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Baumbach, Brady, Dorsey Walker, K. Johnson, Kowalko,
Lynn, Mitchell, Seigfried, K. Williams

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 92

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO DENTAL CARE FOR ADULT
MEDICAID RECIPIENTS.

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

1 Section 1. Amend § 502, Title 31 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 502. Definitions.

4 As used in this chapter:

5 (2) "Assistance" means assistance to or on behalf of eligible needy persons or eligible families to enable them
6 to improve their standard of living, including money payments, child care, job training, education, other support
7 services, medical or surgical care, dental care, nursing, burial, board and care in a private institution, adult foster care,
8 rest residential facility for adults, public medical institution as a patient, or such other aid as may be deemed necessary.

9 (5) "Medical assistance" means medical or dental care furnished on behalf of recipients who are eligible for
10 assistance in any of the categories in § 505 of this title.

11 (7) "Dental care" means payment of all or part of the costs on behalf of an eligible recipient for preventive and
12 restorative treatment which the Department of Health and Social Services authorizes by regulation.

13 ~~(7)~~(8) "Recipient" means any person or family to whom or for whom assistance is paid under this chapter.

14 ~~(8)~~(9) "Standard of need" means the subsistence level for a decent standard of living established by
15 regulations of the Department of Health and Social Services.

16 ~~(9)~~(10) "Unemployable" means not employable.

17 ~~(10)~~(11) "Underemployment" and "unemployment" means as defined ~~pursuant to~~ under regulations of the
18 Department of Health and Social Services in consultation with the Department of Labor.

19 Section 2. Amend § 503, Title 31 of the Delaware Code by making deletions as shown by strike through and
20 insertions as shown by underline as follows:

§ 503. Eligibility for assistance; amount; method of payment.

(b) *Medicaid.* —

(1) Medical assistance may be granted to medically and financially eligible persons in accordance with Titles IV-A, IV-E, XVI, and XIX of the Social Security Act (42 U.S.C. §§ 601 et seq., ~~670 et seq.~~, 1381 et seq., and 1396 et seq.), federally approved waivers of these sections of the act, and rules and regulations established by the Department of Health and Social Services. Eligibility for and payment of medical assistance ~~shall~~ must be determined under policies and regulations established by the Department of Health and Social Services. Eligibility standards, recipient ~~copay~~ copay, and provider reimbursement ~~shall~~ must be set in accordance with state and federal mandates, state and federal funding levels, approved ~~waivers~~ waivers, and rules and regulations established by the Department. The amount of assistance in each case of medical care must not duplicate any other coverage or payment made or available for the costs of such health services and supplies. To the extent permitted by federal requirements, no annual or lifetime numerical limitations may be placed on physical therapy or chiropractic care visits that are for the purpose of treating back pain.

(2)a. Except as otherwise provided in paragraph (2)b. of this section, the amount of assistance provided to an adult recipient for dental care must not exceed \$1,000 per year.

b. The Department may establish a review process through which extra benefit dollars, not exceeding an additional \$1,500 per adult recipient, may be authorized on an emergency basis for dental care treatments.

c. All payments for dental care treatments are subject to a \$3 copay for adult recipients.

Section 3. Amend § 505, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 505. Categories of assistance [Effective until Jan. 1, 2020]

Assistance may be granted, in accordance with rules and regulations established by the Department of Health and Social Services pursuant to § 503 of this title, in the following categories:

(3) *Medicaid assistance.* —

a. Assistance granted in the form of medical ~~care~~ care, including dental care, to individuals eligible in accordance with Title IV-A, XVI, XIX of the Social Security Act (42 U.S.C. §§ 601 et seq., 1381 et seq., and 1396 et seq.), federally approved waivers, and rules and regulations established by the Department of Health and Social Services.

Section 4. Amend § 505, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 505. Consumer Protection Fund [Effective Jan. 1, 2020]

Assistance may be granted, in accordance with rules and regulations established by the Department of Health and Social Services pursuant to § 503 of this title, in the following categories:

(3) *Medicaid assistance*; assistance granted in the form of medical ~~care~~ care, including dental care, to individuals eligible in accordance with Title IV-A, XVI, XIX of the Social Security Act [42 U.S.C. §§ 601 et seq., 1381 et seq., and 1396 et seq.], federally approved waivers, and rules and regulations established by the Department of Health and Social Services.

Section 5. Amend § 512, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512. Administration.

The Department shall administer this chapter and in connection therewith shall:

(7) Guarantee that assistance provided as medical ~~care~~ care, including dental care, when paid to providers of such medical care ~~shall be~~ is on a prompt basis, usually not later than 30 days from the report of services by a physician, ~~pharmacist~~ pharmacist, or other professional health care provider, or 20 days from the report of services by a hospital or skilled nursing facility; provided, however, that should financial advances from the Department of Finance be necessary to carry out this chapter, they ~~shall~~ must be permitted upon the concurrence of the Secretary of the Department of Finance and the Secretary of the Department of Health and Social Services.

Section 6. This Act takes effect 10 days following the date of publication in the Register of Regulations of a notice that both of the following have occurred:

(1) Funds have been appropriated by the General Assembly to implement this Act.

(2) The Controller General has provided notice to the Registrar of Regulations that the contingency in paragraph (1) of this Section has been fulfilled.

SYNOPSIS

Delaware is one of only 3 states that does not offer some form of adult dental coverage through Medicaid (alongside Tennessee and Alabama).

Dental care is health care. And, studies have shown that poor dental health care can result in serious infections and abscess in the face, neck, and jaw areas requiring some individuals to go to the emergency room where they may spend days in intensive care or even die, ultimately costing states more money through their Medicaid program that could be saved if dental care were covered.

This Act expands Delaware's Public Assistance Code to provide dental care to all eligible adult Medicaid recipients. Payments for dental care treatments are subject to a \$3 recipient copay and the total amount of dental care assistance provided to an eligible recipient may not exceed \$1,000 per year, except that an additional \$1,500 may be authorized on an emergency basis for dental care treatments through a review process established by the Department of Health and Social Services. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

