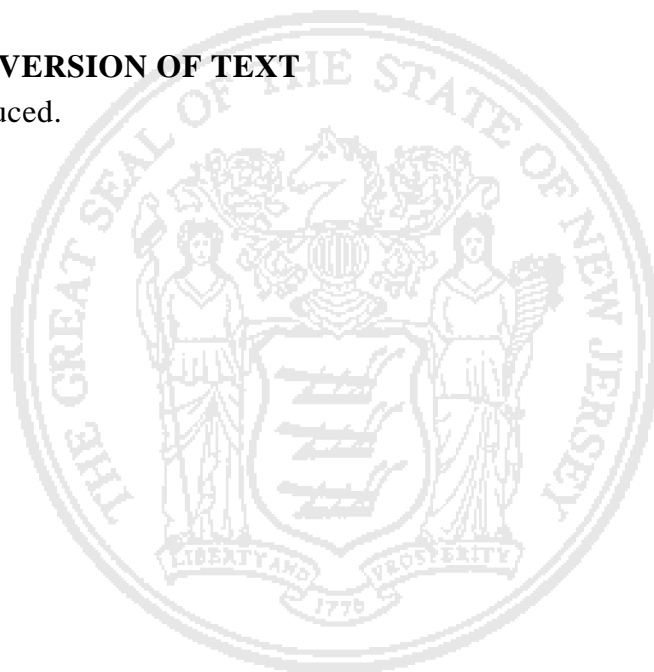
Senator Sweeney

SYNOPSIS

Allows covered persons with out-of-network benefits in dental and health service corporations and dental plan organization plans to assign dental benefits to dentists of choice.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/17/2002)

S1409 MATHEUSSEN, INVERSO

2

1 AN ACT concerning the assignment of dental benefits and
2 supplementing P.L.1968, c.305 (C.17:48C-1 et seq.), P.L.1979,
3 c.478 (C.17:48D-1 et seq.) and P.L.1985, c.236 (C.17:48E-1 et
4 seq.).

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. a. (1) Every contract that is delivered, issued, executed or
10 renewed in this State pursuant to P.L.1968, c.305 (C.17:48C-1 et
11 seq.), or approved for issuance or renewal in this State by the
12 Commissioner of Banking and Insurance on or after the effective date
13 of this act that provides for out-of-network benefits, shall provide that
14 in the event a person covered under the contract uses an out-of-
15 network dentist, the person may assign reimbursement for dental
16 services directly to the dentist providing those services.

17 (2) A dentist who accepts assignment of reimbursement for dental
18 services pursuant to paragraph (1) of this subsection shall:

19 (a) charge no more for those services than the dentist would charge
20 an uninsured patient for the same services, and

21 (b) forward to the dental service corporation the pertinent records
22 of those patients from whom the dentist has accepted assignment of
23 reimbursement, in accordance with regulations adopted by the
24 Commissioner of Banking and Insurance, as required by the dental
25 service corporation to confirm the accuracy of claim submissions.

26 b. Any dental service corporation making a payment to a covered
27 person, after the rights of reimbursement have been assigned to the
28 dentist, shall be liable to the dentist for the payment, and the payment,
29 plus interest and reasonable attorney's fees, may be recovered in a
30 court of competent jurisdiction.

31 c. The provisions of this section shall apply to all contracts in
32 which the dental service corporation has reserved the right to change
33 the premium.

34 d. A dental service corporation shall be exempt from the provisions
35 of this section if the Commissioner of Banking and Insurance
36 determines, following a hearing that is conducted in accordance with
37 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.), that the number of dentists participating in the dental service
39 corporation network has decreased by at least 12.5% subsequent to
40 the enactment of this act.

41 e. The Commissioner of Banking and Insurance, pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), shall adopt rules and regulations to effectuate the purposes of
44 this section.

45

46 2. a. (1) Every contract that is delivered, issued, executed or

1 renewed in this State pursuant to P.L.1979, c.478 (C.17:48D-1 et
2 seq.), or approved for issuance or renewal in this State by the
3 Commissioner of Banking and Insurance on or after the effective date
4 of this act that provides for out-of-network benefits, shall provide that
5 in the event an enrollee under the contract uses an out-of-network
6 dentist, the enrollee may assign reimbursement for dental services
7 directly to the dentist providing those services.

