

2013 Legislative Report

A summary of dental-related legislation.

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Public Program Changes

MDA Secures Rate Increase for Medical Assistance

The 2013 Legislative session concluded on May 20. The MDA worked diligently with our legislative partners to enact positive changes for the dental program while prioritizing an increase in the Medical Assistance reimbursement rates. Despite the difficult budgetary climate, we successfully secured a modest rate increase for the first time in nearly 15 years. Effective January 1, 2014, there will be a 5% reimbursement rate increase for all public program dental services. Additionally, the 2011 3% cut will expire on June 30, so the rates will increase by 3% on July 1, 2013.

At the beginning of the session, the MDA worked with Representative Kim Norton (Rochester) and Senator Roger Reinert (Duluth) to introduce legislation that would have updated the Medical Assistance base rates from 1989 to 2011. Because today's rates are so low, the cost to make that change was insurmountable during this legislative session. Nevertheless, through the MDA lobbying team and the grassroots efforts of dentists across the state, we improved and built relationships with many legislators.

Critical Access Dental Program Expands to Private Practices

The Critical Access Dental Program was modified to include private practices that: 1) see at least 50% MA, MnCare or uninsured patients, and 2) are located in a Health Professional Shortage Area. If these criteria are met, the clinic is eligible to receive a 35% payment supplement for public program patients, effective July 1, 2013. The application process and additional information can be found at the DHS website.

Expanded Benefits for Adults with Disabilities

The Medical Assistance benefit set was expanded to cover specific services for adults with special needs. The additional covered services include up to four prophylaxes per year, sedation if it is required for safe and effective treatment, behavioral management if sedation is not used, and home visits. The coverage changes will be effective July 1 and details will be disclosed through DHS provider bulletins. The original legislation was proposed by Apple Tree Dental. Please check the MHCP manual for reimbursement and CDT code details.

Medical Assistance Eligibility Expanded and MinnesotaCare Continued

The state legislature agreed to accept federal funding for an expansion of Medical Assistance offered under the Affordable Care Act (ACA). Eligibility for Medical Assistance will be increased from 100 percent of federal poverty to 138 percent of federal poverty, with the federal government picking up the entire tab for the next three years.

Minnesota will likely gain federal approval to keep the MinnesotaCare program for low-income, uninsured. It will be adopted as a "basic health plan" which is authorized under the ACA. This will not happen until 2015. The state legislature and the governor decided to keep MinnesotaCare up and running until it can be absorbed by the ACA.

Both Medical Assistance and MinnesotaCare will be offered to eligible recipients through the health insurance exchange. In fact, these public program recipients are expected to make up over two-thirds of the initial enrollees in the health insurance exchange.

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Multiple Services Provided on the Same Day
DHS cannot prohibit payment for mental health services or dental services provided because the mental health or dental services were provided on the same day as other covered health services furnished by the same provider. This provision primarily applies to federally-qualified health centers.

Dental Access and Single Administrator Study
The commissioner of DHS will study dental access and reimbursement for Medical Assistance. Additionally, they will investigate the potential implementation of a single dental administrator. The report is due to the legislature on December 15, 2013.

Increased Fraud Monitoring
DHS received additional funding to increase their provider fraud monitoring. There will also be changes to Medicaid monitoring and applications on a federal level. The MDA will monitor the implementation of those changes and communicate how it will affect dentists.

Minnesota Health Insurance Exchange Created – MNsure

Minnesota is one of 20 states that have enacted, set-up or will establish a state-based health insurance exchange under the Affordable Care Act. Minnesota's health insurance exchange recently christened "MNsure" will be operational and ready for open enrollment on October 1, 2013. MNsure will provide an online marketplace where consumers can purchase private, affordable health insurance and receive federal financial assistance based upon their income. MNsure will also be used to enroll people into the state's existing public health care programs, Medical Assistance and MinnesotaCare.

Insurance policies sold through MNsure must be "qualified and accredited" by the state Department of Commerce and meet several new requirements for network adequacy, consumer information, pricing and underwriting. Policies must also meet federal requirements for cost-sharing and deductibles (the so-called metal

plans, i.e. bronze, silver, gold and platinum), and be issued on a guaranteed basis with no pre-existing condition limitations.

All exchange plans must offer ten sets of essential benefits including pediatric dental care. In an effort to maintain the existing market standards, Minnesota will allow pediatric dental benefits to be offered through stand-alone dental plans or to be covered as part of a comprehensive medical plan. Dental benefits are the only essential benefits that may be offered through a separate stand-alone plan in Minnesota. It appears that most Minnesota insurers that are considering participation in the health insurance exchange will be offering stand-alone pediatric dental benefit plans.

Pediatric dental benefits are mandated for children up to 19 years of age and must be available on a guaranteed issue and guaranteed renewable basis without any exclusions or limitations based upon any preexisting conditions. Adult benefits will not be offered through the health insurance exchange at this time. They could be made available as an optional benefit in the future.

Insurance Market Rules Defined

The state legislature also enacted legislation that makes several statutory and regulatory changes to Minnesota state law to conform to the Affordable Care Act. This legislation established market rules for health insurance policies sold outside the health insurance exchange. The purpose of market rules is to ensure fair competition for all health carriers, minimize adverse selection, protect consumers and promote high-quality, affordable health care.

