HB 1154
Amendments proposed
by Insurance Dept. Feb 16 '21.

CHAPTER 26.1-47 PREFERRED PROVIDER ORGANIZATIONS

~~Definitions – Dental~~

1. ~~"Dental benefit plan" mean a benefits plan that pays or provides dental expense benefits for covered dental services and is delivered through a dental carrier.~~
2. ~~"Dental carrier" means a dental insurance company, dental service corporation, dental plan organization authorized to provide dental benefits, or a health benefit plan that includes coverage for dental services.~~
3. ~~"Dental network plan" means a dental benefit plan that requires a covered person to use, or creates incentives, for a covered person to use dental providers managed by, owned by, under contract with, or employed by the dental care insurer.~~
4. ~~"Dental provider" means a licensed provider of dental care services in this state.~~
5. ~~"Dental provider network" means a group of dental providers providing dental services under a dental network plan.~~
6. ~~"Dental services" means services for the diagnosis, prevention, treatment, or cure of a dental condition, illness, injury, or disease.~~
7. ~~"Dentist" means an individual who has a license to practice in this state.~~

26.1-47-02.2 Dental networks.

For the purpose of this section, "network" means a group of preferred dental providers providing services under a network plan. A "network plan" means a dental benefit plan that requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use a dental providers managed by, owned by, under contract with, or employed by the dental insurer.

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1. As used in this section, "contracting entity" means a person or entity that enters into direct contracts with dental providers for the delivery of dental services ~~in the ordinary course of business, including a health care service plan or third-party administrator.~~
2. As used in the section, "third party" means an entity that is not party to contracting entity's dental provider network.

~~A contracting entity may grant third-party access to a dental provider network. If a dental provider opts out of a leasing arrangement, this does not permit the contracting entity to end the contractual relationship with the provider.~~

3. ~~if~~

~~a. The third-party agrees to comply with the dental provider network contract terms;~~

~~b. The contracting entity identifies, in writing or electronic form to the providers, third parties in existence as of the date the contract is entered or renewed;~~

~~c. At the time the contracting entity grants access to the third party, it allows the dental provider not to participate in the third party access;~~

~~d.~~a. ~~If a dental provider opts out of a leasing arrangement, this does not permit the contracting entity to end the contractual relationship with the provider.~~

4. A contracting entity may grant a third party access to a dental provider network contract, or a provider's dental services or contractual discounts provided pursuant to a dental provider network contract, if all of the following are met:

a. The contract specifically states the contracting entity may enter an agreement with third parties allowing the third parties to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity.

b. ~~, and if~~If the contracting entity is a dental insurer~~carrier~~, the dental provider must choose ~~chose~~ to participate by opting in or out of the ~~in~~ third-party access at the time the dental provider network contract was entered or renewed.

~~a. If the contracting entity is an insurer, the third-party access provision of a provider contract also specifically must state the contract grants third-party access to the provider network and, for contracts with dental carriers, that the dentist has the right to choose not to participate in third-party access.~~

~~b. The third party accessing the contract agrees to comply with all the contract's terms.~~

c. The contracting entity identifies, in writing or electronic form to the dental provider, all third parties in existence as of the date the contract is entered or renewed.

~~d. The contracting entity identifies all third parties in existence in a list on the contracting party's internet website which is updated at least once every ninety days.~~

~~e.~~d. The contracting entity notifies dental network providers that a new third party is leasing or purchasing the network at least thirty days in advance of the relationship taking effect.

~~f. The contracting entity requires a third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is~~

~~taken. This subdivision does not apply to electronic transactions mandated by the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191].~~

~~g. The contracting entity notifies the third party of the termination of a provider network contract no later than thirty days from the termination date with the contracting entity.~~

~~h. A third party's right to a provider's discounted rate ceases as of the termination date of the provider network contract.~~

e. The contracting entity makes available a copy of the dental provider network contract relied on in the adjudication of a claim to a participating dental provider within thirty days of a request from the dental provider.

~~f. A contracting entity may grant third-party access to a dental provider network if the dental provider agrees in writing of the leasing arrangement.~~

~~5.~~ If the A dental provider's refusal to ~~does does not~~ agree in writing to the third party access to the dental provider network ~~in writing this~~ does not permit the contracting entity to end the contractual relationship with the dental provider.

~~i.~~a.

~~5. A provider is not bound by or required to perform dental treatment or services under a provider network contract that has been granted to a third party in violation of this Act section.~~

26.1-47-02.34 Post payment of Dental claims – payment recovery limitations.

1. For the purposes of this section, dental care provider means licensed providers of dental care services in this state.

~~1.~~2. Other than recovery for duplicate payments, a dental insurer~~carrier~~, if engaging in overpayment recovery efforts, shall provide written notice to the dental care provider which identifies the error made in the processing or payment of the claim and justifies the overpayment recovery.