8 (2) A dentist who accepts assignment of reimbursement for dental
9 services pursuant to paragraph (1) of this subsection shall:

10 (a) charge no more for those services than the dentist would charge
11 an uninsured patient for the same services, and

12 (b) forward to the dental plan organization the pertinent records of
13 those patients from whom the dentist has accepted assignment of
14 reimbursement, in accordance with regulations adopted by the
15 Commissioner of Banking and Insurance, as required by the dental
16 plan organization to confirm the accuracy of claim submissions.

17 b. Any dental plan organization making a payment to an enrollee,
18 after the rights of reimbursement have been assigned to the dentist,
19 shall be liable to the dentist for the payment, and the payment, plus
20 interest and reasonable attorney's fees, may be recovered in a court of
21 competent jurisdiction.

22 c. The provisions of this section shall apply to all contracts in
23 which the dental plan organization has reserved the right to change the
24 premium.

25 d. A dental plan organization shall be exempt from the provisions
26 of this section if the Commissioner of Banking and Insurance
27 determines, following a hearing that is conducted in accordance with
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), that the number of dentists participating in the dental plan
30 organization network has decreased by at least 12.5% subsequent to
31 the enactment of this act.

32 e. The Commissioner of Banking and Insurance, pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.), shall adopt rules and regulations to effectuate the purposes of
35 this section.

36

37 3. a. (1) Every contract that is delivered, issued, executed or
38 renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et
39 seq.), or approved for issuance or renewal in this State by the
40 Commissioner of Banking and Insurance on or after the effective date
41 of this act that provides for out-of-network benefits, shall provide that
42 in the event a person covered under the contract uses an out-of-
43 network dentist, the person may assign reimbursement for dental
44 services directly to the dentist providing those services.

45 (2) A dentist who accepts assignment of reimbursement for dental
46 services pursuant to paragraph (1) of this subsection shall:

1 (a) charge no more for those services than the dentist would charge
2 an uninsured patient for the same services, and

3 (b) forward to the health service corporation the pertinent records
4 of those patients from whom the dentist has accepted assignment of
5 reimbursement, in accordance with regulations adopted by the
6 Commissioner of Banking and Insurance, as required by the health
7 service corporation to confirm the accuracy of claim submissions.

8 b. Any health service corporation making a payment to a covered
9 person, after the rights of reimbursement have been assigned to the
10 dentist, shall be liable to the dentist for the payment, and the payment,
11 plus interest and reasonable attorney's fees, may be recovered in a
12 court of competent jurisdiction.

13 c. The provisions of this section shall apply to all contracts in
14 which the health service corporation has reserved the right to change
15 the premium.

16 d. A health service corporation shall be exempt from the provisions
17 of this section if the Commissioner of Banking and Insurance
18 determines, following a hearing that is conducted in accordance with
19 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), that the number of dentists participating in the health service
21 corporation network has decreased by at least 12.5% subsequent to
22 the enactment of this act.

23 e. The Commissioner of Banking and Insurance, pursuant to the
24 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
25 seq.), shall adopt rules and regulations to effectuate the purposes of
26 this section.

27
28 4. This act shall take effect on the 180th day after enactment and
29 shall not apply to contracts written on an administrative services only
30 basis.

31
32
33 STATEMENT

34
35 This bill provides that a dental service corporation, dental plan
36 organization or health service corporation contract that provides for
37 out-of-network benefits, shall provide that in the event a person
38 covered under the contract uses an out-of-network dentist, the person
39 may assign reimbursement for dental services directly to the dentist
40 providing those services.

41 A dentist who accepts assignment of reimbursement for dental
42 services pursuant to this bill shall:

43 -- charge no more for those services than the dentist would charge
44 an uninsured patient for the same services, and

45 -- forward to the dental service corporation, dental plan
46 organization or health service corporation the pertinent records of

S1409 MATHEUSSEN, INVERSO

1 those patients from whom the dentist has accepted assignment of
2 reimbursement, in accordance with regulations adopted by the
3 Commissioner of Banking and Insurance, as required by the dental
4 service corporation, dental plan organization or health service
5 corporation to confirm the accuracy of claim submissions.