An important feature of the market rules is the extension of health plans with pediatric dental benefits to the individual and small employer market outside the health insurance exchange. This means that whether insurance is purchased within or outside the health insurance exchange it will contain a pediatric dental benefit. The dental benefit could be embedded with a medical insurance plan or sold as a separate stand-alone dental plan. Adults without children would not

be required to purchase a stand-alone dental plan. Also, grandfathered health plans, those that were in existence in June of 2010, are not subject to market rules.

Insurance Options for Dental Offices

Under the federal Affordable Care Act, small businesses of 50 or fewer full-time employees are not required to purchase health insurance for their employees. The employer mandate only applies to large employers with more than 50 employees. However, small employers will be able to choose different options to purchase health insurance. All provide tax breaks for employers and employees.

- An employer can continue current practice and buy one plan to offer to all employees;
- An employer could pick several plans to offer employees through the health insurance exchange and let them choose between those plans;
- An employer could opt for “defined contribution” plans within the health insurance exchange where they can provide employees with an amount of money that the employees can use to buy the plan of their choice. The employee is responsible for any cost beyond the employer’s contribution.

The MDA will provide more information on these options as greater guidance from the health insurance exchange becomes available.

Employer and Licensing Changes

Background Checks for New and Reinstated Licensure

By January 1, 2018, all health-licensing boards will require new licensure applicants and applicants for licensure reinstatement to complete a BCA and FBI criminal background check, including consent and finger printing. The MDA worked with other provider groups to ensure that there are no mandatory licensure denials associated with the results of the check, and it does not apply to existing licensees. The Board of Dentistry has indicated they will be prepared to implement the

background check prior to 2018. Please contact the Board of Dentistry with questions.

Review of Criminal History for Employment

A public or private employer may not inquire into, consider or require disclosure of the criminal record or criminal history of an applicant for employment until the applicant has been selected for an interview. This does not supersede requirements for background checks for certain professions. Violations will be subject to civil law penalties. It is effective January 1, 2014.

Workers’ Compensation

This legislation contained recommendations brought forward by the Workers’ Compensation Advisory Council. Health care providers had concerns with the bill as introduced, due to a section of the bill that precluded a health care provider from receiving the higher workers’ compensation payment for a provided service, if the provider had already received payment from a health care plan. Providers worked with stakeholders to have this section of the bill removed and replaced instead with a requirement for a study of this issue.

Marriage between Two Persons

The definition of marriage was changed to “two persons”. This will have an impact on domestic partnership and spousal benefits if they are offered by an employer. This change is effective August 1, 2013. Any questions in benefit changes should be directed to insurance brokers.

Personal Sick Leave Benefits Modified

If sick leave benefits (not paid-time off or PTO) are offered, leave must be provided for care of an adult child, spouse, sibling, parent, grandparent or step-parent. The definition of child was modified to include step-children, adopted and foster children. This does not change the amount of sick leave granted, but it broadens the definitions for whom care givers may use their sick leave. This is effective August 1, 2013.

Tax Changes

Sales Tax Exemption for Nonprofit Clinics

A sales tax exemption was established for nonprofit, critical access clinics that see fewer than 15% private insurance patients. This was a key initiative of the Caring Hands Dental Clinic in Alexandria.

Business to Business Taxes Established

Business-to-business sales taxes were established on warehousing/storage services, electronic and commercial repair/ maintenance and telecommunications equipment. The tax on warehousing and storage services will not be effective until April of 2014, which gives the legislature time to make changes or rescind the tax during the next legislative session. The tax on telecommunications equipment will not affect dentistry/clinics based on guidance received from the Department of Revenue Sales Tax Division.

Effective July 1, 2013, sales and use tax on commercial repair and maintenance labor will apply to the following: business related electronic and precision equipment repair and maintenance services, commercial and industrial machinery and equipment repair and maintenance services. This applies to situations in which the repair service can be deducted as a business expense by the purchaser under IRS code. The Department of Revenue website has additional published guidance at www.revenue.state.mn.us/tax_changes.

Provider Tax Study

The commissioner of revenue is required to conduct an assessment of health care taxes, including the provider tax, to determine its long-term solvency. The provider tax is still scheduled to phase out by 2019.

HMO Transparency and Accountability

Legislation will require HMOs to report quarterly on income, profits, medical liabilities, unpaid claims, services versus payment lags by program, utilization reports, drug costs by program and population, sub-capitation expenses, third-party payments, new and active fraud cases, medical loss ratios and reconciliation of administrative costs to other state and federal programs. Audited financial statements will be required each fourth quarter. Additionally the maximum trend increases were reduced by \$47 million to account for reduction in administrative expenses.

Campaign Finance Changes (MINDENPAC)

The campaign finance bill passed, and it makes a number of notable changes to how associations and PACs raise and give money to candidates and ballot measures. It changed the reporting from annual limits to two-year election segments. Most significantly it raises the contribution limits to statewide candidates (governor, attorney general, etc) and for state senators and representatives. Contributions to gubernatorial campaigns would be increased from a \$2,000 maximum in an election year to \$4,000 in an election segment. In two-year non-election segments, the current \$500 limit would be increased to \$2,000. House and Senate races would both go from \$500 in an election year to \$1,000 for the election segment of the cycle.