

Ohio House Insurance Committee
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Jeffery Johnston, DDS, MS – Vice President of Professional Services and Chief Science Officer
Erika Cybulskis – Government and Corporate Citizenship Representative
Delta Dental of Ohio

Opponent Testimony
House Bill 367

Chairman Brinkman, Vice Chair Henne, Ranking Member Bocchieri, and members of the House Insurance Committee, my name is Erika Cybulskis and I am the Government and Corporate Citizenship Representative for Delta Dental of Ohio.

Dr. Jeffery Johnston, our Vice President of Professional Services and Chief Science Officer, is here to provide testimony with me. Dr. Johnston is a board-certified Periodontist and was in private practice for 28 years as a periodontist. He is a past President of the Michigan Periodontal Association and the Michigan Dental Association. I am pleased that he is here with me today to offer a unique perspective on HB 367.

Thank you for this opportunity to express our opposition to HB 367.

For two primary reasons, we respectfully request that you oppose this legislation. First, it will eliminate a consumer cost protection measure and increase the cost of dental care for Ohioans. Second, it is unwarranted government interference into private contracts voluntarily entered into by dentists and dental plans.

Background on non-covered dental services policies

To gauge the impact of HB 367, it is important to first understand the non-covered services cost protections that exist in the dental benefits industry today. When an individual or employer purchases a dental plan, the purchaser decides upon the set of dental procedures that the insurance will cover. Some purchasers opt for a rich benefit plan that covers the majority of common dental services, while others choose a leaner, less expensive plan. The coverage selected by the purchaser is obviously dictated by the premium they wish to pay. In practice, most dental plans provide coverage for the vast majority of services needed by a typical dental patient.

In addition to payment made for covered services, most dental plans include an added value in the form of cost protections for services not reimbursed by the employer's benefit plan. These cost protections, commonly referred to as non-covered services policies, are an important component of a dental plan as they help ensure access to cost-effective care.

Non-covered services policies establish a maximum allowable fee that can be charged to enrollees when they receive a service not reimbursed by their dental plan. These maximum allowable fees are only applicable when an enrollee receives a non-covered service from a dentist who has voluntarily entered into a contractual participation agreement with the enrollee's dental insurer. The maximum allowable fees for non-covered services are the same as the maximum allowable fees for covered services.

Accordingly, the dentist is receiving the same compensation for services whether the service is covered or not. The only difference is whether the carrier pays (if the service is covered) or the patient pays completely out of pocket (if a service is not covered).

Non-covered services policies are a standard practice in the dental benefits industry and most carriers have had these types of policies in place for many years.

Non-Covered Services Example

The best way to describe the cost protection offered by a non-covered services policy is to review a real-world Ohio example. During a five year period, a dentist in Akron submitted claims to Delta Dental for one particular procedure 499 times – the 12th highest number of submissions in Ohio for that procedure. This procedure is usually not covered by employer dental plans. The dentist’s average charge for that code was \$216.93. In comparison, the statewide average charge for that same code during the same time frame was \$45.54. Eighty percent of this dentist’s colleagues were charging \$50 or less and ninety percent were charging \$60 or less. Because of Delta Dental’s non-covered services policy, and because this dentist had signed a participation agreement with Delta Dental, our subscribers who were patients of this particular dentist were protected from being charged nearly 5 times the statewide average. This scenario demonstrates exactly the type of protection our non-covered services policy offers.

Non-covered services savings

The proponents of HB 367 have stated that sometimes the maximum allowable fees established by a dental insurer don’t cover the cost of providing care. Allow me to provide some perspective on the impact of Delta Dental’s non-covered services fee maximums:

- Only 2.07 percent of procedures submitted to Delta Dental of Ohio are for non-covered services.
- 8.19% of Delta Dental of Ohio enrollees have received a non-covered service.
- An Ohio dentist who participates with Delta Dental experiences, on average, a 15.55 percent discount on non-covered services.

We believe these discounts strike the right balance between fair compensation for dentists and fair prices and reasonable protection for patients.

The dental marketplace today

Proponents have also claimed that dentists have to participate with Delta Dental in order to operate a successful practice. I can assure you that Ohio has a robust insurance industry, and dental insurance is no exception. Delta Dental is one of many dental insurers in Ohio, with the majority providing discounts on non-covered dental services. A recent survey of dental insurers by the National Association of Dental Plans showed 59 different plan types offered in Ohio. Consider the following figures:

- Ohio’s population is approximately 11.5 million people.
- Approximately 5.6 million Ohioans, or 49%, are enrolled in a private dental plan.
- Delta Dental of Ohio has just over 1 million subscribers in Ohio.
- Approximately 10% of Ohioans have Delta Dental of Ohio coverage.

With figures like these, it seems unlikely that most Ohio dental practices have a majority of patients who have private dental coverage or that Ohio dentists are experiencing significant financial hardship as a result of the non-covered services policies of Delta Dental or other insurers.

Most importantly, dentists have the ultimate control over their own practice's relationships with dental insurers. Dentist participation with an insurer is purely voluntary in the first place. If a dentist is already a participating provider, but decides he or she no longer wishes to contract with Delta Dental, he or she can terminate his or her contract at any time with 60 days' notice.

Since Delta Dental implemented its non-covered services policy in 2008, the percentage of Ohio dentists who have a signed participation agreement with Delta Dental has actually increased from 77 percent to 84 percent. If Delta Dental were treating dentists unfairly, one would expect the percent of participating dentists to shrink, not grow. That is not the case – in fact, according to a recent Delta Dental survey of its participating dentists, Ohio dentists gave Delta Dental an overall 83.8% satisfaction rate.

Government interference in the private marketplace

Despite the fact that participation with dental insurers is voluntary, some Ohio dentists, with the Ohio Dental Association leading the charge, have determined that they don't like the non-covered services provision in the participation agreement, so they've asked the General Assembly to intervene into this private contract and change its terms. In short, HB 367 would allow dentists to receive the fruits of that private contract, but relieve them of one of its responsibilities. That makes HB 367 a prime example of government intrusion into a private contract voluntarily entered into by two willing parties.

House Bill 367 is the sixth dental non-covered services bill to be considered in the past four General Assemblies. The bills introduced in previous General Assemblies were a bad idea and they failed to advance. HB 367 is no better.

According to the Health Policy Institute of Ohio's most recent Health Value Dashboard, Ohio ranks 38th in poor oral health and the trend for this metric is "moderately worsened." The last thing we need in Ohio is legislation that will dilute the coverage available under dental plans and increase the costs of care for insured Ohioans.

Please consider whether HB 367 is a good deal or a bad deal for Ohio dental patients. The answer is simple - if passed, HB 367 will result in a higher cost of dental care for Ohioans. We respectfully request that you oppose the bill.

Thank you for this opportunity to share our views.