6 Any dental service corporation, dental plan organization or health
7 service corporation making a payment to a covered person, after the
8 rights of reimbursement have been assigned to the dentist, shall be
9 liable to the dentist for the payment, and the payment, plus interest and
10 reasonable attorney's fees, may be recovered in a court of competent
11 jurisdiction.

12 The provisions of this bill shall apply to all contracts in which the
13 dental service corporation, dental plan organization or health service
14 corporation has reserved the right to change the premium.

15 The bill exempts a dental service corporation, dental plan
16 organization or health service corporation from its provisions if the
17 Commissioner of Banking and Insurance determines, following a
18 hearing that is conducted in accordance with the "Administrative
19 Procedure Act," (N.J.S.A.52:14B-1 et seq.), that the number of
20 dentists participating in the dental service corporation, dental plan
21 organization or health service corporation network has decreased by
22 at least 12.5% subsequent to the enactment of the bill.

23 The bill takes effect on the 180th day after enactment and shall not
24 apply to contracts written on an administrative services only basis.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1409

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 9, 2002

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1409.

As amended by committee, this bill provides that a dental service corporation, dental plan organization or health service corporation contract that provides for out-of-network benefits, shall provide that in the event a person covered under the contract uses an out-of-network dentist, the person may assign reimbursement for dental services directly to the dentist providing those services.

A dentist who accepts assignment of reimbursement for dental services pursuant to this bill shall:

-- charge no more for those services than the dentist would charge an uninsured patient for the same services;

-- obtain written authorization of the assignment of reimbursement directly to the dentist from the person covered under the contract, which written authorization shall include a separate notice, in 12-point bold type, that the person shall be responsible for any charges that exceed the reimbursement amount paid to the out-of-network dentist, and certify receipt of the authorization when submitting a claim for that reimbursement; and

-- forward to the dental service corporation, dental plan organization or health service corporation the pertinent records of those patients from whom the dentist has accepted assignment of reimbursement, in accordance with regulations adopted by the Commissioner of Banking and Insurance, as required by the dental service corporation, dental plan organization or health service corporation to confirm the accuracy of claim submissions.

Any dental service corporation, dental plan organization or health service corporation making a payment to a covered person, after the rights of reimbursement have been assigned to the dentist, shall be liable to the dentist for the payment, and the payment, plus interest and reasonable attorney's fees, may be recovered in a court of competent jurisdiction.

The provisions of this bill shall apply to all contracts in which the dental service corporation, dental plan organization or health service corporation has reserved the right to change the premium.

The bill exempts a dental service corporation, dental plan organization or health service corporation from its provisions if the Commissioner of Banking and Insurance determines, following a hearing that is conducted in accordance with the "Administrative Procedure Act," (N.J.S.A.52:14B-1 et seq.), that the number of dentists participating in the dental service corporation, dental plan organization or health service corporation network has decreased by at least 12.5% subsequent to the enactment of the bill.

The bill takes effect on the 180th day after enactment and shall not apply to contracts written on an administrative services only basis.

The committee amended the bill to add the requirement that the out-of-network dentist who accepts assignment shall obtain written authorization of the assignment of reimbursement from the covered person, which written authorization shall include a separate notice, in 12-point bold type, that the person shall be responsible for any charges that exceed the reimbursement amount paid to the dentist as assigned by the covered person, and so certify when submitting a claim for that reimbursement.

This bill is identical to Assembly Bill No. 1897 ACA (Weinberg/Quigley), which was reported by the Assembly Banking and Insurance Committee on this date.

