Illinois Department of Insurance

PAT QUINN
Governor

ANDREW BORON
Director

TO: ALL COMPANIES WRITING DENTAL INSURANCE IN ILLINOIS

FROM: ANDREW BORON

DATE: JANUARY 24, 2013

RE: COMPANY BULLETIN #2013-02

DENTAL MINIMUM REIMBURSEMENT LEVEL

This bulletin provides guidance on the minimum reimbursement level for both in-network and out-of-network benefits. In sum, the Department's position is that insurance providing for dental benefits may pay less than 50% of billed charges for out-of-network services, but benefits for in-network services must equal or exceed 50% of negotiated fees. In either case, the benefits remain subject to any annual aggregate limit on benefits that is stated in the policy. The required disclosure in Section 5/370i(c) of the Illinois Insurance Code [215 ILCS 5/370i(c)] indicates a legislative intent that benefits may be less than 50% of billed charges for out-of-network benefits. However, any reimbursement of less than 50% of billed charges for out-of-network benefits will be reviewed closely by the Department.

The Department's position is that minimum dental benefit reimbursement levels may be no less than 50% of negotiated fees for in-network benefits in order to satisfy the policy form requirements of 215 ILCS 5/143(1). That section requires the Director to withhold approval of health insurance policy form filings that encourage misrepresentation or are unjust, unfair, inequitable, ambiguous, misleading, inconsistent, deceptive, contrary to law or to the public policy of this state or contain exceptions and conditions that unreasonably or deceptively affect the risk purported to be assumed under the general coverage of the policy.

Illinois consumers have a reasonable expectation of receiving benefit payments that equal or exceed the risk that they retain under the policy. When the insured receives a benefit level less than 50% for in-network services, the risk purported to be assumed under the policy is so small that it no longer amounts to indemnity against loss, but is instead tantamount to only receiving a discount on the dental services rendered. Such partial benefits encourage misrepresentation, and are misleading, inconsistent, deceptive, contrary to law or public policy in that the insured, who has completed and signed an application for insurance, and who has paid the required premium, reasonably expects to receive meaningful coverage of their claims made under the policy.

In addition, these products are often targeted at and adversely impact price sensitive, low income consumers where written disclosures of the partial benefits may not provide appropriate protection. In such instances, coverage must be adequate before the insured is induced to incur expenses that he/she may not be able to afford. Partial benefits are inconsistent with the policy's provisions for other benefits where the benefit levels are not so severely limited. Moreover, the Illinois Insurance Code and its attendant regulations authorize such partial benefits only when they meet the discount plan requirements of 50 IL Adm. Code 2051.320.

Similarly, partial benefits offered in connection with out-of-network providers are intended to discourage utilization, and may in effect result in an exclusive provider network. There is no legislative authorization for exclusive provider networks in Illinois. Benefits of less than 50% of billed charges for out-of-network services, while permitted, will be reviewed closely by the Department to assure adequate access to dental care.

Application of these requirements will not be construed to increase any annual aggregate limit on benefits that is stated in the policy.

Should you have any questions, please contact Yvonne Clearwater at yvonne.clearwater@illinois.gov

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