

2018 Regular Session

HOUSE BILL NO. 780

BY REPRESENTATIVE MAGEE

MEDICAID: Provides for an independent review process in Medicaid managed care program for dental services claims

1 AN ACT  
2 To amend and reenact R.S. 46:460.82(introductory paragraph), 460.84(A), and  
3 460.85(A)(introductory paragraph), to enact R.S. 46:460.51(14), 460.84(C),  
4 460.85.1, and 460.90, and to repeal R.S. 46:460.89, relative to the Medicaid managed  
5 care program; to provide for duties of the Louisiana Department of Health in  
6 administering the program; to establish a process for review of dental provider  
7 claims submitted to dental coordinated care networks; to provide for reviews of  
8 claim payment determinations which are adverse to dental providers; to establish a  
9 panel for selection of independent dental claims reviewers; to provide for  
10 membership of the panel; to provide for independent dental claims review  
11 procedures; to provide relative to fees for dental claims review services; and to  
12 provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 46:460.82(introductory paragraph), 460.84(A), and  
15 460.85(A)(introductory paragraph) are hereby amended and reenacted and R.S.  
16 46:460.51(14), 460.84(C), 460.85.1, and 460.90 are hereby enacted to read as follows:

1 §460.51. Definitions

2 As used in this Part, the following terms have the meaning ascribed in this  
3 Section unless the context clearly indicates otherwise:

4 \* \* \*

5 (14) "Dental coordinated care network" means a managed care organization  
6 or prepaid coordinated care network, as defined in this Section, that provides or  
7 administers only dental benefits for Medicaid recipients.

8 \* \* \*

9 §460.82. Procedure for independent review; claims other than those for dental  
10 services

11 ~~The~~ Except for adverse determinations taken against a dentist by a dental  
12 coordinated care network, the review procedure for which is provided for in R.S.  
13 46:460.90, the following procedure shall govern the process for independent review  
14 of an adverse determination taken against a provider by a managed care organization:

15 \* \* \*

16 §460.84. Costs

17 A. The fee for conducting an independent review shall ~~in all cases~~ be paid  
18 to the independent reviewer by the managed care organization; except that for  
19 reviews conducted in accordance with R.S. 46:460.90, a dental coordinated care  
20 network shall pay the fee for an independent review to the Louisiana State University  
21 School of Dentistry. A provider shall, within ten days of the date of the decision of  
22 the independent reviewer, reimburse a managed care organization for the fee  
23 associated with conducting an independent review when the decision of the managed  
24 care organization is upheld. If the provider fails to submit payment for the  
25 independent review within ten days from the date of the decision, the managed care  
26 organization may withhold future payments to the provider in an amount equal to the  
27 cost of the independent review; however, the managed care organization shall ensure  
28 that such a withholding is clearly delineated on the remittance advice. If a provider

1 fails to properly reimburse the managed care organization, the department may  
2 prohibit that provider from future participation in the independent review process.

3 \* \* \*

4 C. The fee for an independent review of a dental claim conducted in  
5 accordance with R.S. 46:460.90 shall be paid in an amount established in a contract  
6 or memorandum of understanding between the department and the Louisiana State  
7 University School of Dentistry.

8 §460.85. Independent reviewer selection panel; procedure

9 A. The Independent Reviewer Selection Panel is hereby created within the  
10 department. The duties of the panel shall pertain to the independent review of claims  
11 except those reviewed in accordance with R.S. 46:460.90. The panel ~~and~~ shall  
12 consist of the secretary or his duly designated representative and the following  
13 members appointed by the secretary:

14 \* \* \*

15 §460.85.1. Dental claims review panel; procedure

16 A. The Dental Claims Review Panel, referred to hereafter in this Section as  
17 the "panel", is hereby created within the department. The duties of the panel shall  
18 pertain to the independent review of claims reviewed in accordance with R.S.  
19 46:460.90.

20 B. The panel shall consist of the secretary or his duly designated  
21 representative and the following members appointed by the secretary:

22 (1) One representative from each dental coordinated care network.

23 (2) A number of dentist representatives equal to the number of  
24 representatives from dental coordinated care networks. Dentist representatives shall  
25 be nominated by the Louisiana Dental Association.

26 (3) The dean of the Louisiana State University School of Dentistry or his  
27 designee.

28 C. All decisions of the panel shall be made by a majority vote. The  
29 chairperson of the panel shall not be restricted to voting only in the event of a tie.

1        The panel shall meet at least once per year. Panel members shall serve without  
2        compensation.

3                D.(1) The panel shall do all of the following:

4                (a) Select a chairperson.