STATEMENT TO

[First Reprint]

SENATE, No. 1409

with Senate Floor Amendments
(Proposed By Senator INVERSO)

ADOPTED: JUNE 16, 2003

These amendments delete the provisions of the bill regarding assignment of dental benefits to out-of-network dentists and provide, instead, that:

- C a dental insurer (dental service corporation, dental plan organization and health service corporation) that makes a dental benefit payment to a covered person for services rendered by an out-of-network dentist shall, under an insured contract, issue the payment to the covered person in accordance with the prompt pay time frames set forth in P.L.1999, c.154 and shall, within three days of issuing the payment, provide a notification to the out-of-network dentist of the amount and date of the payment and the services for which the payment was made;
- C in the case of a dental insurer that supplies an administrative services only contract, the insurer shall, within three days of issuing the payment, provide a notification to the out-of-network dentist of the amount and date of the payment;
- C a covered person may enter into an agreement with an out-of-network dentist to sign over the payment received from the insurer to the dentist. The agreement shall: (1) be in writing; (2) be signed by the person who is entitled to receive the dental benefit payment from the insurer; (3) be retained by the dentist for at least six years following the date of the most recent payment from the covered person; and (4) give the covered person at least 10 business days within which to sign over the dental benefit to the dentist;
- C a covered person who agrees to sign over a dental benefit payment, shall comply with the terms of the agreement; except that, if the covered person owes the out-of-network dentist less than the amount of the dental benefit payment, the covered person shall pay the dentist the balance owed to the dentist;
- C a covered person who fails to sign over the dental benefit payment after signing an agreement, shall be liable to the out-of-network dentist for payment of attorney fees and costs reasonably incurred by the dentist in enforcing the agreement;
- C a covered person who purposely or knowingly, and without the treating dentist's authorization, fails to sign over a dental benefit payment within 30 days of the person's receipt of the payment, in

violation of an agreement, is guilty of theft of dental benefit proceeds; and

- C Theft of dental benefit proceeds constitutes a crime of the third degree if the dental benefit proceeds total \$500 or more; a crime of the fourth degree if the dental benefit proceeds total more than \$200, but less than \$500; and a disorderly persons offense if the dental benefit proceeds total less than \$200.

STATEMENT TO
[Second Reprint]
SENATE, No. 1409

with Assembly Floor Amendments
(Proposed By Assemblywoman WEINBERG)

ADOPTED: JUNE 30, 2003

These amendments eliminate the criminal penalty provisions from the bill.

ASSEMBLY, No. 1897

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED FEBRUARY 21, 2002

Sponsored by:

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Co-Sponsored by:

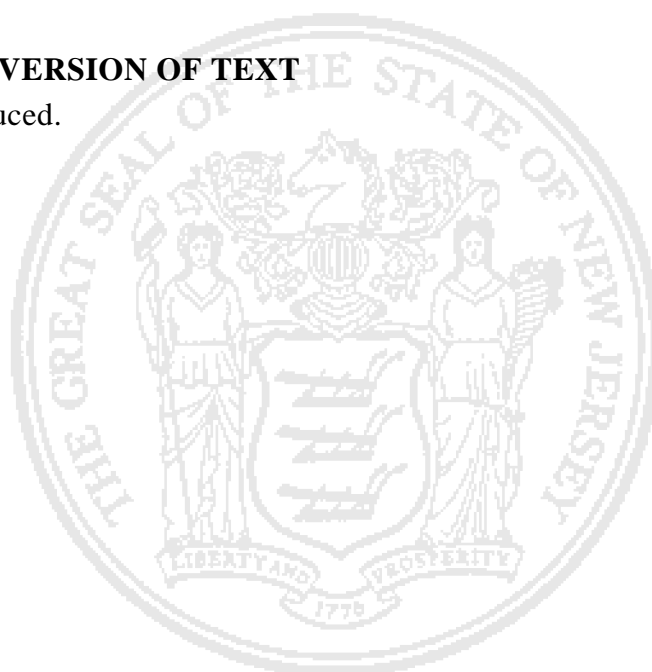
Assemblymen McKeon, Blee, D'Amato and Wisniewski

SYNOPSIS

Allows covered persons with out-of-network benefits in dental and health service corporations and dental plan organization plans to assign dental benefits to dentists of choice.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/7/2002)

A1897 WEINBERG, QUIGLEY

2

1 AN ACT concerning the assignment of dental benefits and
2 supplementing P.L.1968, c.305 (C.17:48C-1 et seq.), P.L.1979,
3 c.478 (C.17:48D-1 et seq.) and P.L.1985, c.236 (C.17:48E-1 et
4 seq.).

