

# AAPD 2019 LEGISLATIVE FACT SHEET

## MEDICAID DENTAL REFORM: FAIR AND REASONABLE PEDIATRIC DENTAL AUDITS



AMERICA'S PEDIATRIC DENTISTS  
THE BIG AUTHORITY on little teeth®

**REQUEST:** Congress should direct the Centers for Medicare and Medicaid Services (CMS) to require contracted auditors for pediatric dental cases to utilize appropriate professional guidelines and legitimate peer review.

**Background.** Pediatric dentists participate in Medicaid at the highest level among all types of dentists as indicated below (64.8% in 2015, far above the overall dentist participation rate of 38%), and are therefore a critical part of the safety net to provide oral health care to the nation's most vulnerable children:

- Pediatric Dentist – 64.8%
- Oral Surgeon – 49.4%
- Public Health Dentist – 40.6%
- General Dentist – 37.9%
- Oral Pathologist – 35.6%
- Orthodontist – 33.9%
- Endodontist – 25.5%
- Prosthodontist – 18.5%
- Periodontist – 17.1%<sup>1</sup>

There is no doubt that inadequate reimbursement and administrative burden in many states limits dentist participation in the program, although there are examples of successful reforms in several states. AAPD and ADA have offered numerous Medicaid dental reform solutions to improve the program and increase dentist participation. **This Fact Sheet focuses on reforming Medicaid pediatric dental audits.**

To ensure program integrity and accountability to taxpayers, Congress has authorized several types of Medicaid provider audits. These are described in part in the AAPD's technical brief Pediatric Dentist Toolkit for Seeing Patients with Medicaid: Changing Children's Lives One Smile at a Time (published by the Pediatric Oral Health Research and Policy Center, May 2017)<sup>2</sup>:

“Because there are different types of Medicaid-related audits, various government agencies may identify improper Medicaid payments in a number of ways. The U.S. Department of Justice and Office of Inspector General enforce health care fraud laws, and through prosecution can recover funds, collect penalties, and bar providers from future program participation. The CMS has an active role in anti-fraud and audit activities. Through Medicaid Fraud Control Units, states actively enforce health care fraud laws in Medicaid cases.

The Deficit Reduction Act of 2005 created the Medicaid Integrity Program (MIP) in Section 1936 of the Social Security Act and dramatically increased the federal government's role and responsibility in combating Medicaid fraud, waste and abuse. To fulfill this statutory requirement, the MIP procures Audit Medicaid Integrity Contractors (Audit MICs) to conduct provider audits throughout the country. In addition, Section 1936 requires the CMS to contract with eligible entities to review and audit Medicaid claims, identify over-

payments, and provide education on program integrity issues. CMS must also provide assistance to states to combat Medicaid provider abuse and periodically publish a Comprehensive Medicaid Integrity Plan. This webpage offers an overall summary of the MIP: <https://www.medicaid.gov/medicaid/program-integrity/index.html>.

The following CMS booklet provides an overview of health care fraud and program integrity for health care providers: <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/Downloads/fwa-overview-booklet.pdf>.

In addition to the MIP, the CMS is responsible for the Payment Error Rate Measurement Program, which measures and reports improper payments in Medicaid and identifies common errors via statistical analysis. For further information, see: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicaid-and-CHIP-Compliance/PERM/Downloads/PERMOverview.pdf>.

With the passage of the Affordable Care Act, the Recovery Audit Program was expanded beyond Medicare to include Medicaid. Each state Medicaid program is required to establish a recovery audit program to audit claims for services furnished by Medicaid providers. Medicaid Recovery Audit Contractors (RACs) contract with states to audit providers and identify overpayments and underpayments made to health care professionals by the Medicaid program.”

### PROBLEM

Recent Medicaid audits of multiple pediatric dentists in the state of Nebraska have been conducted by a Unified Program Integrity Contractor (UPIC) under MIP authority with responsibilities for CMS in the Midwestern region. Several issues of concern have been brought to the AAPD's attention regarding these audits of pediatric dentists.

**Dental auditors are ignoring clinical recommendations of the AAPD<sup>3</sup> and second-guessing clinical decision-making by pediatric dentists absent appropriate peer review by a pediatric dentist.** Specifically these audits have questioned the use of stainless steel crowns in children at high caries risk being treated in a hospital setting, many with signs of decay on multiple teeth. The auditor has requested significant refund of payments, nearly \$90,000 in one case. The auditor's correspondence to one pediatric dentist Medicaid provider states that AAPD's clinical recommendations are irrelevant to their audit findings regarding his pediatric dentistry practice.

The AAPD has raised these concerns with CMS. The pediatric dentists impacted have obtained local legal representation to file an appeal of the audit findings.

## JUSTIFICATION

The AAPD strongly believes it is counter-productive and damaging to the Medicaid dental program to have auditors question the clinical judgement of a pediatric dentist who is adhering to clinical recommendations developed by their professional association—AAPD. The AAPD has provided excellent guidance for best auditing practices in pediatric dentistry that promote both fairness and program integrity.<sup>4</sup> The AAPD supports program integrity efforts, but has cautioned that unwarranted harassment of good providers will tend to drive them out of the Medicaid system and damage children's access to oral health care.

To make matters worse, lack of appropriate peer review is fundamentally unfair. Would an auditor engage a nurse practitioner, rather than a pediatric cardiologist, to review a pediatric cardiology case? By not utilizing appropriate peer review by a pediatric dentist experienced in treating children in the Medicaid program, the AAPD believes auditors are denying fundamental due process to pediatric dentists.

<sup>1</sup>Source: American Dental Association, Health Policy Institute. *Dentist Participation in Medicaid, based on 2015 data.*

<sup>2</sup>See: [http://www.aapd.org/policy\\_center/technical\\_briefs/#toolkit](http://www.aapd.org/policy_center/technical_briefs/#toolkit)

<sup>3</sup>See: [http://www.aapd.org/media/Policies\\_Guidelines/P\\_ECCUniqueChallenges.pdf](http://www.aapd.org/media/Policies_Guidelines/P_ECCUniqueChallenges.pdf) and [http://www.aapd.org/media/Policies\\_Guidelines/BP\\_RestorativeDent.pdf](http://www.aapd.org/media/Policies_Guidelines/BP_RestorativeDent.pdf)

<sup>4</sup>See: [http://www.aapd.org/media/Policies\\_Guidelines/P\\_ThirdPartyAudits.pdf](http://www.aapd.org/media/Policies_Guidelines/P_ThirdPartyAudits.pdf)