

By Electronic Mail Only

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RE: Testimony Regarding Proposed Rule 835, Dental Insurance Plan Loss Ratio Reporting

To Whom It May Concern:

Northeast Delta Dental respectfully submits this comment in response to Proposed Rule 835, implementing dental loss ratio reporting requirements pursuant to 24-A M.R.S. § 4319-B. Northeast Delta Dental supported the enactment of that statute and is generally supportive of the proposed rule, with one exception.

As currently drafted, the proposed rule requires dental carriers to develop and implement "activities that improve dental care quality". See Section 5(1) ("a dental plan *shall* implement, maintain, and update in light of evidence-based developments in treatment, activities that improve dental care quality") (emphasis added). This requirement is not found in the underlying statute, which directs the Bureau to "define" such activities. See 24-A M.R.S. § 4319-B(4) ("The superintendent shall define 'activities that improve dental care quality' in rule . . .").

Pursuant to 24-A M.R.S. §212 (cited in § 4319-B(9)), "the superintendent may adopt, amend and rescind reasonable rules to aid the administration or effectuation of any provisions of" an insurance statute. Section 5(1) of the proposed rule mandating the development and implementation of quality improvement activities does more than just define quality improvement activities as necessary to effectuate the administration of section 4319-B – it adds a new requirement. As such, the mandate to implement quality improvement activities exceeds the rule-making authority of the Bureau. See 5 M.R.S. § 8058.

This issue can be easily remedied by replacing the "shall" in Section 5(1) with "may". This change would effectuate 24-A M.R.S. § 4319-B without imposing additional requirements on dental carriers that are not contemplated by the statute enacted by the legislature.

Thank you for this opportunity to comment on Proposed Rule 835.

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Respectfully submitted,



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