~~2.~~3. A dental insurer ~~carrier~~ shall provide a dental care provider with the opportunity to challenge an overpayment recovery, including the sharing of claims information, and shall establish written policies and procedures for a dental care provider to follow to challenge an overpayment recovery.

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~~3.~~4. A dental insurer ~~carrier~~ may not initiate overpayment recovery efforts more than twelve months after the original payment for the claim was made. This time limit does not apply to overpayment recovery efforts that are:

a. Based on reasonable belief of fraud, abuse, or other intentional misconduct;

b. Required by, or initiated at the request of, a self-insured plan; or

c. Required by a state or federal government plan.

~~26.1-47-02.5 Method of payment.~~

~~1. As used in this section, "dental provider's agent" means a person that contracts with a dental provider establishing an agency relationship to process bills and reimbursements for services provided by the dental provider under the terms and conditions of a contract between the agent and the dental provider.~~

~~2. A dental benefit plan may not contain restrictions on methods of payment from the dental benefit plan or the plan's vendor or the health maintenance organization to the dental provider in which the only acceptable payment method is a credit card payment.~~

~~3. If initiating or changing payments to a dental provider using electronic funds transfer payments, including virtual credit card payments, a dental benefit plan or the plan's contracted vendor or health maintenance organization shall:~~

~~a. Notify the dental provider if any fees are associated with a particular payment method; and~~

~~b. Advise the dental provider of the available methods of payment and provide clear instructions to the dental provider as to how to select an alternative payment method.~~

~~4. A dental benefit plan, or the plan's contracted vendor or health maintenance organization, which initiates or changes payments to a dental provider through the automated clearing house network, under title 45, Code of Federal Regulations, sections 162.1601 and 162.1602, may not charge a fee solely to transmit the payment to a dental provider unless the dental provider has consented to the fee. A dental provider's agent may charge reasonable fees if transmitting an automated clearing house network payment related to transaction management, data management, portal services, and other value-added services in addition to the bank transmittal.~~

Section 1. Chapter 26.1-~~36.649~~ of the North Dakota Century Code is created and enacted as follows:

Definitions – Dental

1. "Dental benefit plan" mean a benefits plan that pays or provides dental expense benefits for covered dental services and is delivered through a ~~-~~dental insurer~~carrier~~.
2. "Dental insurer~~carrier~~" means a dental insurance company, dental service corporation, dental plan organization authorized to provide dental benefits~~, or a health benefit plan that includes coverage for dental services.~~
3. "Dental network plan" means a dental benefit plan that requires a covered person to use, or creates incentives, for a covered person to use dental providers managed by, owned by, under contract with, or employed by the dental ~~care~~ insurer.
4. "Dental provider" means a licensed provider of dental care services in this state.
5. "Dental provider network" means a group of dental providers providing dental care services under a dental network plan.
6. "Dental services" means services for the diagnosis, prevention, treatment, or cure of a dental condition, illness, injury, or disease.
7. "Dentist" means an individual who has a license to practice in this state.
8. "Prior authorization" means confirmation by the covered person's dental benefit plan that the services sought to be provided by the dental provider meet the criteria for coverage under the covered person's dental benefit plan as defined by the covered person's dental benefit plan.

26.1-49 Prior authorizations - Claim denial prohibited - Exceptions.

A dental benefit plan may not deny a claim subsequently submitted by a dental provider for procedures specifically included in a prior authorization, unless at least one of the following circumstances applies for each procedure denied:

1. Benefit limitations, such as annual maximums and frequency limitations not applicable at the time of the prior authorization, are reached due to utilization after issuance of the prior authorization.
2. The documentation for the claim provided by the dental provider ~~person~~ submitting the claim clearly fails to support the claim as originally authorized.
3. If, after the issuance of the prior authorization, new procedures are provided to the patient or a change in the condition of the patient occurs such that the prior authorized

procedure would no longer be considered medically necessary, based on the prevailing standard of care.

4. If, after the issuance of the prior authorization, new procedures are provided to the patient or a change in the patient's condition occurs such that the prior authorized procedure would at that time required disapproval pursuant to the terms and conditions for coverage under the patient's plan in effect at the time the prior authorization was used.
5. The denial of the payment was due to one of the following:
    a. Another payor is responsible for payment.
    b. The dental -provider already has been paid for the procedures identified on the claim.
    c. The claim was submitted fraudulently~~, or the prior authorization was based in whole or material part on erroneous information provided by the dental provider, patient, or other person not related to the carrier.~~
    ~~d.~~ The individual receiving the procedure was not eligible to receive the procedure on the date of service ~~and the dental provider did not know, and with the exercise of reasonable care could not have known, of the individual's eligibility status.~~
    d.

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