



**C. Scott Litch**  
 Chief Operating Officer and General Counsel

**Litch's Law Log**

**Medicaid Dental Audits—Advice and Advocacy**  
**Part 1**

As discussed in past columns and several AAPD CE offerings in recent years, Medicaid dental provider audits are becoming more commonplace and fines can be substantial. See, for example, the guest column from November 2016 written by New York attorney Margaret Surowka Rossi, who defends dentists in audit cases: [https://www.aapd.org/assets/1/7/Litchs\\_Law\\_Log1.PDF](https://www.aapd.org/assets/1/7/Litchs_Law_Log1.PDF).

In most situations, it makes sense to hire an attorney to defend and appeal against any negative audit findings. I would love to be able to provide a personal recommendation for a highly competent Medicaid audit provider defense attorney to any AAPD member needing such assistance. Unfortunately, this would be either herculean or impossible. Fortunately, the AAPD's knowledge base in this area is constantly growing and even if we are not personally familiar with a lawyer or law firm (after all, it is a big country), there are ways to assist our members in making an informed decision. Checking with pediatric dental colleagues, the state pediatric dental chapter, and the state and local dental associations is always a good first step. Because of the growth of audits in both Medicaid and Medicare, there has been corresponding growth in the number of health lawyers with experience in defending doctors, hospitals, and other health care facilities in such cases. The bottom line is that it should be possible to locate and secure effective and experienced counsel in almost any state.

In terms of handling such legal defense fees, a good first step is to contact your professional liability insurance carrier. You may not be aware that the AAPD's endorsed Professional Liability Insurance Program, MedPro Group (offered through Treloar & Heisel), includes coverage to defend the insured against allegations involving improper submission of claims under the Medicaid or Medicare programs. For more information about this coverage, contact Treloar & Heisel at (800) 345-6040.

You might naturally ask what is AAPD doing to ensure that any such Medicaid audits are fair and reasonable, so that a pediatric dentist does not have to spend time and money defending widely accepted clinical practices? That is an excellent question and some recent developments in Ne-

braska have pushed this issue to the forefront of our Medicaid dental reform advocacy efforts. This is best explained by referencing the *Legislative Fact Sheet* used in Congressional visits made Feb. 26-27, 2019, as part of the AAPD's Pediatric Oral Health Advocacy Conference. This is available at <https://www.aapd.org/globalassets/media/advocacy/2019-insert5.mediicaidentalreform.pdf>.



braska have pushed this issue to the forefront of our Medicaid dental reform advocacy efforts. This is best explained by referencing the *Legislative Fact Sheet* used in Congressional visits made Feb. 26-27, 2019, as part of the AAPD's Pediatric Oral Health Advocacy Conference. This is available at <https://www.aapd.org/globalassets/media/advocacy/2019-insert5.mediicaidentalreform.pdf>.

As described on this sheet, the AAPD and the American Dental Association recently met with staff of the CMS Center for Program Integrity to discuss our concerns in this area. I'll report on follow-up efforts and next steps in the next column.

For further information contact Chief Operating Officer and General Counsel C. Scott Litch at (312) 337-2169 ext. 29 or [slitch@aapd.org](mailto:slitch@aapd.org).

*This column presents a general informational overview of legal issues. It is intended as general guidance rather than legal advice. It is not a substitute for consultation with your own attorney concerning specific circumstances in your dental practice. Mr. Litch does not provide legal representation to individual AAPD members.*