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. a. (1) Every contract that is delivered, issued, executed or
10 renewed in this State pursuant to P.L.1968, c.305 (C.17:48C-1 et
11 seq.), or approved for issuance or renewal in this State by the
12 Commissioner of Banking and Insurance on or after the effective date
13 of this act that provides for out-of-network benefits, shall provide that
14 in the event a person covered under the contract uses an out-of-
15 network dentist, the person may assign reimbursement for dental
16 services directly to the dentist providing those services.

17 (2) A dentist who accepts assignment of reimbursement for dental
18 services pursuant to paragraph (1) of this subsection shall:

19 (a) charge no more for those services than the dentist would charge
20 an uninsured patient for the same services, and

21 (b) forward to the dental service corporation the pertinent records
22 of those patients from whom the dentist has accepted assignment of
23 reimbursement, in accordance with regulations adopted by the
24 Commissioner of Banking and Insurance, as required by the dental
25 service corporation to confirm the accuracy of claim submissions.

26 b. Any dental service corporation making a payment to a covered
27 person, after the rights of reimbursement have been assigned to the
28 dentist, shall be liable to the dentist for the payment, and the payment,
29 plus interest and reasonable attorney's fees, may be recovered in a
30 court of competent jurisdiction.

31 c. The provisions of this section shall apply to all contracts in
32 which the dental service corporation has reserved the right to change
33 the premium.

34 d. A dental service corporation shall be exempt from the provisions
35 of this section if the Commissioner of Banking and Insurance
36 determines, following a hearing that is conducted in accordance with
37 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.), that the number of dentists participating in the dental service
39 corporation network has decreased by at least 12.5% subsequent to
40 the enactment of this act.

41 e. The Commissioner of Banking and Insurance, pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), shall adopt rules and regulations to effectuate the purposes of
44 this section.

45

46 2. a. (1) Every contract that is delivered, issued, executed or

1 renewed in this State pursuant to P.L.1979, c.478 (C.17:48D-1 et
2 seq.), or approved for issuance or renewal in this State by the
3 Commissioner of Banking and Insurance on or after the effective date
4 of this act that provides for out-of-network benefits, shall provide that
5 in the event an enrollee under the contract uses an out-of-network
6 dentist, the enrollee may assign reimbursement for dental services
7 directly to the dentist providing those services.

8 (2) A dentist who accepts assignment of reimbursement for dental
9 services pursuant to paragraph (1) of this subsection shall:

10 (a) charge no more for those services than the dentist would charge
11 an uninsured patient for the same services, and

12 (b) forward to the dental plan organization the pertinent records of
13 those patients from whom the dentist has accepted assignment of
14 reimbursement, in accordance with regulations adopted by the
15 Commissioner of Banking and Insurance, as required by the dental
16 plan organization to confirm the accuracy of claim submissions.

17 b. Any dental plan organization making a payment to an enrollee,
18 after the rights of reimbursement have been assigned to the dentist,
19 shall be liable to the dentist for the payment, and the payment, plus
20 interest and reasonable attorney's fees, may be recovered in a court of
21 competent jurisdiction.

22 c. The provisions of this section shall apply to all contracts in
23 which the dental plan organization has reserved the right to change the
24 premium.

25 d. A dental plan organization shall be exempt from the provisions
26 of this section if the Commissioner of Banking and Insurance
27 determines, following a hearing that is conducted in accordance with
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), that the number of dentists participating in the dental plan
30 organization network has decreased by at least 12.5% subsequent to
31 the enactment of this act.

32 e. The Commissioner of Banking and Insurance, pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.), shall adopt rules and regulations to effectuate the purposes of
35 this section.

36

37 3. a. (1) Every contract that is delivered, issued, executed or
38 renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et
39 seq.), or approved for issuance or renewal in this State by the
40 Commissioner of Banking and Insurance on or after the effective date
41 of this act that provides for out-of-network benefits, shall provide that
42 in the event a person covered under the contract uses an out-of-
43 network dentist, the person may assign reimbursement for dental
44 services directly to the dentist providing those services.

