



Public Policy Advocate Tip Sheet¹ on Medicaid Compliance and Audit Issues

The American Academy of Pediatric Dentistry (AAPD) supports the need to address waste, fraud and abuse in the Medicaid program. Further, the AAPD is opposed to the commission of fraud by any dentist in their relationships with third party payers. Such conduct could result in the imposition of sanctions such as the loss of the dental license, inability to participate in state Medicaid programs, recoupment of Medicaid payments, and civil or criminal penalties. It could also result in the dentist losing membership status in the AAPD.²

More than half of pediatric dentists accept new Medicaid patients, 25.5 percent of patients in pediatric dental offices are beneficiaries of state Medicaid programs, while 15.4 percent have no dental benefits coverage. Pediatric dentists see almost 20 percent more public aid patients than general dentists.³ As such, the state AAPD Public Policy Advocate (PPA) is in an ideal position to prepare members to comply with Medicaid rules and thus discourage fraud and abuse. State units can provide significant member benefit by:

- Establishing state-level relationships with both public and private entities that share the goal of improved oral health for children.
- Advocating for fair and consistent auditing practices.
- Educating members about relevant regulations, documentation standards and appropriate billing practices.

Relationships

One of the most critical relationships for the state Public Policy Advocate to develop is that with the State Medicaid agency.

According to CMS,

“States and the Centers for Medicare and Medicaid Services (**CMS**) share responsibility for operating Medicaid programs consistent with Title XIX of the Social Security Act and its implementing regulations. CMS provides states with interpretive guidance to use in applying statutory and regulatory requirements, technical assistance including tools and data, federal match for their expenditures and other resources. States fund their share of the program, and, within federal and state guidelines, operate their individual programs, including setting rates, paying claims, enrolling providers and beneficiaries, contracting with plans and claiming expenditures. States have considerable discretion in the manner in which they operate their programs, but should always employ that flexibility in ways that enhance care, promote overall program effectiveness and efficiency, and safeguard dollars expended, whether originating from federal or state sources. Together, the federal and state governments share accountability for the integrity of the total investments of dollars in the Medicaid program and the extent to which that investment produces value for beneficiaries and taxpayers.”⁴

States have the right to set standards regarding medical necessity, but they must do so within the context of promoting safe, effective and accountable care for its children that is consistent with Early and Periodic Screening, Diagnostic and Treatment (EPSDT) guidelines.

Advocacy points for state Medicaid agencies relevant to state conducted audits

- Medical necessity: The AAPD believes that state guidelines related to periodicity and standard of care (medical necessity) should be based on AAPD guidelines. AAPD Public Policy Advocates have the responsibility to educate their state Medicaid officials on the scientific rationale for AAPD clinical guidelines. Resources available through AAPD include: the AAPD Reference Manual, information published by the AAPD Pediatric Oral Health Research and Policy Center (POHRPC), information provided by the AAPD Evidence-Based Dentistry Committee and staff, *PDT* updates, and its journals, *Pediatric Dentistry* and *Journal of Dentistry for Children*.
 - Periodicity: The AAPD periodicity schedule is recognized by CMS as the standard for Medicaid dental periodicity. The state unit should inform the state Medicaid agency of the schedule, its scientific rationale, and the importance of clinical judgment and carries risk in determining the periodicity of services for a given individual.
 - Peer review: The AAPD believes that auditors should have credentials on par with the provider being audited. Pediatric dentists provide care to the most vulnerable and to populations at highest risk for decay; therefore the auditor should have a significant understanding of the preventive and treatment needs and recommendations for those populations. Resources include documents developed by the POHRPC, which are available on the AAPD website.
 - Fair practices in the identification of “outliers”: The AAPD recognizes the utility of data-mining processes, properly implemented, as an efficient tool to help focus program integrity investigations. AAPD strongly believes that peer-to-peer comparisons between providers in the same specialty, in similar geographic areas, and accounting for the differences in urban/suburban/rural populations, are necessary components of a data-mining program.
4. Offer to organize, or help organize, a state-level symposium for pediatric dentists with state Medicaid officials to learn about audit issues and to develop clear and consistent audit guidelines.
 5. Consider offering to work with the state to create a Dental Home pilot project to empirically test whether or not enrollee participation rates can be increased if the dentists are assigned a panel of patients and given the responsibility of outreach to that panel. Dentists with good results above state historical norms could be given bonus payments, have prior authorization criteria waived, or be assigned more patients as recognition for their success. This model could easily fit within the AAPD EFDA/case management model.
 6. Be sure you and all members of your business office team read and understand what’s in your state Dental Medicaid Provider Manual. This is the language that auditors will hold dentists to during audits. Be aware that language in the manual can be ambiguous. Always ask for clarification in **writing** from your Dental Medicaid Program staff or the managed care contractor. It’s important to know that if you live in a state that has multiple MCOs, you have multiple manuals and/or sets of rules to follow.
 7. Advocate for a technical claims scrub system, which will:
 - Enhance the quality of dental claims submission resulting in overall office efficiency by eliminating time consuming revision.
 - Boost first-time pass-through rates by ensuring that all submissions to the appropriate payer or clearing house are complete and accurate.
 - Identify potential denials before claims reach the payer.
 - Review every claim line for proper coding and logical sequence of care.
 - Flag improper claims lines based on developed edits and algorithms.
 - Provide a true “safety net” information system to support possible recovery audits.

