

As Introduced

**136th General Assembly
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H. B. No. 845

Representative Craig

To enact sections 3902.75, 3902.751, 3902.752, 1
3902.753, 3902.754, and 3902.755 of the Revised 2
Code regarding dental benefit plans. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3902.75, 3902.751, 3902.752, 4
3902.753, 3902.754, and 3902.755 of the Revised Code be enacted 5
to read as follows: 6

Sec. 3902.75. As used in sections 3902.75 to 3902.755 of 7
the Revised Code: 8

(A) "Contracting entity" means any person or entity that 9
enters into direct contracts with providers for the delivery of 10
dental services in the ordinary course of business, including a 11
third-party administrator or dental carrier. 12

(B) "Covered person," "health benefit plan," and "health 13
plan issuer" have the same meanings as in section 3922.01 of the 14
Revised Code. 15

(C) "Credit card payment" means a type of electronic funds 16
transfer in which a dental benefit plan or its contracted vendor 17
issues a single-use series of numbers associated with the 18
payment of dental services performed by a dentist and chargeable 19
to a predetermined dollar amount, whereby the dentist is 20

responsible for processing the payment by a credit card terminal 21
or internet portal. "Credit card payment" includes virtual or 22
online payments where no physical credit card is presented to 23
the dentist and the single-use credit card expires upon payment 24
processing. 25

(D) "Dental benefit plan" means a benefit plan that covers 26
dental services and is delivered by or through a dental carrier 27
on an integrated or standalone basis. 28

(E) "Dental carrier" means a dental insurance company, 29
dental service corporation, dental plan organization authorized 30
to provide dental benefits, or a health benefit plan that 31
includes coverage for dental services. 32

(F) "Dental services" means services for the diagnosis, 33
prevention, treatment, or cure of a dental condition, illness, 34
injury, or disease. "Dental services" does not include services 35
delivered by a provider that are billed as medical expenses 36
under a health benefit plan. 37

(G) "Dental service contractor" means any person who 38
accepts a prepayment from or for the benefit of any other person 39
or group of persons as consideration for providing the 40
opportunity to receive dental services when services are 41
appropriate or required. "Dental service contractor" does not 42
include a dentist or professional dental corporation that 43
accepts prepayment on a fee-for-service basis for providing 44
specific dental services to individual patients for whom such 45
services have been pre-diagnosed. 46

(H) "Dentist" means an individual licensed to practice 47
dentistry under Chapter 4715. of the Revised Code. 48

(I) "Dentist agent" means any person or entity that 49

contracts with a dentist establishing an agency relationship to 50
process bills for services provided by the dentist under the 51
terms and conditions of a contract between the agent and the 52
dentist. 53

(J) "Electronic funds transfer payment" means a payment by 54
any method of electronic funds transfer other than through the 55
automated clearing house network specified in 45 C.F.R. 162.1601 56
and 45 C.F.R. 162.1602. 57

(K) "Prior authorization" means any written communication 58
indicating that a specific procedure is covered under a 59
patient's dental plan and reimbursable at a specific amount, 60
subject to applicable coinsurance and deductibles, and issued in 61
response to a request submitted by a dentist using a format 62
prescribed by a health plan issuer or dental carrier. 63

(L) "Provider" means an individual or entity acting within 64
the scope of licensure or certification that provides dental 65
services or supplies as defined by a health benefit plan that 66
includes coverage for dental services or a dental benefit plan. 67
"Provider" does not include a physician organization or 68
physician hospital organization that leases or rents the 69
physician organization's or physician hospital organization's 70
network to a third party. 71

(M) "Provider network contract" means a contract between a 72
contracting entity and a provider that specifies the rights and 73
responsibilities of the contracting entity and provides for the 74
delivery and payment of dental services to an enrollee. 75

(N) "Third party" means a person or entity that enters 76
into a contract with a contracting entity or with another third 77
party to gain access to the dental services or contractual 78

discounts of a provider network contract. "Third party" does not 79
include an employer or other group for whom the dental carrier 80
or contracting entity provides administrative services. 81

Sec. 3902.751. A dental benefit plan shall not deny any 82
claim subsequently submitted by a dentist for procedures 83
specifically included in a prior authorization unless any of the 84
following apply: 85

(A) Benefit limitations such as annual maximums and 86
frequency limitations not applicable at the time of the prior 87
authorization have been reached due to utilization after the 88
prior authorization was issued. 89

(B) The documentation for the claim clearly fails to 90
support the claim as originally authorized. 91

(C) After the prior authorization was issued, new 92
procedures were provided to the patient or a change in the 93
patient's condition occurred such that the prior authorized 94
procedure is no longer considered medically necessary based on 95
the prevailing standard of care. 96

(D) After the prior authorization was issued, new 97
procedures were provided to the patient or a change in the 98
patient's condition occurred such that the prior authorized 99
procedure would at that time require disapproval under the terms 100
and conditions for coverage under the patient's plan in effect 101
at the time the prior authorization was used. 102

(E) The denial of the dental service contractor was due to 103
any of the following: 104

(1) Another payer is responsible for payment. 105

(2) The dentist has already been paid for the procedures 106

identified on the claim. 107

(3) The claim was submitted fraudulently, or the prior 108
authorization was based on erroneous information the dentist, 109
patient, or another person not related to the carrier provided 110
to the dental service contractor. 111

(4) The person receiving the procedure was not eligible to 112
receive the procedure on the date of service, and the dental 113
service contractor did not know, and with the exercise of 114
reasonable care could not have known, of the person's 115
eligibility status. 116

