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NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

Model Act Banning Fee Schedules for Uncovered Dental Services

Adopted by the NCOIL Executive Committee on November 21, 2010, and by the NCOIL Health, Long-Term Care & Health Retirement Issues Committee on November 20, 2010. Re-adopted by the Health, Long-Term Care & Retirement Issues Committee on March 3, 2017, and by the Executive Committee on March 5, 2017. Re-adopted on March 6, 2022.

Section I. Summary

This Act would prohibit a dental insurance plan from requiring a dentist who provides services to its subscribers to accept a fee set by the plan for any services except covered services.

Section II. Definitions

A. "Covered services" means dental care services for which a reimbursement is available under an enrollee's plan contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, copayments, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments, or any other limitation.

B. "Dental plan" shall include any policy of insurance which is issued by a health care service contractor which provides for coverage of dental services not in connection with a medical plan.

Section III. Contracts With Providers For Dental Services

A. No contract of any health care service contractor that covers any dental services, and no contract or participating provider agreement with a dentist may require, directly or indirectly, that a dentist who is a participating provider provide services to an enrolled participant at a fee set by, or at a fee subject to the approval of, the health care service contractor unless the dental services are covered services.

Drafting Note: Concerns exist that dental plans may react by adopting a strategy of covering all services at a nominal or de minimus fee. Such a strategy by dental benefit plans, to adopt or impose a deductible, co-payment, co-insurances or any other requirement in such a way as to provide de minimus reimbursement and avoid the impact of this model bill is contrary to the spirit and intent of this model legislation. States should consider setting a threshold of what payment would constitute; for example, “50 percent of the dentists’ prevailing fee, administered consistently with policies traditionally governing covered services.”

B. A health care service contractor or other person providing third party administrator services shall not make available any providers in its dentist network to a plan that sets dental fees for any services except covered services.

Section IV. Penalties

Penalties provided for in [Insert Applicable State Statute Concerning Dental Plan Contracts] shall apply to any violation of this Act.

Section V. Severability

If any section, clause, or provision of this chapter shall be held either unconstitutional or ineffective in whole or in part to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be termed invalid or ineffective.

Section VI. Effective Date

This Act shall take effect immediately.