Additional actions

1. Make sure the state program has a dental advisory committee on which an AAPD member is represented.
2. Offer to use AAPD scientific expertise, including adherence to AAPD Clinical Guidelines and Oral Health Policies to help craft/overhaul the medical necessity guidelines.
3. Consider asking the state to use its claims data to issue a quarterly report to participating providers which would show an individual dentist’s metrics, for the most frequent codes billed by volume or dollar amount, as compared to other pediatric dentists in the state.

State government

It is critically important that AAPD members develop positive relationships with their state legislators. The purpose of these relationships goes beyond the need to advocate for specific laws and regulations. State legislators need to be informed about the issues on an ongoing basis and they need to see first-hand the positive impact that pediatric dentists have on children's dental and systemic health.

Governmental concerns

Unfair auditing practices should be a source of government concern due to their detrimental effect on access to services for Medicaid recipients. Federal legislators have written letters, asking CMS to:

- Examine the Medicaid Recovery Audit Contractor (**RAC**) programs that have been implemented across the states and assess the impact such audits have had on providers enrolled in the program and subsequent patient access to services.
- Compile a list of state education and outreach efforts on Medicaid RAC audits to determine the depth of provider education needed to function well within the Medicaid program.
- Encourage states to engage auditing services that adhere to ethical standards.
- Issue guidelines to help ensure such education takes place consistent with the final rule on Medicaid RAC programs, published Sept. 16, 2011⁵, requiring states to provide education and outreach to providers.
- Issue guidelines to establish a uniformly fair, transparent process concerning how and when extrapolation should be used to determine fines and to recommend the use of an in-state dentist to review clinical records where appropriate.

Additional actions

1. Get to know your legislators — visit them in their offices and invite them to yours.
2. Contribute to their campaigns personally beyond what your state dental association PAC does.
3. Go to their meet and greet sessions. The more the meet you, the more they connect your name, your face, and your issues.
4. Send them notes thanking them for sponsoring important bills, even if they are not dental related, just good ideas — every legislator likes a pat on the back.

5. Offer to serve on any health advisory committees they need to fill.
6. Offer to be an expert on any dental or health related issues.
7. Always be credible and thoughtful.
8. Return their messages and requests for info as soon as possible.
9. Get to know their chief legislative aides or chief of staff because these folks control their schedules, and offer you access to the member.
10. Offer to help pass a bill that you believe in that may be their priority bill; for example, "Could I contact Sen. Smith to let her know I support this?"

AAPD members in your state

Individual providers need to have access to information and training on Medicaid rules, regulations, billing policies, and how to document services and medical necessity properly. State dental societies can:

- Make sure their members are informed about any current or ongoing state activities.
- Ensure that their members have information about proper documentation and medical necessity, which can happen through:
 - Written and e-mail communications.
 - Workshops and webinars.
 - Website resources.
 - Peer-to-peer mentorship.

Additional actions

1. Read and understand your state Medicaid Manual, ask for clarification in writing for any ambiguous language.
2. Participate in regularly scheduled PPA calls.
3. Offer to organize workshops/webinars on state specific Medicaid policies, documentation standards, and medical necessity.
4. Meet with key individuals within MCOs (if applicable).
5. Distribute AAPD materials to state dental society leadership for distribution to members.