Sec. 3902.752. (A) No dental benefit plan shall contain 117
restrictions on methods of payment from the dental benefit plan 118
or its vendor or the health maintenance organization to the 119
dentist in which the only acceptable method of payment is a 120
credit card payment or another form of payment that requires 121
fees or similar charges. Any dental benefit plan providing an 122
automated clearinghouse network payment shall comply with the 123
requirements specified in 45 C.F.R. 162.925(a). 124

(B) A dental benefit plan or its contracted vendor or a 125
health maintenance organization may initiate or change payment 126
methodology to a dentist using electronic funds transfer 127
payments, including virtual credit card payments, if all of the 128
following are satisfied: 129

(1) The dental benefit plan notifies the dentist if any 130
fees are associated with a particular payment method. 131

(2) The dental benefit plan advises the dentist of the 132
available methods of payment and provides clear instructions to 133
the dentist regarding how to select an alternative payment 134
method that does not impose fees or similar charges on the 135

<u>provider.</u>	136
<u>(3) The provider or a designee of the provider elects, by</u>	137
<u>clearly and directly agreeing in writing, to accept a payment of</u>	138
<u>the claim using the credit card or electronic funds transfer</u>	139
<u>payment method without ambiguity or implied actions.</u>	140
<u>(C) A dentist's selected form of claim payment methodology</u>	141
<u>shall remain effective until the dentist chooses an alternative</u>	142
<u>method of payment or a new contract is executed.</u>	143
<u>(D) A dental benefit plan or its contracted vendor or a</u>	144
<u>health maintenance organization that initiates or changes</u>	145
<u>payments to a dentist through the automated clearinghouse</u>	146
<u>network shall not charge a fee solely to transmit the payment to</u>	147
<u>a dentist unless the dentist has consented to the fee. A</u>	148
<u>dentist's agent may charge reasonable fees when transmitting an</u>	149
<u>automated clearinghouse network payment related to transaction</u>	150
<u>management, data management, portal services, and other value-</u>	151
<u>added services in addition to the bank transmittal.</u>	152
Sec. 3902.753. <u>(A) A contracting entity may grant a third</u>	153
<u>party access to a provider network contract or a provider's</u>	154
<u>dental services or contractual discounts provided pursuant to a</u>	155
<u>provider network contract if all of the following are satisfied:</u>	156
<u>(1) The contract specifically permits the contracting</u>	157
<u>entity to enter into an agreement with third parties and allows</u>	158
<u>the third parties to obtain the contracting entity's rights and</u>	159
<u>responsibilities as if the third party were the contracting</u>	160
<u>entity. If the contracting entity is a health plan issuer or</u>	161
<u>dental carrier, the third-party access provision of any provider</u>	162
<u>contract shall specifically state that the contract grants</u>	163
<u>third-party access to the provider network. The contract also</u>	164

shall specifically state that a dentist has the right to choose 165
to not participate in third-party access to the provider 166
network. 167

(2) The third party accessing the contract agrees to 168
comply with all of the contract's terms. 169

(3) The contracting entity identifies in writing all third 170
parties in existence as of the date the contract is entered into 171
or renewed. 172

(4) The contracting entity identifies all third parties in 173
existence in a list on its internet web site that is updated at 174
least once every ninety days. 175

(5) The contracting entity notifies network providers that 176
a new third party is leasing or purchasing the network at least 177
thirty days before the lease or purchase takes effect. 178

(6) Except with regard to electronic transactions subject 179
to section 1320d-2 of the federal "Health Insurance Portability 180
and Accountability Act of 1996," 42 U.S.C. 1320d-2, the 181
contracting entity requires each third party to identify the 182
source of the discount on all remittance advices or explanations 183
of payment under which a discount is taken. 184

(7) The contracting entity notifies the third party of the 185
termination of a provider network contract not later than thirty 186
days after the termination date with the contracting entity. 187

(8) A third party's right to a provider's discounted rate 188
ceases upon the termination date of the provider network 189
contract. 190

(9) The contracting entity makes available a copy of the 191
provider network contract relied on in the adjudication of a 192

claim to a participating provider within thirty days after a 193
request from the provider. 194

(B) When granting access to a third party under division 195
(A) of this section, a dental carrier or health plan issuer 196
acting as a contracting entity shall permit any provider that is 197
part of the carrier or issuer's provider network to choose to 198
not participate in third-party access to the contract or to 199
enter into a contract directly with the dental carrier or health 200
plan issuer that acquired the provider network. A provider 201
electing not to participate in a lease arrangement does not 202
permit the contracting entity to cancel or otherwise end a 203
contractual relationship with the provider. When initially 204
contracting with a provider, a contracting entity shall accept a 205
qualified provider even if the provider elects not to 206
participate in a network lease. 207

(C) This section does not apply when access to a provider 208
network contract is granted to a dental carrier or an entity 209
operating in accordance with the same brand license program as 210
the contracting entity or to an entity that is an affiliate of 211
the contracting entity. A list of a contracting entity's 212
affiliates shall be made available to a provider on the 213
contracting entity's internet web site. 214

Sec. 3902.754. Sections 3902.75 to 3902.753 of the Revised 215
Code cannot be waived by contract. Any contractual provision 216
that conflicts with those sections or purports to waive them is 217
void. 218

Sec. 3902.755. The superintendent of insurance shall adopt 219
rules in accordance with Chapter 119. of the Revised Code to 220
implement and enforce sections 3902.75 to 3902.754 of the 221
Revised Code. 222