

1 **MINUTES OF THE SPECIAL MEETING OF THE COUNCIL ON DENTAL BENEFIT PROGRAMS**
2 **Via Zoom Teleconference**
3 **May 13, 2021**

4 **Call to Order:** The special meeting of the Council on Dental Benefit Programs (CDBP) was called to
5 order by Dr. Randall Markarian chair, on Thursday, May 13, 2021 at 6:00 p.m. virtually, via Zoom
6 teleconference.

7 **Roll Call:** Dr. Randall Markarian, Dr. Hope Watson, Dr. Roderick H. Adams, Dr. Dennis Bradshaw,
8 Dr. Kevin W. Dens, Dr. William V. Dougherty, Dr. Stacey Gardner, Dr. Andrew Gazerro, Dr. Hadi
9 Ghazzouli, Dr. Rodney C. Hill, Dr. Mark H. Johnston, Dr. Yvonne E. Maldonado, Dr. Eugene G.
10 Porcelli, Dr. L. King Scott, Dr. Jessica A. Stillely-Mallah, Dr. Scott Trapp, Dr. Walter G. Weber, Dr.
11 Julio Rodriguez, trustee liaison, Dr. Amrita Patel, new dentist member, (*not present*), Ms. Joy
12 Nisnisan (ASDA)

13 Practice Institute (PI) Staff in attendance (for all or part of the meeting): Dr. Krishna Aravamudhan,
14 Mr. Dennis McHugh, Dr. Diptee Ojha, Mr. Frank Pokorny, Ms. Sarah Tilleman, Ms. Joan Feifar

15 Association Staff in attendance (for all or part of the meeting): Ms. Roxanne Yaghoubi.

16 Following the roll call, the presence of a quorum was noted.

17 **PRELIMINARY BUSINESS**

18 **Conflict of Interest Disclosure Statement:** The Chair referenced the Conflict of Interest Disclosure
19 Statement included on the agenda and called for disclosures of potential conflicts of interest. None
20 were received.

21 **Approval of Agenda:** The Council adopted the agenda by general consent, giving the Chair
22 permission to reorder items as needed.

23 **Approval of Consent Items:** A consent calendar was prepared to expedite the business of the
24 Council. Council members were given the opportunity to remove any item from the consent calendar
25 for consideration during the meeting. The Council approved the consent calendar by acclamation.

26 **DENTAL BENEFITS**

27 **Resolution 83: New Policy on Elimination of Wait Periods:** The Council approved, through the
28 Consent Calendar, a new policy on Elimination of Wait Periods for submission to the 2021 House of
29 Delegates (HOD) and, on vote, adopted the following resolution.

30
31 **Resolved**, that the following new policy on elimination of wait periods be submitted to the
32 2021 House of Delegates.

33
34 **Resolved**, that the American Dental Association supports the elimination of wait
35 periods for treatment, including orthodontic treatment, for children from dental benefit
36 plans.

37 **Resolution 85: Response to House of Delegates:** The Council approved, through the Consent
38 Calendar, a proposed response to **Resolution 85—Dental Benefits Information for ADA Members**
39 to be submitted to the 2021 HOD. Dental benefit activities conducted by the ADA in 2020 were

1 summarized and a table of resources, linked to a new, simplified ready-to-use website,
2 ADA.org/dentalinsurance was created. On vote, the following resolution was adopted.

3 **Resolved**, that the Council recommend a response to Resolution 85 to be reported to the
4 2021 House of Delegates through the Council's Annual Report.

5 **Resolution 86: Response to the House of Delegates:** The Council approved, through the Consent
6 Calendar, a proposed response to **Resolution 86—ADA Member Assistance with Third Party**
7 **Payer Issues** to be submitted to the 2021 House of Delegates. On vote, the following resolution was
8 adopted.

9
10 **Resolved**, that the Council recommend a response to Resolution 86 to be reported to the
11 2021 House of Delegates through the Council's Annual Report.

12
13 The response incorporated tactics executed by the CDBP on a routine basis as part of its bylaws
14 responsibility, including a catalogue of closed cases as configured by Aptify, regular meetings with
15 third party payers, and policy changes.

16 **Resolution 105: Policy on Inappropriate Recoupment Practices:** The Council approved, through
17 the Consent Calendar, a proposed response to **Resolution 105—Policy on Inappropriate**
18 **Recoupment Practices** and a revision to the policy titled **Third Party Payers Overpayment**
19 **Recovery Practices** (Trans. 1999:930, 2013:312) to address the issue of recoupment practices. On
20 vote, the following resolution was adopted.

21 **Resolved**, that the Council recommend that the following policies be retained.

- 22 • Bulk Benefit Payment Statements (*Trans.*1990:536; 2013:308; 2015:243)
- 23 • Third-Party Payment Choices (*Trans.*2017:265)

24 and be it further,

25 **Resolved**, that the Council recommends the following revision to the policy titled "Third-Party Payers
26 Overpayment Recovery Practices" (*Trans.* 1999:930, 2013:312) to address the issue of recoupment
27 practices to the 2021 House of Delegates.

