

1400 Health Insurance Specific Provisions

1402 Dental Plan Organization [Formerly Regulation 39]

*See also Interim Regulation No. 39-S1, page 2384 (Interim Regulation 39-S1)

1.0 Authority

This regulation has been adopted and promulgated in accordance with 18 **Del.C.** §314 which provides authority for the Commissioner to establish reasonable rules and regulations for the implementation of any provisions of the Delaware Insurance Code; 18 **Del.C.** Ch. 38 (Dental Plan Organization Act) which establishes the authority for operation of licensed dental plans in Delaware and contains the criteria for licensing and regulation; and 29 **Del.C.** Ch. 101 (Administrative Procedures Act) which establishes the procedure for adopting a regulation.

2.0 Purpose

The purpose of this regulation is to disseminate the criteria for licensing a dental plan as established by 18 **Del.C.** Ch. 38 and to establish the procedure for obtaining and maintaining a certificate of authority. At present no dental plans are licensed in Delaware although the cited statute requires registration on or before November 24, 1981.

3.0 Definitions

3.1 Definitions as used in 18 **Del.C.** §3802:

"**Dental plan**" means any contractual arrangement for dental services provided directly or arranged for or administered directly on a prepaid or postpaid individual or group capitation basis;

"**Dental plan organization**" means any person who undertakes to provide directly or to arrange for or administer one or more dental plans providing dental services;

"**Dental services**" means services included in the practice of dentistry as defined in 24 **Del.C.** §1121;

"**Enrollee**" means an individual and his dependents who are enrolled in a dental plan organization; and

"**Evidence of coverage**" means any certificate, agreement or contract issued to an enrollee setting out the dental services to which the enrollee is entitled.

4.0 Exclusion

This regulation shall not apply to a health service corporation or an insurer authorized to transact business under a certificate of authority issued by the Commissioner when such health service corporation or insurer operates a dental plan or a dental organization. Any subsidiary or any other entity established by a health service corporation or an insurer meeting the aforementioned requirement which does not possess a certificate of authority and which operates a dental plan or dental plan organization shall obtain a certificate of authority pursuant to this regulation.

5.0 Application procedure

5.1 Applicants for a certificate of authority as a dental plan organization shall, within 90 days of the effective date of this regulation, submit a letter of request to the Commissioner as described in 18 **Del.C.** §3803.

5.2 The letter to the Commissioner requesting a certificate of authority to operate a dental service plan in Delaware shall include section 5.2.1 to 5.2.10 as listed below. The request shall be signed by an officer of the corporation, by a partner or the sole proprietor as applicable and be accompanied by:

5.2.1 Registration fee of \$100.00;

5.2.2 Articles of incorporation, partnership agreement or applicable documents;

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- 5.2.3 Corporate by-laws or other documents describing the procedure for internal control and operation of the business entity;
- 5.2.4 Name, address, title or nature of affiliation of each member of the board of directors, officers partners or sole proprietors involved in the direct operation of the dental service plan;
- 5.2.5 A synopsis of the dental plan organization including an outline of the contract for services provided consumers, the physical plant; an outline of the contract between the plan and servicing dentists, administrative staff and procedures, areas to be served, primary market target, recruiting and training of administrative staff. This synopsis shall contain sufficient details of the proposed dental service to allow the Commissioner to determine that the proposal will, if approved, provide for adequate care and be reasonably available to the consumer;
- 5.2.6 A financial projection covering three years (one year for currently operating plans) reviewing initial source of capital, projected operating results;
- 5.2.7 A current financial report certified by an independent CPA;
- 5.2.8 Copies of proposed contracts between dental plan and employer, union or other groups; between dental plan and individuals, if individual service is contemplated; between dental plan and dental practitioners; between plan and any service facility or administrator;
- 5.2.9 A certificate by the chief executive officer that the bond and malpractice coverage required by 18 **Del.C.** §§3806, 3807 has been provided. Each dentist shall have, as a minimum, \$50,000 professional liability/medical malpractice insurance. Each officer, director or partner who receives, collects or invests money on behalf of the dental plan shall be bonded in the amount of \$50,000; and
- 5.2.10 A biographical affidavit of each corporate officer, member of the board of directors, partner or sole proprietor.