45 (2) A dentist who accepts assignment of reimbursement for dental
46 services pursuant to paragraph (1) of this subsection shall:

1 (a) charge no more for those services than the dentist would charge
2 an uninsured patient for the same services, and

3 (b) forward to the health service corporation the pertinent records
4 of those patients from whom the dentist has accepted assignment of
5 reimbursement, in accordance with regulations adopted by the
6 Commissioner of Banking and Insurance, as required by the health
7 service corporation to confirm the accuracy of claim submissions.

8 b. Any health service corporation making a payment to a covered
9 person, after the rights of reimbursement have been assigned to the
10 dentist, shall be liable to the dentist for the payment, and the payment,
11 plus interest and reasonable attorney's fees, may be recovered in a
12 court of competent jurisdiction.

13 c. The provisions of this section shall apply to all contracts in
14 which the health service corporation has reserved the right to change
15 the premium.

16 d. A health service corporation shall be exempt from the provisions
17 of this section if the Commissioner of Banking and Insurance
18 determines, following a hearing that is conducted in accordance with
19 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), that the number of dentists participating in the health service
21 corporation network has decreased by at least 12.5% subsequent to
22 the enactment of this act.

23 e. The Commissioner of Banking and Insurance, pursuant to the
24 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
25 seq.), shall adopt rules and regulations to effectuate the purposes of
26 this section.

27
28 4. This act shall take effect on the 180th day after enactment and
29 shall not apply to contracts written on an administrative services only
30 basis.

31
32
33 STATEMENT

34
35 This bill provides that a dental service corporation, dental plan
36 organization or health service corporation contract that provides for
37 out-of-network benefits, shall provide that in the event a person
38 covered under the contract uses an out-of-network dentist, the person
39 may assign reimbursement for dental services directly to the dentist
40 providing those services.

41 A dentist who accepts assignment of reimbursement for dental
42 services pursuant to this bill shall:

43 -- charge no more for those services than the dentist would charge
44 an uninsured patient for the same services, and

45 -- forward to the dental service corporation, dental plan
46 organization or health service corporation the pertinent records of

1 those patients from whom the dentist has accepted assignment of
2 reimbursement, in accordance with regulations adopted by the
3 Commissioner of Banking and Insurance, as required by the dental
4 service corporation, dental plan organization or health service
5 corporation to confirm the accuracy of claim submissions.

6 Any dental service corporation, dental plan organization or health
7 service corporation making a payment to a covered person, after the
8 rights of reimbursement have been assigned to the dentist, shall be
9 liable to the dentist for the payment, and the payment, plus interest and
10 reasonable attorney's fees, may be recovered in a court of competent
11 jurisdiction.

12 The provisions of this bill shall apply to all contracts in which the
13 dental service corporation, dental plan organization or health service
14 corporation has reserved the right to change the premium.

15 The bill exempts a dental service corporation, dental plan
16 organization or health service corporation from its provisions if the
17 Commissioner of Banking and Insurance determines, following a
18 hearing that is conducted in accordance with the "Administrative
19 Procedure Act," (N.J.S.A.52:14B-1 et seq.), that the number of
20 dentists participating in the dental service corporation, dental plan
21 organization or health service corporation network has decreased by
22 at least 12.5% subsequent to the enactment of the bill.

23 The bill takes effect on the 180th day after enactment and shall not
24 apply to contracts written on an administrative services only basis.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1897

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 9, 2002

The Assembly Banking and Insurance Committee reports favorably, with committee amendments, Assembly Bill No. 1897.

This bill, as amended by the committee, provides that a dental service corporation, dental plan organization or health service corporation contract that provides for out-of-network benefits shall provide that in the event a person covered under the contract uses an out-of-network dentist, the person may assign reimbursement for dental services directly to the dentist providing those services.