5                (b) Select and identify an appropriate number of independent reviewers to  
6        comprise a reviewer pool in accordance with Paragraph (2) of this Subsection.

7                (c) Continually review the number and outcome of requests for  
8        reconsideration and independent reviews on an aggregated basis.

9                (2)(a) The reviewer pool selected by the Dental Claims Review Panel shall  
10       be comprised of dentists who are on the faculty of the Louisiana State University  
11       School of Dentistry and have agreed to applicable terms for compensation,  
12       confidentiality, and related provisions established by the department. The reviewer  
13       pool shall include:

14                (i) For each of the following specialties, at least one dentist who has  
15       completed a residency approved by the Commission on Dental Accreditation in that  
16       specialty:

17                (aa) Periodontics.

18                (bb) Endodontics.

19                (cc) Prosthodontics.

20                (dd) Oral and maxillofacial surgery.

21                (ii) At least two dentists who have completed a residency approved by the  
22       Commission on Dental Accreditation in pediatric dentistry.

23                (b)(i) The reviewer pool shall not include any dentist who is currently  
24       performing compensated services for a dental coordinated care network, whether the  
25       compensation is paid directly or through a contract with Louisiana State University  
26       School of Dentistry or other state entity, or has received any such compensation at  
27       any time in the prior twelve months.

28                (ii) The reviewer pool shall not include any dentist who has received  
29       reimbursement for dental services rendered to Medicaid patients in a private practice

1 setting in the past sixty days. Louisiana State University School of Dentistry clinics,  
2 including Louisiana State University School of Dentistry faculty practice, shall not  
3 be considered a private practice setting for the purposes of determining eligibility to  
4 participate in the reviewer pool.

5 (c) No dentist shall be eligible to submit denied Medicaid claims for  
6 independent review while participating in the reviewer pool.

7 E. The panel shall not collect or accept any patient-identifying information  
8 for any reason.

9 F. The secretary shall report to the panel the name of any provider who  
10 submits ten or more requests for independent review along with the percentage of  
11 adverse determinations that are overturned.

12 \* \* \*

13 §460.90. Procedure for independent review of dental claims

14 The following procedure shall govern the process for independent review of  
15 an adverse determination taken against a dentist by a dental coordinated care  
16 network:

17 (1) Prior to submitting a request for independent review, a dentist shall  
18 submit a written request for appeal or reconsideration to the dental coordinated care  
19 network, as provided for by the dental coordinated care network and in accordance  
20 with applicable rules of the department, any claim that meets either of the following  
21 criteria:

22 (a) The claim has been denied either partially or totally.

23 (b) More than sixty days have elapsed since the claim was submitted and the  
24 dentist has received no remittance advice or other written or electronic notice from  
25 the dental coordinated care network either partially or totally denying the claim.

26 (2) The dental coordinated care network shall acknowledge in writing its  
27 receipt of an appeal or reconsideration request within five calendar days after receipt  
28 of the request. The dental coordinated care network shall render a final decision and  
29 provide a response to the dentist within forty-five calendar days from the date of

1 receipt of the request for appeal or reconsideration, unless a longer time to  
2 completely respond is agreed upon in writing by the dentist and the dental  
3 coordinated care network.

4 (3)(a) Pursuant to the appeal or reconsideration request, if the dental  
5 coordinated care network upholds the adverse determination or does not respond to  
6 the request within the time frames allowed in this Section, then the dentist may file  
7 a written notice with the department requesting the adverse action be submitted to  
8 an independent reviewer as provided for in this Subpart. The notice requesting an  
9 independent review shall be received by the department within sixty days from either  
10 the date the dentist receives notice of the decision of the appeal or reconsideration  
11 request or, if the dental coordinated care network does not respond to the appeal or  
12 reconsideration request within the time frames allowed in this Section, within ten  
13 days of the last date of the time period allowed for the dental coordinated care  
14 network to respond.

15 (b) The department shall provide by rule for the appropriate address to be  
16 used by the dentist for submission of the notice required by this Section. The dentist  
17 shall include a copy of the written request for appeal or reconsideration with the  
18 request for an independent review.

19 (c) If the dental coordinated care network reverses the adverse determination  
20 pursuant to an appeal or request for reconsideration, payment of the claim or claims  
21 in dispute shall be paid no later than twenty days from the date of the decision.

22 (4)(a) Upon receipt of a notice of request for independent review and all  
23 required supporting information and documentation for a claim denied by a dental  
24 coordinated care network, the department shall refer the adverse determination to the  
25 dental claims review panel. The panel shall use best efforts to refer an equal  
26 proportion of the total number of disputed claims to each eligible independent  
27 reviewer.