28 **Resolved**, that the American Dental Association shall and its constituent societies are urged
29 to seek or support legislation to prevent third-party payers from withholding assigned benefits
30 or recouping payment when a payment made in error has been made on behalf of a different
31 patient covered by the same third-party payer- or because of an alleged overpayment to a
32 different dentist, and be it further

33 **Resolved**, that dental plans shall not retroactively deny, adjust, or seek recoupment or refund
34 of a paid claim for dental care expenses submitted by a provider for any reason, other than
35 fraud or for duplicate payments on claims received from the same plan for the same service
36 from a provider, after the expiration of six months from the date that the initial claim was paid.
37 The plan must provide information about why a refund is due, including the name of the
38 patient, date of service and service provided along with the reason for the overpayment and
39 allow the provider six months before the refund must be paid. The provider should be allowed
40 30 days to contest the refund request, and be it further

41 **Resolved**, that dental plans, representing self-funded and fully-insured plans, be urged to
42 adopt these guidelines as an industry-wide standard for alleged overpayment of benefits to
43 dentists.

1 **Input to CGA on Policy Review:** The Council approved, through the Consent Calendar, a
2 response in support of the Council on Government Affairs' (CGA) position regarding the
3 following policies.

- 4 • *Legislative Clarification for Medically Necessary Care (Trans. 1988:474; 1996:686)*
5 *(Supplement 1988:343) -- Retain*
- 6 • *Dentists as Providers in All Public and Private Health Care Programs and*
7 *Discrimination in Payment for Services Performed (Trans. 1990:559) -- Retain*
- 8 • *Elimination of Disparities in Coverage for Dental Procedures Provided Under*
9 *Medicare (Trans. 1993:705) -- Retain*
- 10 • *Legislation Prohibiting Waiver of Patient Copayment/ Overbilling (Trans. 1990:534) --*
11 *Rescind*
- 12 • *Legislation Reflecting ADA Policy on Primary Dental Health Care Provider*
13 *(Trans. 1981:564; 1990:559) -- Retain*

14 **Update to Medicaid Managed Care Guidance:** The Council approved, through the Consent
15 Calendar, the update to the Medicaid RFP Toolkit.

16 **Report from Payer Conversations [NADP, Principal, Humana]** Dr. Markarian reported on
17 the recent meeting with the National Association of Dental Plans (NADP). Topics of discussion
18 included:

- 19 • Dentists' and Plans' COVID recovery experiences
- 20 • ADA plans regarding reconfiguring or restructuring the CDT
- 21 • Administrative Simplification
 - 22 ○ Credentialing
 - 23 ○ Eligibility/ Benefits verification
- 24 • Dental in Medicare, progress on positions of both Associations
- 25 • State legislative proposals, including use of the recent NCOIL Model

26
27 Dr. Weber reported on the discussion with Principal and Humana which included the ADA's
28 Credentialing Service powered by CAQH ProView, eligibility verification and the use of artificial
29 intelligence (AI) by third party payers for claims adjudication.

30 **New Policy on Public Option:** Ms. Roxanne Yaghoubi, Director, Council on Government
31 Affairs joined the Council to request guidance around ADA's position related to "public option"
32 proposals that have been introduced in the current Congress. She noted that the ADA was
33 well positioned to respond to any inquiries regarding proposals to expand Medicaid or
34 Medicare. However, the ADA's position on a government-administered plan sold on the
35 Affordable Care Act Marketplaces was unclear.

36 The Council developed a draft policy on the Affordable Care Act (ACA) Marketplaces and a
37 Public Option for review by the Council on Government Affairs and, on vote, adopted the
38 following resolution.

39 **Resolved,** that the Chair solicit feedback on the policy submission below from the
40 Council on Government Affairs prior to CDBP's July 2021 meeting to enable further
41 discussion at the time.

42 **PROPOSED POLICY ON DENTAL BENEFITS WITHIN AFFORDABLE CARE ACT**
43 **MARKETPLACE**

1
2

Resolved, that within the Marketplaces established by the Affordable Care Act:

3
4
5
6
7
8
9
10
11
12
13
14
15
16

- Dental coverage should be available to consumers through Stand Alone Dental Plans.
- Diagnostic and preventive dental services embedded within Qualified Health Plans should be covered without any additional co-payment, co-insurance or deductibles.
- Dental care is essential across the life span. Individuals seeking to purchase benefits in the Marketplaces must be able to purchase dental benefits without having to first purchase a medical plan.
- Plan designs should remain flexible and offer consumers adequate choices balancing cost and benefit value.
- Dental Plans offered in the Marketplaces must be required to transparently report Dental Loss Ratios (DLR)
- Cost sharing assistance or premium tax credits should be available to consumers purchasing dental plans.

