

Ohio House Health Provider Services Committee
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Opponent Testimony on Proposed Amendment AM_135_1833
Senate Bill 40

Chair Cutrona, Vice Chair Gross, Ranking Member Somani, and committee members, my name is Erika Cybulskis and I am the Chief Government Relations Officer for Delta Dental of Ohio. I am joined today by Rick Lantz, our Vice President and Chief Lobbyist.

Thank you for this opportunity to express our perspective on SB 40 and specifically Amendment 135_1833, which would prohibit dental non-covered services policies.

First, we support the dentist and hygienist compact portion of the bill as a means of enhancing the state's dental workforce and improving access to care.

We strongly oppose, however, Amendment 135_1833, which would prohibit dental non-covered services policies, an important cost-savings measure for Ohio dental patients.

There has been a strong focus in recent years on finding ways to hold down the cost of health care for consumers – recently enacted state and federal legislation regarding surprise billing is one major example – but the proposed non-covered dental services amendment goes in the exact opposite direction and would make dental care more expensive for Ohioans with dental insurance.

In addition, the legislation constitutes unwarranted government interference in private contracts voluntarily entered by dentists and dental plans.

Background on non-covered dental services policies

To gauge the impact of the proposed non-covered services amendment, 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 or sponsor'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 covered 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 a contractual participation agreement with the enrollee's dental insurer. The maximum allowable fees for non-covered services are the same whether or not the service is covered, meaning the dentist receives the same compensation. 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 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 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 dentist were protected from being charged nearly five 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 the non-covered services amendment 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% of procedures submitted to Delta Dental of Ohio are for non-covered services.
- 14% of Delta Dental of Ohio enrollees have received a non-covered service.
- In March of 2024, Delta Dental of Ohio increased its maximum allowable fees for the services that are typically not covered by employer plans. These maximum allowable fees are now set at the 90th percentile of Ohio dentists' fees, meaning 90% of Ohio dentists will receive their full fee when they provide one of these typically non-covered services to a Delta Dental enrollee.

In previous testimony, the proponents have often used crowns and implants as examples of non-covered services. However, please consider the following:

- 99% of Delta Dental contracts in Ohio cover crowns, while crowns comprise 1.5% of all Delta Dental claim submission in Ohio.
- 95% of Delta Dental contracts in Ohio cover implants, while implants comprise 0.2% of all claim submissions in Ohio.

Considering how infrequently crowns and implants are submitted, and the fact that the maximum allowable fees for both procedures are the same whether the procedures are covered or not, it is hard

to understand why the dentists believe they cannot perform these procedures when they are non-covered.

The dental marketplace today

Proponents have also claimed that dentists must participate with Delta Dental of Ohio 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 of Ohio is one of many dental insurers operating in a very competitive market in the state. A recent survey of dental insurers by the National Association of Dental Plans showed 62 different plan types offered in Ohio. Consider the following figures:

- Ohio's population is approximately 11.8 million people.
- Approximately 5.9 million Ohioans, or 50%, are enrolled in a private dental plan.
- Delta Dental of Ohio has approximately 1.8 million members in Ohio.

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 practices' relationships with dental insurers. Dentists' participation with insurers is purely voluntary. If dentists are already participating providers, but decide they no longer wish to contract with Delta Dental, they can terminate their 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 increased. Today, 82% of Ohio dentists are Delta Dental participating providers. If Delta Dental were treating dentists unfairly, one would expect the percentage of participating dentists to shrink, not grow. Delta Dental is proud of our relationship with our participating providers, and we are grateful for the care that they provide to our members.

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 have asked the General Assembly to intervene in this private contract and change its terms. In short, the proposed non-covered services amendment would allow dentists to receive the fruits of that private contract but relieve them of one of its responsibilities. That makes the proposed amendment a prime example of government intrusion in a private contract voluntarily entered by two willing parties.

When reviewing the claims made by the proponents of the amendment that would prohibit dental non-covered services policies, please consider if the legislation is a good deal or a bad deal for Ohio dental patients. The answer is simple - if passed, the amendment will result in higher costs for dental care for Ohioans. We respectfully request that you oppose the amendment.

There have been recent discussions about a potential compromise amendment that would allow dentists to charge their standard rate for non-therapeutic services (such as cosmetic services), while still preserving the non-covered services maximum allowable fee for therapeutic/medically necessary procedures.

Delta Dental of Ohio supports this compromise, as it addresses the major areas of concern that the dentists have raised when advocating for the prohibition of dental non-covered services policies (through HB 160), while maintaining important dental plan enrollee cost protections for therapeutic/medically necessary procedures.

Thank you for this opportunity to share our views.