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National Council of Insurance Legislators (NCOIL)

Medical Loss Ratios for Dental (DLR) Health Care Services Plans Model Act

Sponsored by Del. Steve Westfall (WV)
Co-sponsored by Rep. Rita Mayfield (IL)

Draft as of October 25, 2023. To be discussed during the Health Insurance & Long Term Care Issues Committee Meeting on November 16, 2023.

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Section 1. Title

This Act shall be known and cited as the "[State] Medical Loss Ratios for Dental (DLR) Health Care Services Plans Act."

Section 2. Purpose

The purpose of this Act is to provide for transparency of the expenditure of dental health care plan premiums, and to require annual reports and remediation if the dental loss ratio exceeds a certain percentage.

Section 3. Definitions

(a) "Commissioner" means the Insurance Commissioner of this state.

(b) "Dental carrier" or "carrier" means a dental insurance company, dental service corporation, dental plan organization authorized to provide dental benefits, or a health benefits plan that includes coverage for dental services.

(c) "Dental health care service plan" or "plan" means any plan that provides coverage for dental health care services to enrollees in exchange for premiums, and does not include plans under Medicaid or CHIP.

(d) "Dental loss ratio" or "DLR" means percentage of premium dollars spent on patient care as calculated pursuant to subsection (i) in this section.

(i) The dental loss ratio is calculated by dividing the numerator by the denominator, where:

(A) The numerator is the sum of the amount incurred for clinical dental services provided to enrollees and the amount incurred on activities that improve dental care quality; and

(B) The denominator is the total amount of premium revenue, excluding federal and state taxes, licensing and regulatory fees paid, , and any other payments required by federal law.

(1)(a) The Commissioner shall define by rule:

(I) expenditures for clinical dental services;

(II) activities that improve dental care quality;

1. Activities conducted by an issuer intended to improve dental care quality shall not exceed five percent of net premium revenue

(III) overhead and administrative cost expenditures; and

(ii) The definitions promulgated by rule pursuant to this Section must be consistent with similar definitions that are used for the reporting of medical loss ratios by carriers

offering health benefit plans in the state. Overhead and administrative costs must not be included in the numerator.

Section 4. Transparency of Patient Premium Expenditures

(a) A carrier that issues, sells, renews, or offers a specialized dental health care service plan contract shall file a Dental Loss Ratio (DLR) annual report with the Commissioner that is organized by market and product type and contains the same information required in the 2013 federal Medical Loss Ratio (MLR) Annual Reporting Form (CMS-10418). The filing must also report additional data that includes the number of enrollees, the plan cost-sharing and deductible amounts, the annual maximum coverage limit, and the number of enrollees who meet or exceed the annual coverage limit.

(b) The DLR reporting year shall be for the fiscal year during which dental coverage is provided by the plan. All terms used in the DLR annual report shall have the same meaning as used in the federal Public Health Service Act (42 U.S.C. Sec. 300gg-18), Part 158 (commencing with 158.101) of Title 45 of the Code of Federal Regulations, and Section 1367.003.

(c) If data verification of the carrier's representations in the DLR annual report is deemed necessary, the commissioner shall provide the carrier with a notification 30 days to submit any information required by the Commissioner.

(d) By January 1 of the year after the Commissioner receives the dental loss ratio information collected pursuant to subsection (a) of this Section, the Commissioner shall make the information, including the aggregate dental loss ratio and other data reported pursuant to this Section, available to the public in a searchable format on a public website that allows members of the public to compare dental loss ratios among carriers by plan type by:

(i) Posting the information on the division’s website; or

(ii) Providing the information to the administrator of an all-payer health claims database. If the Commissioner provides the information to the administrator, the administrator shall make the information available to the public in a format determined by the Commissioner.

(e) The Commissioner shall report the data in this Section to the Legislature.

Section 5. Excess Revenue; Patient Rebate

(a) Once the Commissioner has collected the data pursuant to Section 4, the Commissioner shall aggregate average ratio of losses to premiums collected for each carrier by year for the immediately preceding 3-year period or for the entire period if less than one full year during which the carrier has provided coverage for dental care, whichever time period is shorter, for each market segment in which the carrier operates.

(b) The Commissioner shall promulgate rules to create a process to identify, by market segment, any carriers that significantly deviate from a statistically normal range of dental loss ratios in each given year reported.

(c) The Commissioner in identifying carriers pursuant to subsection (b) above shall calculate a DLR that is 2 standard deviations from the mathematical average of the data submitted.

(d) The Commissioner shall report consistent with the manner set forth in subsections 4(e) and 4(d) above to the Legislature and make public those carriers that report a DLR both lower and higher than 2 standard deviations from the mathematical average.

(e) The Commissioner shall investigate those carriers that report a DLR lower than 2 standard deviations from the mathematical average, and may take enforcement actions against them, including ordering such carriers to rebate, ***in a manner consistent with section X of the ACA*** all premiums paid above such amounts that would have caused said carrier to have achieved the mathematical average of the data submitted in a given year for a given market segment.

(f) A carrier shall provide any rebate owing to an enrollee no later than xxxxx of the fiscal year following the year for which the ratio described in subsection (a) of this section was calculated. The Commissioner may establish alternatives to direct rebates to include premium reductions in the following benefit year.

(g) The Commissioner may promulgate rules that create a process to identify carriers that increase rates in excess of the percentage increase of the latest dental services Consumer Price Index as reported through the US Bureau of Labor Statistics.

(h) The Commissioner may, after three (3) annual data collections pursuant to Section 4, and analysis pursuant to Section 5 subsections (a) through (c), promulgate rules that establish a DLR percentage by market segment. Such DLR rules shall become effective no sooner than 42 months after the effective date of this Act.

Section 6. Rules

The Commissioner shall adopt rules as necessary to effectuate the provisions of this Act.

Section 7. Effective Date

This Act shall take effect xxxxxxx.