17 and be it further

18
19
20

Resolved, that if a public option plan that includes pediatric or adult dental benefit plans were introduced within the Marketplaces established by the Affordable Care Act, then such plans should:

21
22
23
24
25
26
27
28

- Allow freedom of choice for patients to seek care from any dentist while continuing to receive the full program benefit.
- Not force any providers including those already participating in existing public programs to join a Marketplace plan network and instead should support fair market competition including meaningful negotiation of contracts and annual adjustment of fee schedules.
- Only include minimal and reasonable administrative requirements to promote participation and provide meaningful access.

29
30
31
32
33

New Policy on Artificial Intelligence: The Council developed draft policy on the use of Artificial Intelligence by third party payment program administrators and communicated the same to the Council on Dental Practice for inclusion within the “Comprehensive Policy on Artificial/Augmented Intelligence” that CDP proposes to submit to the 2021 House of Delegates. On vote, the Council approved the draft policy as follows.

34
35
36

Resolved, that the following policy proposal on Artificial/Augmented Intelligence be recommended for consideration as the Councils’ input to the Council on Dental Practice’s Comprehensive Policy on Artificial/ Augmented Intelligence”.

37
38
39
40
41
42
43

“The American Dental Association recognizes that future technology including artificial intelligence (AI) will bring opportunities for advancing the profession of dentistry for the benefit of patient care. In the scope of diagnosis and treatment planning the dentist may use all information, including AI, if reasonably available and appropriate. The ADA affirms all decisions on treatment are appropriately the result of a joint discussion between the patient and the dentist.

44
45
46

Resolved, that if artificial intelligence is used by dental benefit plans as a tool to assist with claims processing or adjudication, that tool should not be used to diagnose or dictate a treatment plan that interferes with the doctor patient

1 decision process or denies any benefits that the patient is entitled to under
2 their plan, and be it further

3 **Resolved**, that any artificial intelligence tool used by third party payers should
4 not be used to direct patients to specified preferred providers, and be it further

5 **Resolved**, that dental consultants should not be replaced by artificial
6 intelligence.

7 **CODING AND TRANSACTIONS**

8 **CMC Update on New Codes:** The Council approved, through the Consent Calendar, an
9 informational report on CDT Code additions and other code set maintenance actions accepted by the
10 Code Maintenance Committee during its March 11-12, 2021 annual meeting.

11 **Dental Claim Form Advisory Committee (DeCFAC):** The Council discussed historical information
12 about this committee and recent circumstances that indicate the need to reactivate DeCFAC.
13 Discussion affirmed that this committee provides advice to the Council, which retains decision-making
14 authority on ADA Dental Claim Form content.

15 The Council approved the following resolutions concerning reactivating the Dental Claim Form
16 Advisory Committee (DeCFAC) whose Chair and Vice-Chair will be CDBP members.

17 **Resolved**, that the Council on Dental Benefit Programs reactivate its Dental Claim Form
18 Advisory Committee (DeCFAC),

19 and be it further

20 **Resolved**, that an invitation to participate be sent to the following organizations:

- 21 1) National Association of Dental Plans
- 22 2) Delta Dental Plans Association
- 23 3) National Association of Insurance Commissioners
- 24 4) Henry Schein One
- 25 5) Patterson Dental
- 26 6) Change Healthcare

27 and be it further

28 **Resolved**, that the CDBP Chair appoint two members of the Council to serve as DeCFAC
29 Chair and Vice-Chair, with 3 year terms,

30 and be it further

31 **Resolved**, that DeCFAC institute a process whereby broader stakeholder feedback be solicited
32 prior to any changes to the ADA Claim Form being submitted for Council consideration.

33 **CDT 2.0 Proposal:** The Council discussed the Coding and Transaction Subcommittee's report
34 concerning the need for review of, and revision to, the CDT Code's architecture so that this ADA
35 intellectual property continues to effectively serve the documentation needs of dentists, as well as
36 needs of other licensed users such as third-party payer claim adjudication applications. Discussion
37 noted that the CDT Code is the named HIPAA standard code set for reporting dental services and is
38 also a continuing sources of non-dues revenue.

39 The Council approved the following resolution directing the Chair to seek approval from the Board of
40 Trustees and the necessary funding to develop and implement CDT 2.0.

41 **Resolved**, that the Chair, Dr. Markarian, seek approval from the Board of Trustees and
42 necessary funding to develop and implement CDT 2.0 and update the Council regarding the

1 Board's action at the Council's next meeting.

2

COUNCIL OPERATIONS

3 **Election of Council Chair:** The Council selected, by acclamation, Dr. Kevin Dens, 10th district, to
4 serve as CDBP Chair until the close of the 2022 meeting of the ADA House of Delegates.

5 **Election of Council Vice-Chair:** The Council elected, by acclamation, Dr. Jessica Stilley-Mallah,
6 17th district, to serve as CDBP vice-chair until the close of the 2022 meeting of the ADA House of
7 Delegates.

8 **Adjournment:** 8:00 p.m. Central Time