

# Policy on Third-Party Fee Capping of Noncovered Services

## Latest Revision

2022

### Purpose

The American Academy of Pediatric Dentistry (AAPD) supports dental benefit plan provisions designed to meet the oral health needs of patients by facilitating, beginning at birth, the delivery of diagnostic, preventive, and therapeutic services in a comprehensive, continuously accessible, coordinated and family-centered manner.<sup>1</sup> A well-constructed dental benefit plan respects and meets the needs of the plan purchaser, subscriber/patient, and provider.

### Methods

This policy was developed by the Council on Dental Benefits Programs, adopted in 2012<sup>2</sup>, and last revised by the Council on Clinical Affairs in 2017<sup>3</sup>. This revision included a review and analysis of state laws and pending legislation prohibiting the capping of noncovered services by third-party providers, related federal legislation, and the American Dental Association's *Policy on Maximum Fees for Non-Covered Services*<sup>4</sup>.

### Background

The American Dental Association (ADA) defines covered service as “any service for which reimbursement is actually provided on a given claim”<sup>4</sup> and noncovered services are “procedures for which the plan pays no benefit”<sup>5</sup>. Capping of noncovered services occurs when an insurance carrier sets a maximum allowable fee for a service ineligible for third-party reimbursement. While most contractual matters between insurers and providers are those of a private business relationship, this business practice is contrary to the public interest for the following reasons.

- Larger dental benefit carriers with greater market share and more negotiating power are favored in this arrangement. While dentists may refuse to contract with smaller plans making this requirement, they are unable to make the same decision with larger plans controlling greater numbers of enrollees. Eliminating this practice levels the playing field for all insurers and encourages greater competition among dental plans. If smaller plans and insurers are unable to survive, the group purchaser and subscriber are ultimately left with less market choice and potentially higher insurance cost.

**How to Cite:** American Academy of Pediatric Dentistry. Policy on third-party fee capping of noncovered services. The Reference Manual of Pediatric Dentistry. Chicago, Ill.: American Academy of Pediatric Dentistry; 2023:194-5.

- It is unreasonable to allow plans to set fees for services in which they have no financial liability and that may not cover the overhead expense of the services being provided. When this provision precludes dentist participation in a reimbursement plan, subscribers realize less choice in their selection of available providers. In many cases, especially in rural or other areas with limited general or specialty practitioners, this adversely affects the care. This is particularly true for vulnerable populations, including individuals with special health care needs.
- For dentists forced to accept this provision, the artificial pricing of uncovered services results in cost-shifting from those covered under a particular plan to uncovered patients. Thus, the uninsured and those covered under traditional indemnity or other plans will shoulder the costs of these provisions. Capping of noncovered services is not cost saving; it is cost-shifting – often to the most vulnerable populations and to those least able to afford healthcare.
- The ability to cap noncovered services allows insurance plans to interfere with the patient-doctor relationship.

The House of Delegates of the ADA in 2020 adopted Resolution 19H-2020 Maximum Fees for Non-Covered Services which opposed third-party contract provisions that establish fee limits for noncovered services.<sup>6</sup> Legislation to prohibit a dental insurer or dental service plan from limiting fees for services not covered under the plan, is the law in 42 states (Paul O'Connor [oconnorp@ada.org], email, July 5, 2022). Such legislation allows the dentist to utilize the usual and customary fee for services not covered by the plan.

### Policy statement

The AAPD believes that dental benefit plan provisions which establish fee limitations for noncovered services are not in the public's interest and should not be imposed through provider contracts.

#### ABBREVIATIONS

**ADA:** American Dental Association. **AAPD:** American Academy of Pediatric Dentistry.

## References

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2. American Academy of Pediatric Dentistry. Policy on third-party fee capping of non-covered services. *Pediatr Dent* 2012;34(special issue):93-4.
3. American Academy of Pediatric Dentistry. Policy on third-party fee capping of non-covered services. *Pediatr Dent* 2017;39(6):122-3.
4. American Dental Association. Maximum fees for non-covered services. (Trans.2010:616;2020:XXX). In: *American Dental Association Current Policies Adopted 1954-2020*. Chicago, Ill.: American Dental Association; 2021:108. Available at: "[https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/oral-health-topics/ada\\_current\\_policies\\_2020.pdf?rev=5360d352925c43279b326ded579fbff3&hash=DE47B72832701335B9FD038EDB0FD0EC](https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/oral-health-topics/ada_current_policies_2020.pdf?rev=5360d352925c43279b326ded579fbff3&hash=DE47B72832701335B9FD038EDB0FD0EC)". Accessed July 6, 2022.
5. American Dental Association. Comprehensive ADA policy statement on inappropriate or intrusive provisions and practices by third party payers (Trans.2016:290; 2017:266). In: *American Dental Association Current Policies Adopted 1954-2020*. Chicago, Ill.: American Dental Association; 2021:84. Available at: "[https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/oral-health-topics/ada\\_current\\_policies\\_2020.pdf?rev=5360d352925c43279b326ded579fbff3&hash=DE47B72832701335B9FD038EDB0FD0EC](https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/oral-health-topics/ada_current_policies_2020.pdf?rev=5360d352925c43279b326ded579fbff3&hash=DE47B72832701335B9FD038EDB0FD0EC)". Accessed July 6, 2022.
6. American Dental Association. Resolution 19. Amendment of Policy, Maximum Fees for Non-Covered Services. In: *American Dental Association 2020 Supplement to Annual Reports and Resolutions Volume 1*. Chicago, Ill.: American Dental Association; 2020:179. Available at: "[https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/about/current-policies-and-historical-publications/20\\_ar\\_supp\\_01.pdf](https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/about/current-policies-and-historical-publications/20_ar_supp_01.pdf)". Accessed July 2, 2022.