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November 6, 2019

Dr. Matthew Van Patton
Director of the Division of Medicaid and Long-Term Care
Nebraska Division of Health and Human Services
301 Centennial Mall South
Lincoln, Nebraska 68509

Dear Dr. Van Patton:

The American Academy of Pediatric Dentistry, American Dental Association, Nebraska Society of Pediatric Dentistry, and Nebraska Dental Association are writing to express our critical concerns over recent Medicaid dental audits conducted under the auspices of the state Medicaid agency (SMA) that have led to unfortunate outcomes detrimental to the program's goal of improving oral health access for children of low-income families.

In late 2018, the SMA conducted audits of several pediatric dentists in Nebraska. These were under the auspices of AdvanceMed, a Unified Program Integrity Contractor (UPIC) for the Centers for Medicare and Medicaid Services (CMS) in the Midwestern region. While recognizing that audits are a regular part of program integrity efforts, it quickly became apparent the AdvanceMed dental auditors were not basing their review upon the accepted clinical recommendations of the American Academy of Pediatric Dentistry (AAPD),¹ while second-guessing clinical decision-making by pediatric dentists absent appropriate peer review by a dentist with equivalent educational training.

Specifically, these audits questioned the use of stainless steel crowns in children at high caries risk, many with signs of severe decay on multiple teeth, and requested significant refund of payments for alleged inappropriate treatment. AdvanceMed's November 2018 correspondence to one pediatric dentist Medicaid provider specifically stated that AAPD's clinical recommendations were irrelevant to their audit findings.

¹ See:

http://www.aapd.org/media/Policies_Guidelines/P_ECCUniqueChallenges.pdf
and

http://www.aapd.org/media/Policies_Guidelines/BP_RestorativeDent.pdf

In the first audit case considered, we understand the auditor disagreed with the pediatric dentist's choice of restoration in many cases because the "least costly restoration" was not chosen. However, the treating dentist did not address the disease in isolation; this dentist considered the least costly option in the context of the life of the tooth, the risk factors for future disease, and the life of the child. Stainless steel crowns are far more durable than other types of restorations for primary teeth. The auditor only considered the least costly option at the point of service. Ignoring the caries risk assessment of a child was egregious on the part of the auditor. There was no question that restorations were needed. In considering which restorative treatment was best for a child, the pediatric dentist made the right decision based on accepted professional clinical recommendations. Even the official CMS *Guide to Children's Care in Medicaid* indicates that:

" . . . a child who is caries-active or at high risk for caries development may require more frequent diagnostic and preventive procedures, or more extensive restorative dental services (e.g., larger restorations **or stainless steel crowns** instead of metal or plastic fillings). If properly implemented, these approaches to pediatric oral health care will result in optimal oral health for children and value for public expenditures."²

Our organizations are strongly committed to effective program integrity efforts and promoting children's access to oral health care via the Medicaid program. However, we believe it is counter-productive and damaging to the Medicaid dental program to have auditors second-guess the clinical judgment of a pediatric dentist who is adhering to clinical recommendations developed by their professional association. The AAPD has provided excellent guidance for best auditing practices in pediatric dentistry that promote both fairness and program integrity.³ Our organizations are justifiably concerned that unwarranted post-treatment criticism of providers acting in accord with accepted specialty guidelines will erode provider participation, decimate the Medicaid provider network, and damage children's access to oral health care.

We believe that lack of appropriate peer review by a pediatric dentist experienced in treating high caries risk children, such as those in the Medicaid program, is fundamentally unfair and a denial of due process. Pediatric dentistry is a recognized dental specialty. A pediatric dentist should be reviewed by a pediatric dentist.

Our organizations have raised these concerns in meetings and correspondence with both the Nebraska SMA and the CMS Center for Program Integrity over the past nine months.

Unfortunately, our fears are becoming reality. In the first pediatric dentist audit case it was clearly established in the appeal hearing that AAPD clinical recommendations were ignored by the auditor. Further, the dental consultant for the auditing firm was a general dentist who does not currently treat Medicaid patients and was unaware of AAPD's clinical recommendations. It

² See: <https://www.medicaid.gov/medicaid/benefits/downloads/child-dental-guide.pdf>, p. 3.

³ See: http://www.aapd.org/media/Policies_Guidelines/P_ThirdPartyAudits.pdf

was unclear what criteria the auditors used to gauge appropriateness of care delivered to these children.

After incurring a significant amount of legal fees in appealing his case, this pediatric dentist eventually gave up his appeal and settled the case for \$50,000 in order to stop the financial cost to his practice (over \$120,000 when including legal fees). Based on this experience, the pediatric dentist will no longer be a Medicaid provider.

Thus, the end result is that the audit has harmed children's access to oral health care while recovering a pittance of overall Medicaid spending in the state. In the administrative hearing of this pediatric dentist's appeal, the SMA was ill-prepared and ill-informed, but still could not be persuaded to drop the case or settle for a modest amount. This particular pediatric dentist has lost faith in the SMA and will not be a positive spokesperson to other established dentists or residents-in-training to consider participating as a Medicaid provider. This is an unintended consequence that is a counter-intuitive outcome for a program meant to help the state's poorest children obtain oral health care.

Similar audits of pediatric dentists in Nebraska are progressing in various stages. While the Medicaid program naturally wants to prevent fraud, misguided audits like these only hurt children's access to dental care. They endanger the viability of Medicaid provider networks. Where will children obtain needed care? For example, the wait time is already excessive at UNMC's pediatric dentistry clinic and the Lincoln Lancaster Health Department no longer has a pediatric dentist since the audit caused this dentist to drop out of the Medicaid program.

As a further irony, if a dentist is brought before the state Board of Dentistry based on a complaint related to treatment, the Board will require that the dentist demonstrate they followed the standard of care for their treatment decision. For pediatric dentists, the Board will consider the AAPD's clinical recommendations to determine the standard of oral health care for children. This puts a pediatric dentist in an impossible situation of being unable to satisfy contradictory treatment recommendations from the SMA and the Board of Dentistry.

This situation also leaves Nebraska dental educators in a quandary. Currently, they teach to AAPD clinical recommendations, as do all pediatric dental residency programs in the country. If they or their graduates are audited based on criteria other than the accepted standard of care, where is the quality of care that children deserve?

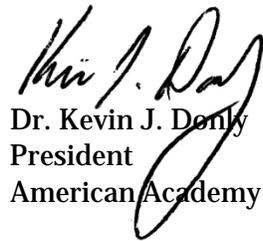
Based on these serious concerns and the potential negative impact upon children's oral health care, not only in Nebraska but across the nation, our organizations ask that you take action to halt these audits and require all future Medicaid dental audits in Nebraska to follow these criteria:

- Contracted auditors should utilize dental profession clinical guidelines, best practices, and policies of the appropriate specialty organization, such as the AAPD, and the American Dental Association, when conducting dental audits and require independent peer-to-peer review.

- Contracted auditors should utilize licensed dentists of equivalent education and training as the dentists being audited (such as pediatric dentists auditing pediatric dentists), with experience in treating Medicaid patients.

We look forward to your response and will be pleased to forward any additional background information requested. Please contact Mr. David O'Doherty, Executive Director of the Nebraska Dental Association (402-476-1704 or david@allophone.com), if you have any questions concerning this letter.

Sincerely yours,



Dr. Kevin J. Donly
President
American Academy of Pediatric Dentistry



Dr. Chad P. Gehani
President
American Dental Association



Dr. Rick Carstens
President
Nebraska Society of Pediatric Dentistry



Dr. Kenneth Tusha
President
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