Practical tips for providers to survive an audit:

- Be sure you and all members of your business office team read and understand what's in your state Dental Medicaid Provider Manual. This is the language that auditors will hold dentists to during audits. Be aware that language in the manual can often be ambiguous. Always ask for clarification in **writing** from your Dental Medicaid Program staff or the managed care contractor. It's important to know that if you live in a state that has multiple MCOs, you have multiple manuals and/or sets of rules to follow.
- **Do not ignore** the request for medical records. If you do, you will turn a routine request for information into a fraud investigation in the mind of the state agency. If you need more time ask for it, most states are happy to work with you as long as you cooperate in good faith.
- If possible do a self-audit on the same type of claims to see what your likely exposure will be. If you find a high error rate and/or a large dollar volume of affected claims, give serious thought to hiring an attorney. Remember that a civil false claims act case has per claim penalties in the thousands of dollars.
- **Learn the basics of dental coding yourself.** Relying on your office manager will not save you. This is especially the case if you have turnover in your office manager/billing personnel.
- Be wary of billing software designed to "maximize" revenues. You cannot blame the software for errors such as up-coding. Also, aggressive billing greatly increases the chance that your billing for a particular code will be an outlier and lead to a possible audit.
- If you discover overpayments on your own: 1) call an attorney for advice if there is any significant amount involved; and 2) consider a self-report to the state agency which might aid in reducing fines and penalties.
- **Engage legitimate consultants who have demonstrated expertise and success in preparing offices to comply with regulations and survive audits.**
- Anytime the agency starts talking about termination or exclusion, consult an attorney as these measures can possibly result in exclusion from all federal health care programs, private payer networks, and loss of hospital privileges.

¹ In 2012 the AAPD through the Council on Government Affairs developed a state Public Policy Advocate initiative in order to strengthen and coordinate advocacy efforts by our state chapters. The Public Policy Advocate (PPA) position is designed to serve as the state pediatric dentistry association's advocate for the oral health issues of infants, children, adolescents and patients with special health care and developmental needs. The PPA will help represent the state pediatric dentistry association in promoting children's oral health issues with the state legislature and other elected bodies, state regulatory agencies (including Medicaid and health departments), licensing bureaus, professional health and child welfare organizations, oral health coalitions, foundations, institutions of dental education, publicly-funded safety net programs, and the private sector benefits industry. For more information, please see: http://www.aapd.org/advocacy/public_policy_advocates/.

² 2014 AAPD Constitution and Bylaws.

³ 2013 Survey of Dental Practice: Characteristics of Pediatric Dentists.

⁴ CMS, Comprehensive Medicaid Integrity Plan for FY 2014-2015, available at <http://www.cms.gov/Regulations-and-Guidance/Legislation/DeficitReductionAct/Downloads/cmip2014.pdf>.

⁵ 42 CFR 455 (September 16, 2011) <https://www.federalregister.gov/articles/2011/09/16/2011-23695/medicaid-program-recovery-audit-contractors>.



AMERICA'S PEDIATRIC DENTISTS THE BIG AUTHORITY on little teeth

The American Academy of Pediatric Dentistry (AAPD) is the recognized authority on children's oral health. As advocates for children's oral health, the AAPD promotes evidence-based policies and clinical guidelines; educates and informs policymakers, parents and guardians, and other health care professionals; fosters research; and provides continuing professional education for pediatric dentists and general dentists who treat children. Founded in 1947, the AAPD is a not-for-profit professional membership association representing the specialty of pediatric dentistry. Its 9,300 members provide primary care and comprehensive dental specialty treatments for infants, children, adolescents and individuals with special health care needs. For further information, please visit the AAPD website at <http://www.aapd.org> or the AAPD's consumer website at <http://www.mychildrensteeth.org>.

The Pediatric Oral Health Research and Policy Center (POHRPC) exists to inform and advance research and policy development that will promote optimal children's oral health and care. To fulfill this mission, the POHRPC conducts and reports oral health policy research that advances children's oral health issues and supports AAPD public policy and public relations initiatives at the national, state, local, and international levels with legislatures, government agencies, professional associations, and other non-governmental organizations.

For more information about the AAPD Pediatric Oral Health Research and Policy Center, please access our website at <http://www.aapd.org/policycenter/>.