A dentist who accepts assignment of reimbursement for dental services pursuant to this bill shall: (1) charge no more for those services than the dentist would charge an uninsured patient for the same services, (2) obtain written authorization of the assignment of reimbursement directly to the dentist from the person covered under the contract, which written authorization shall include a separate notice, in 12-point bold type, that the person shall be responsible for any charges that exceed the reimbursement amount paid to the out-of-network dentist, and certify receipt of the authorization when submitting a claim for that reimbursement and (3) forward to the dental service corporation, dental plan organization or health service corporation the pertinent records of those patients from whom the dentist has accepted assignment of reimbursement, in accordance with regulations adopted by the Commissioner of Banking and Insurance, as required by the dental service corporation, dental plan organization or health service corporation to confirm the accuracy of claim submissions.

Any dental service corporation, dental plan organization or health service corporation making a payment to a covered person, after the rights of reimbursement have been assigned to the dentist, shall be liable to the dentist for the payment, and the payment, plus interest and reasonable attorney's fees, may be recovered in a court of competent jurisdiction.

The provisions of this bill shall apply to all contracts in which the dental service corporation, dental plan organization or health service corporation has reserved the right to change the premium.

The bill exempts a dental service corporation, dental plan

organization or health service corporation from its provisions if the Commissioner of Banking and Insurance determines, following a hearing that is conducted in accordance with the "Administrative Procedure Act," (N.J.S.A.52:14B-1 et seq.), that the number of dentists participating in the dental service corporation, dental plan organization or health service corporation network has decreased by at least 12.5% subsequent to the enactment of the bill.

The provisions of the bill shall not apply to contracts written on an administrative services only basis.

As reported by the committee, this bill is identical to Senate Bill No. 1409(1R).

COMMITTEE AMENDMENTS

The committee amended the bill to require that an out-of-network dentist obtain a written authorization of the assignment of reimbursement directly to the dentist from the person covered under the contract and to certify receipt of the authorization when submitting a claim for reimbursement. The committee amendment also provides that the written authorization shall include a separate notice, in 12-point bold type, that the covered person shall be responsible for any charges that exceed the reimbursement amount paid to the out-of-network dentist.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 1897

with Assembly Floor Amendments
(Proposed By Assemblywoman WEINBERG)

ADOPTED: JUNE 23, 2003

These amendments delete the provisions of the bill regarding assignment of dental benefits to out-of-network dentists and provide, instead, that:

- C a dental insurer (dental service corporation, dental plan organization and health service corporation) that makes a dental benefit payment to a covered person for services rendered by an out-of-network dentist shall, under an insured contract, issue the payment to the covered person in accordance with the prompt pay time frames set forth in P.L.1999, c.154 and shall, within three days of issuing the payment, provide a notification to the out-of-network dentist of the amount and date of the payment and the services for which the payment was made;
- C in the case of a dental insurer that supplies an administrative services only contract, the insurer shall, within three days of issuing the payment, provide a notification to the out-of-network dentist of the amount and date of the payment;
- C a covered person may enter into an agreement with an out-of-network dentist to sign over the payment received from the insurer to the dentist. The agreement shall: (1) be in writing; (2) be signed by the person who is entitled to receive the dental benefit payment from the insurer; (3) be retained by the dentist for at least six years following the date of the most recent payment from the covered person; and (4) give the covered person at least 10 business days within which to sign over the dental benefit to the dentist;
- C a covered person who agrees to sign over a dental benefit payment, shall comply with the terms of the agreement; except that, if the covered person owes the out-of-network dentist less than the amount of the dental benefit payment, the covered person shall pay the dentist the balance owed to the dentist;
- C a covered person who fails to sign over the dental benefit payment after signing an agreement, shall be liable to the out-of-network dentist for payment of attorney fees and costs reasonably incurred by the dentist in enforcing the agreement;
- C a covered person who purposely or knowingly, and without the treating dentist's authorization, fails to sign over a dental benefit payment within 30 days of the person's receipt of the payment, in

violation of an agreement, is guilty of theft of dental benefit proceeds; and

- C Theft of dental benefit proceeds constitutes a crime of the third degree if the dental benefit proceeds total \$500 or more; a crime of the fourth degree if the dental benefit proceeds total more than \$200, but less than \$500; and a disorderly persons offense if the dental benefit proceeds total less than \$200.