

CHAPTER 54
FORMERLY
SENATE BILL NO. 65
AS AMENDED BY
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO DENTAL
INSURANCE AND CHILDREN WITH SEVERE DISABILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend Chapter 33, Title 18 of the Delaware Code by adding a new §3358 to read as follows:

“3358. Dental services for children with a severe disability.

(a) Definitions. As used in this section:

(1) ‘Child with a severe disability’ means a person under the age of 21 who, due to a significant mental or physical condition, illness, or disease, is likely to require specialized treatment or supports to secure effective access to dental care. The written certification of a child’s treating physician, advance practice nurse, or licensed psychologist shall be sufficient to qualify a person as a ‘child with a severe disability’.

(2) ‘Dental services’ means the full range of diagnostic and treatment services within the scope of benefits available under the health insurance contract or policy.

(b) Application of section. This section applies to every individual health insurance contract, including each policy or contract issued by a health service corporation, which is delivered, issued for delivery, or renewed in this State which provides coverage for dental services for a child.

(c) Payment authorization. Every contract or policy described in subsection (b) of this section shall authorize payment to a licensed practitioner for dental services to a child with a severe disability irrespective of lack of contractual or network status. Unless otherwise negotiated with the practitioner in advance, such payment shall be in an amount at least equal to the insurer’s reasonable and customary compensation for the same or similar services in the same geographical area. A non-network practitioner accepting payment under this section may not balance bill the insured.

(d) Preservation of contract limits. Nothing in this section shall prevent the application of contract or policy provisions involving deductibles, coinsurance, maximum dollar limitations or coordination of benefits, provided that such limits shall be applied using in-network standards.

(e) Waiver. The Commissioner may establish, by regulation, standards authorizing the issuance of a waiver to an insurer from application of this section. At a minimum, such waiver standards shall only permit a time-limited, renewable waiver upon submission of clear and convincing documentation of the numerical and geographical availability of in-network practitioners willing and able to effectively treat a child with a severe disability.”

Section 2. Amend Chapter 35, Title 18 of the Delaware Code by adding a new §3571C to read as follows:

“3571C. Dental services for children with a severe disability.

(a) Definitions. As used in this section:

(1) ‘Child with a severe disability’ means a person under the age of 21 who, due to a significant mental or physical condition, illness, or disease, is likely to require specialized treatment or supports to secure effective access to dental care. The written certification of a child’s treating physician, advance practice nurse, or licensed psychologist shall be sufficient to qualify a person as a ‘child with a severe disability’.

(2) ‘Dental services’ means the full range of diagnostic and treatment services within the scope of benefits available under the health insurance contract or policy.

(b) Application of section. This section applies to every group or blanket health insurance contract, including each policy or contract issued by a health service corporation, which is delivered, issued for delivery, or renewed in this State which provides coverage for dental services for a child.

(c) Payment authorization. Every contract or policy described in subsection (b) of this section shall authorize payment to a licensed practitioner for dental services to a child with a severe disability irrespective of lack of contractual or network status. Unless otherwise negotiated with the practitioner in advance, such payment shall be in an amount at least equal to the insurer’s reasonable and customary compensation for the same or similar services in the same geographical area. A non-network practitioner accepting payment under this section may not balance bill the insured.

(d) Preservation of contract limits. Nothing in this section shall prevent the application of contract or policy provisions involving deductibles, coinsurance, maximum dollar limitations or coordination of benefits, provided that such limits shall be applied using in-network standards.

(e) Waiver. The Commissioner may establish, by regulation, standards authorizing the issuance of a waiver to an insurer from application of this section. At a minimum, such waiver standards shall only permit a time-limited, renewable waiver upon submission of clear and convincing documentation of the numerical and geographical availability of in-network practitioners willing and able to effectively treat a child with a severe disability.”

Section 3. Amend §3802, Title 18 of the Delaware Code by redesignating paragraphs (1) through (5) as paragraphs (2) through (6) respectively and inserting a new paragraph (1) to read as follows:

“(1) ‘Child with a severe disability’ means a person under the age of 21 who, due to a significant mental or physical condition, illness, or disease, is likely to require specialized treatment or supports to secure effective access to dental care.”

Section 4. Amend §3804(a), Title 18, Delaware Code, by adding a new paragraph (11) to read as follows:

“(11) The dental plan organization has demonstrated the potential to provide dental services and adequate reimbursement for such services for children with a severe disability.”

Section 5. Amend §3804(a)(10)a, Title 18 of the Delaware Code by deleting the number “25” as it appears therein and substituting the number “15”.

Section 6. This Act shall take effect on July 1, 2010.

Approved June 25, 2009