April 24, 2023 Via Electronic Submission

Acting Superintendent Timothy N. Schott
Office of Superintendent of Insurance
Maine Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

Dear Superintendent Schott:

On behalf of the National Association of Dental Plans (NADP)[1], America's Health Insurance Plans (AHIP)[2], the American Council of Life Insurers (ACLI)[3], and the Maine Association of Health Plans (MeAHP) we are writing to share our comments regarding proposed Rule Chapter 835, Dental Insurance Plan Loss Ratio Reporting ("proposed rule"). We appreciate the opportunity to work with the Bureau in developing the proposed rule. We support the proposed rule and underlying statute and share the goal of enhancing transparency in dental plans. The suggestions below are offered to ensure that the proposed rule is applied consistently and fairly and that plans have enough time to comply. Thank you for considering our suggested amendments.

Section 4. Definitions
We believe there needs to be greater clarity in what the Bureau means under the definition of "administrative costs" when it includes payroll expense. From all appearances, the ACA allows qualified health plans to include salaries of personnel whose activities are tied directly to quality improvement. We recommend revising the definition of administrative cost expenditures to exclude mention of payroll expense as follows:

[1] NADP is the largest non-profit trade association focused exclusively on the dental benefits industry. NADP's members provide dental HMO, dental PPO, dental indemnity and discount dental products to more than 200 million Americans with dental benefits. Our members include the entire spectrum of dental carriers: companies that provide both medical and dental coverage, companies that provide only dental coverage, major national carriers, regional, and single state companies, as well as companies organized as non-profit plans.

[2] AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and to help create a space where coverage is more affordable and accessible for everyone.

[3] The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

> "Administrative cost expenditures" means a carrier's financial administrative, marketing and sales, commission, distribution, claims operation, utilization review, network operations, and charitable expenses.

Section 5. Activities That Improve Dental Care Quality
We agree with what is included in activities that improve dental quality, but our concern with this section of the proposed rule is that it mandates carriers to implement such activities. We believe that this mandate is beyond the scope of the statute, which directs the Bureau of Insurance to "define" activities that improve dental care quality rather than require carriers to implement such activities or programs. We believe a change of "shall" to "may" in Section 5(1) would fix this issue.

Finally, under this section we suggest that the Bureau consider adding language, consistent with the standards in the Federal Affordable Care Act, § 45 CFR 158.150(b)(2)(v), to allow health information technology expenses to be considered quality care improvement expenses. We recommend adding the following language under a new Section 5 1 (D):

> *D. Health information technology to support these activities.*

Section 6. Dental Loss Ratio Calculations and Reporting
Because 24-A M.R.S. § 4319-B was inspired by the loss ratio requirements of the Federal Affordable Care Act, and because the statute does look to medical loss ratios in § 4319-B(4), we suggest that the administrative rules, to continue consistency with medical loss ratio calculations, take community benefit spending into account in calculating loss ratios. We suggest that the Bureau consider amending Section 6(1)(B) to allow a carrier to deduct community benefit expenditures, as defined at 45 CFR § 158.162(c), up to the amount of any state taxes, if a carrier is not-for-profit and does not pay state taxes. This amendment would level the playing field in calculating loss ratios between for-profit and not-for-profit carriers.

Section 9. Effective Date
The timeline of implementation for the proposed rule would cause significant difficulties for dental plans in Maine to provide valuable data and comply with these important requirements. Implementation of a new major dental minimum loss ratio reporting rule by July 1, 2023, risks negatively impacting the calculations and creating significant administrative burdens on the dental plans to comply. The reported data will likely be more valuable when there is more time between the effective date and the proposed rule becoming final. Because the definitions are still being worked out, companies will have difficulty preparing the data without knowing what the final calculations will look like. We would appreciate the effective date being changed to January 1, 2024, to allow adequate time for dental plans to develop systems to comply with the reporting provisions of the rule.

Reporting Template
To determine market group sizes, we recommend using the number of enrolled lives rather than covered lives. Dental plans are not required to track covered lives, so carriers would have to establish a process of obtaining this information each year from the plan sponsor. If enrolled lives are used, carriers would not have to track and store information on covered lives, which lowers the risk of privacy-related concerns.

We are concerned that using national data for the market segment of 1,000-75,000 covered lives would not result in useful, accurate data specific to Maine. Understanding the need for credible data, we suggest a longer lookback period for that market segment.

NADP, ACLI, AHIP, and MeAHP appreciate the opportunity to comment on the proposed rule and would like to express our support. Thank you again for your attention to this important matter. We are available to answer questions or provide additional information.

Sincerely,

Owen Urech	Amanda Herrington	Cindy Goff	Dan Demeritt
NADP	AHIP	ACLI	MeAHP