6.0 Effective Date

This regulation shall become effective on December 1, 1982.

Editorial Note: Interim Regulation No. 39-81 which supplements the procedures established by Regulation No. 39, follows.

Interim Regulation 1402 (Formerly Interim Regulation 39-81) Dental Plan Organizations

1.0 Authority

This regulation is adopted on an interim basis in accordance with 29 **Del.C.** §§10111 et seq. which provides authority for the Commissioner to establish rules and regulations for implementation of any provisions of the Delaware Insurance Code; and 18 **Del.C.** Ch. 38 (as amended by H. B. 102) which requires that the Commissioner establish interim rules and regulations to apply to all new dental plans and to all existing dental plans.

2.0 Purpose

The purpose of this interim regulation is to supplement the procedures established by Regulation 1402 (Formerly Regulation 39) "Dental Plan Organizations" to include provisions for alternative dental plans for certain dental service consumers, pending adoption of a revised Regulation 1402 (Formerly Regulation 39).

3.0 Definitions

3.1 As used in this interim regulation:

"Alternative Dental Plan" means a dental insurance plan or policy which is traditional insurance or an open panel HMO, and which provides for payment or contribution to an employee's or member's costs for dental services in lieu of a closed-panel HMO-type dental plan;

"Covered Persons" means employees and organization members and their dependents eligible for participation in a dental plan organization;

"Dental Plan Organization" means any person who undertakes to provide directly or to arrange for or administer one or more dental plans providing dental services.

"Employer" means any person, corporation, or entity which employs 25 or more persons and which contributes to an HMO-type dental plan for those employees and employees' eligible dependents;

"HMO-Type Dental Plan" means any contractual arrangements for dental services which requires utilization of a single dentist or closed panel of dentists;

"Organization" means any profit or not for profit group or voluntary association with at least 25 members which contributes to an HMO-type dental plan for its members and its members' eligible dependents;

4.0 Compliance With Existing Law

To the extent not superseded or modified by this interim regulation, dental plan organizations shall continue to be governed by Regulation 1402 (Formerly Regulation 39).

5.0 Requirements; Notice Of Availability Of Alternative Dental Plan Coverage

- 5.1 All employers and organizations shall offer their employees, and eligible dependents' and members and members' eligible dependents at the time an HMO-type dental plan is offered or renewed, an alternative plan which permits covered persons to obtain dental services from any licensed dentist. Each employer shall pay or contribute toward the provision of an alternative dental plan an amount equal to the premium or cost which it pays or contributes to the HMO-type dental plan contract.
- 5.2 Each employer or organization covered by this interim regulation, after the effective date of this regulation and at least 30 days prior to the offer or renewal of a dental plan, shall notify their employees or members of their right to select alternative dental plan coverage. This notice shall be in substantially the following form:
- 5.3 "Legislation adopted by the General Assembly of the State of Delaware requires that all employers and organizations providing an HMO-type dental plan for their employees or members which restricts the choice of dentists also must offer an alternative plan which allows participants to choose the dentist of their choice. An employer or organization must contribute to the alternative dental plan an amount equal to the contribution to the HMO-type dental plan.
- 5.4 Please contact [insert name of proper department or person] if you want to learn more about the alternative dental plan coverage."

6.0 Minimum Standards Of Alternative Dental Plans

An employer or other organization shall pay or contribute to an alternative dental plan for an employee, employee's eligible dependent, member, or member's eligible dependent an amount equal to the premium or cost which it pays or contributes to the HMO-type dental plan organization. The alternative dental plan must allow a covered person to choose any licensed dentist for their dental care.

7.0 Violation

Any violation of this section shall be initiated by a complaint from an employee or member who is a covered person under this regulation. Upon the finding of a violation, the Insurance Commissioner shall ask the Attorney General's office to enjoin said violation of this section.

8.0 Effective date

This interim regulation shall become effective 30 days after the signature of the Commissioner. (Signed by the Commissioner December 31, 1987.)