28 (b) Subject to approval by the independent reviewer, a dentist may aggregate  
29 multiple adverse determinations involving the same dental coordinated care network

1 when the specific reason for nonpayment of the claims aggregated involve a dispute  
2 regarding a common substantive question of fact or law. The sole fact that a claim  
3 is not paid does not create a common substantive question of fact or law unless the  
4 dentist has received no remittance advice or other written or electronic notice from  
5 a dental coordinated care network either partially or totally denying the claims from  
6 the dental coordinated care network as of the time the dentist submits the request for  
7 independent review and the claims involve a common substantive question of fact  
8 or law.

9 (5)(a) Within fourteen calendar days of receipt of the request for independent  
10 review, the independent reviewer shall request in writing that both the dentist and the  
11 dental coordinated care network provide the reviewer all information and  
12 documentation regarding the disputed claim or claims. The independent reviewer  
13 shall request the dentist and dental coordinated care network to identify all  
14 information and documentation that have been submitted by the dentist to the dental  
15 coordinated care network regarding the disputed claim or claims. Further, the  
16 independent reviewer shall advise the dental coordinated care network and the  
17 dentist that he will not consider any information or documentation not received  
18 within thirty calendar days of receipt of his request or any information submitted by  
19 the dentist that was not submitted to the dental coordinated care network as part of  
20 the appeal or request for reconsideration.

21 (b) If a dentist elected to aggregate his claims, the independent reviewer  
22 may, upon request, allow for up to an additional thirty days for both the dentist and  
23 dental coordinated care network to provide relevant information related to the  
24 independent review requests.

25 (6)(a) If the independent reviewer determines that guidance on an  
26 administrative issue from the department is required to make a decision, then the  
27 reviewer shall refer the specific issue to the department for review and response  
28 unless the department designates a different contact for this function by rule.

1        Administrative issues requiring referral may include the matter of whether a dental  
2        benefit is a covered service under the Medicaid program.

3                (b) The department shall provide a concise response to the request within  
4        thirty calendar days after receipt.

5                (7)(a) Upon receipt of the information requested from the dentist and dental  
6        coordinated care network or the lapse of the time period for the dental coordinated  
7        care network and dentist to submit information along with receipt of any applicable  
8        responses from the department for guidance on an administrative issue, the  
9        independent reviewer shall examine all materials submitted and render a decision on  
10       the dispute within sixty calendar days. However, the independent reviewer may  
11       request in writing an extension of time from the Dental Claims Review Panel to  
12       resolve the dispute. If an extension of time is granted by the panel, then the  
13       independent reviewer shall provide notice of the extension of time to both the dentist  
14       and the dental coordinated care network involved in the dispute.

15               (b) In reaching a decision, the independent reviewer shall not consider any  
16       information or documentation from the dentist that the dentist did not submit to the  
17       dental coordinated care network during the dental coordinated care network's review  
18       of the dentist's appeal or request for reconsideration of the adverse determination.

19               (8) Upon rendering a decision, the independent reviewer shall send to the  
20       dental coordinated care network, the dentist, and the department a copy of the  
21       decision. Once the independent reviewer renders a decision requiring a dental  
22       coordinated care network to pay any claim or portion of a claim, then the dental  
23       coordinated care network shall send the payment in full along with interest back to  
24       the date the claim was originally denied or recouped to the dentist within twenty  
25       calendar days of the date of the reviewer's decision.

26       Section 2. R.S. 46:460.89 is hereby repealed in its entirety.



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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 780 Reengrossed

2018 Regular Session

Magee

**Abstract:** Establishes an independent review process in the Medicaid managed care program for claims for dental services.

Proposed law defines "dental coordinated care network" as a Medicaid managed care organization or prepaid coordinated care network, as defined in present law, that provides or administers only dental benefits for Medicaid recipients.

Present law establishes a process for independent reviews of claims of healthcare providers, other than dental providers, submitted to Medicaid managed care organizations. Proposed law revises present law to establish a process for independent reviews of claims of dental providers submitted to a dental coordinated care network.

Proposed law creates the Dental Claims Review Panel, referred to hereafter as the "panel", within the La. Dept. of Health (LDH). Provides that the duties of the panel shall pertain to the independent review of dental claims reviewed in accordance with proposed law.

