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**Section 1. Purpose**

This rule establishes standards for calculating average loss ratios for plans providing dental care services, reporting dental loss ratios to the Superintendent, determining dental plan credibility, and establishing a process to determine outlier dental plans.

**Section 2. Scope**

This rule applies to dental plans as defined in 24-A M.R.S. §4319-B(1).

**Section 3. Authority**

The Superintendent adopts this rule pursuant to Title 24-A M.R.S. §§ 212 and 4319-B.

**Section 4. Definitions**

1. “Administrative cost expenditures” means a carrier’s financial administrative, marketing and sales, commission, distribution, claims operation, utilization review, network operations, charitable, and payroll expenses, but does not include expenses specifically recognized under this rule as expenses for activities that improve dental care quality or as community benefit expenses.
2. “Clinical Dental Services” means diagnostic, preventive, or corrective procedures provided by or under the supervision of a dentist in the practice of their profession,

including treatment of the teeth and associated structures of the oral cavity and treatment for disease, injury, or impairment that may affect the oral or general health of the enrollee.

3. “Dental plan” has the same meaning as in 24-A M.R.S. §4319-B(1)(A).
4. “Enrollee” has the same meaning as in 24-A M.R.S. §4319-B(1)(A).
5. “Dental loss ratio” has the same meaning as in 24-A M.R.S. §4319-B(2).
6. “Market segment” means the individual, small group as defined by 24-A M. R. S. §2808-B(1)(D), or large group market.
7. “Noncredible plan” means a plan issued by a carrier in a market segment for which the carrier has fewer than 12,000 Maine member months in aggregate for the reporting year, including each covered dependent as a separate member.

## **Section 5. Activities That Improve Dental Care Quality**

1. A carrier that offers a dental plan shall receive credit under Subparagraph 6(1)(A)(2) for implementing and maintaining activities that improve dental care quality, and updating them in light of evidence-based developments in treatment. To qualify for recognition as activities that improve dental care quality, these activities must:
  - A. Improve oral and overall health and advance oral health quality, including increasing the likelihood of desired outcomes compared to a baseline; reducing dental disparities among specified populations; and improving patient safety, reducing medical errors, or lowering infection in ways that are capable of being objectively measured and of producing verifiable results;
  - B. Be directed toward individual enrollees, are incurred for the benefit of specified segments of enrollees, or provide oral health improvements to the population beyond those enrolled in coverage, as long as no credit is taken for additional costs incurred for the benefit of non-enrollees; and
  - C. Be grounded in the implementation, development, or improvement of evidence-based dental care, widely accepted best clinical practice, or criteria issued by recognized professional dental associations, accreditation bodies, government agencies, or other nationally recognized health care quality organizations.
2. Activities that improve dental care quality shall not include the following:
  - A. Activities relating to lines of business or products other than dental, including the pro rata share of expenditures relating to both dental and non-dental business;
  - B. Activities paid for with grant money or other funding separate from premium revenue;
  - C. Activities that can be billed or allocated by a provider for care delivery and are reimbursed as clinical services;

- D. Activities giving rise to administrative cost expenditures, including, but not limited to:
- (1) Activities designed primarily to control or contain costs;
  - (2) Establishing or maintaining a claims adjudication system, including upgrades in information technology that are designed primarily or solely to improve claims payment capabilities or to meet regulatory requirements for processing claims;
  - (3) Retrospective and concurrent utilization review, and any prospective utilization review that cannot be specifically justified as meeting the definition of “activities that improve dental care quality”;
  - (4) Fraud prevention activities;
  - (5) Developing and executing provider contracts, including establishing or managing a provider network;
  - (6) Provider credentialing;
  - (7) Payroll, except for positions dedicated to activities that improve oral and overall health and the pro rata share of payroll for positions substantially involved in such activities;
  - (8) Marketing expenses; and
  - (9) Calculating and administering individual enrollee or employee incentives; unless used in the promotion of activities that improve oral and overall health.

## **Section 6. Dental Loss Ratio Calculation and Reporting**

1. A carrier shall calculate the dental loss ratio for its Maine plans, excluding any experience from noncredible plans, as follows:
  - A. The numerator is the sum of:
    - (1) The amount expended for clinical dental services provided to enrollees;
    - (2) The amount expended on activities that improve dental care quality; and
    - (3) The amount of claims payments identified as having been avoided or recaptured through fraud reduction efforts; and
  - B. The denominator is the total amount of premium revenue, excluding federal and state taxes and licensing and regulatory fees paid. For nonprofit carriers that are exempt from Maine taxes, the pro rata share of the carrier’s community benefit expenditures may be excluded, in the same proportion that the carrier’s

premium for fully and partially credible Maine dental plans bears to the carrier's total premium for all lines of business, up to a maximum of two percent of the gross premium, before exclusions, for fully and partially credible Maine dental plans.

- C. The numerator described in Paragraph A may not include administrative cost expenditures.
- 2. In calculating its dental loss ratio, a carrier shall use clinical dental services and premium revenue solely attributable to its Maine risks, except that if the carrier's experience in Maine is not fully credible, the carrier may use nationwide experience to calculate its dental loss ratio. In considering its experience outside of Maine, the carrier must give appropriate weight to the credibility of its Maine experience.
- 3. Beginning on July 31, 2023, and annually thereafter, a carrier offering a dental plan or plans in Maine in effect during the preceding calendar year shall report on a form prescribed by the Superintendent the carrier's dental loss ratio for the preceding calendar year for each market segment in which the carrier participates. The Superintendent may require the carrier to submit detailed information on each plan that the carrier offered in order to determine the carrier's compliance with this rule.

#### **Section 7. Average Loss Ratio and Identifying Dental Plan Outliers**

- A. The Superintendent shall calculate the average dental loss ratio for each market segment using aggregate data reported by carriers for the three-year period consisting of the most recent dental loss ratio reporting year and the two prior dental loss ratio reporting years.
- B. The Superintendent shall identify as an outlier any dental plan in Maine that falls outside two standard deviations of the average dental loss ratio.

If the average dental loss ratio in a market segment declines for two years in a row, the Superintendent may identify as an outlier any dental plan that falls outside one standard deviation of the average dental loss ratio for that market segment.

- C. The Superintendent shall conduct a review of dental plans identified as outliers and require the carriers of each such plan to submit additional financial information necessary to evaluate the reasons those plans are outliers. The Superintendent may also require the carrier to submit a remediation plan, including without limitation measures such as rate revisions or benefit modifications, in a filing using the format prescribed by Rule 940.

#### **Section 8. Severability**

If any section, term, or provision of this rule shall be deemed invalid for any reason, any remaining section, term, or provision shall remain in full force and effect.

**Section 9. Effective Date**

The effective date of this rule is July 29, 2023.

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STATUTORY AUTHORITY:

24-A MRS §§ 212, 4319-B

EFFECTIVE DATE:

July 29, 2023 – filing 2023-111