Proposed law provides that the panel shall consist of the secretary of LDH or his duly designated representative and the following members appointed by the secretary:

- (1) One representative from each dental coordinated care network.
- (2) A number of dentist representatives equal to the number of representatives from dental coordinated care networks. Dentist representatives shall be nominated by the La. Dental Association.
- (3) The dean of the Louisiana State University (LSU) School of Dentistry or his designee.

Proposed law requires that all decisions of the panel be made by a majority vote, and that the chairperson of the panel shall not be restricted to voting only in the event of a tie. Requires the panel to meet at least once per year and provides that its members shall serve without compensation.

Proposed law requires the panel to do all of the following:

- (1) Select a chairperson.
- (2) Select and identify an appropriate number of independent reviewers to comprise a reviewer pool in accordance with requirements provided in proposed law.
- (3) Continually review the number and outcome of requests for reconsideration and independent reviews on an aggregated basis.

Proposed law prohibits the panel from collecting or accepting any patient-identifying information for any reason.

Proposed law requires the secretary of LDH report to the panel the name of any provider who submits 10 or more requests for independent review along with the percentage of adverse determinations that are overturned. Provides that the following procedure shall

govern the process for independent review of an adverse determination taken against a dentist by a dental coordinated care network:

- (1) Prior to submitting a request for independent review, a dentist shall submit a written request for appeal or reconsideration to the dental coordinated care network any claim that meets either of the following criteria:
  - (a) The claim has been denied either partially or totally.
  - (b) More than 60 days have elapsed since the claim was submitted and the dentist has received no remittance advice or other written or electronic notice from the dental coordinated care network either partially or totally denying the claim.
- (2) The dental coordinated care network shall acknowledge in writing its receipt of an appeal or reconsideration request within five calendar days after receipt of the request. The network shall render a final decision and provide a response to the dentist within 45 calendar days from the date of receipt of the request for appeal or reconsideration, unless a longer time to completely respond is agreed upon in writing by the dentist and the network.
- (3) Pursuant to the appeal or reconsideration request, if the dental coordinated care network upholds the adverse determination or does not respond to the request within the time frames allowed in proposed law, then the dentist may file a written notice with LDH requesting the adverse action be submitted to an independent reviewer as provided for in proposed law. If the network reverses the adverse determination pursuant to an appeal or a request for reconsideration, payment of the claim or claims in dispute shall be paid no later than 20 days from the date of the decision.
- (4) Upon receipt of a notice of request for independent review and all required supporting information and documentation for a claim denied by a dental coordinated care network, LDH shall refer the adverse determination to the dental claims review panel.
- (5) Within 14 calendar days of receipt of the request for independent review, the independent reviewer shall request in writing that both the dentist and the dental coordinated care network provide the reviewer all information and documentation regarding the disputed claim or claims. The independent reviewer shall request the dentist and network to identify all information and documentation that have been submitted by the dentist to the network regarding the disputed claim or claims. Further, the independent reviewer shall advise the network and the dentist that he will not consider any information or documentation not received within 30 calendar days of receipt of his request or any information submitted by the dentist that was not submitted to the network as part of the appeal or request for reconsideration.
- (6) Upon receipt of the information requested from the dentist and dental coordinated care network or the lapse of the time period for the network and dentist to submit information along with receipt of any applicable responses from LDH for guidance on an administrative issue, the independent reviewer shall examine all materials submitted and render a decision on the dispute within 60 calendar days. However, the independent reviewer may request in writing an extension of time from the Dental Claims Review Panel to resolve the dispute. If an extension of time is granted by the panel, then the independent reviewer shall provide notice of the extension of time to both the dentist and the dental coordinated care network involved in the dispute.
- (7) Upon rendering a decision, the independent reviewer shall send to the dental coordinated care network, the dentist, and LDH a copy of the decision. Once the

independent reviewer renders a decision requiring a dental coordinated care network to pay any claim or portion of a claim, then the network shall send the payment in full along with interest back to the date the claim was originally denied or recouped to the dentist within 20 calendar days of the date of the reviewer's decision.

Proposed law provides that fees paid by dental coordinated care networks for independent dental claim reviews conducted in accordance with proposed law shall be in an amount established in a contract or memorandum of understanding between LDH and the LSU School of Dentistry. Provides that such fees shall be paid to the LSU School of Dentistry.

(Amends R.S. 46:460.82(intro. para.), 460.84(A), and 460.85(A)(intro. para.); Adds R.S. 46:460.51(14), 460.84(C), 460.85.1, and 460.90; Repeals R.S. 46:460.89)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Add references to appeals of adverse determinations in certain provisions of proposed law relative to requests for reconsideration of such determinations, consistent with the balance of proposed law.