



ISSUES UPDATE

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Dental Services, Medical Assistance, and PETI

In December, a large provider of mobile dental services, Apple Tree Dental, approached care centers about a strategy that would enable Medical Assistance recipients to obtain certain dental services that the Legislature had excluded from MA coverage. The strategy has the great benefit of providing otherwise unobtainable but medically necessary services for MA residents of care centers. Given the difficulty that many care centers have in finding dentists willing to serve MA residents, a workable arrangement to implement this strategy is desirable.

The core of the strategy is sound, but certain recommendations from Apple Tree Dental pose legal and financial risks to care centers. Aging Services of Minnesota staff has discussed the Apple Tree Dental proposal with officials at the Department of Human Services in numerous emails and telephone conversations. The purpose of this *Issues Update* is to provide members on an appropriate course of action.

The Core of the Strategy

The core of the strategy centers on the “Post-Eligibility Treatment of Income”—the treatment of the income an MA recipient receives after they are eligible for MA. For MA recipients in care centers, the general rule is that all of the recipient’s income, except for the personal needs allowance, must be spent on “medically necessary services.” Once the income is spent appropriately (typically for the first few days of the care center stay each month), MA pays the remainder of the care center’s bill for the month. Apple Tree Dental’s proposal focused on having the recipient pay for the medically necessary dental services that are no longer covered by Medical Assistance.

The concept is that if the MA resident pays for medically necessary services outside the care center, the resident will pay less to the care center, and MA will pay more. For example, assume an MA resident has a recipient resource contribution of \$700 towards a monthly bill of \$4,000. MA normally pays the remaining \$3,300. However, if the resident spends \$500 on medically necessary dental services, the resident will pay the care center only \$200, and MA will pay \$3,800. The net effect, of course, is that the MA program’s savings on the non-covered dental services are offset by the increase in payments to care centers. DHS has confirmed that

this sequence complies with the law. More than twenty other states use this strategy to fund dental services, according to Apple Tree Dental.

The Legal Risk Posed to Care Centers

The PowerPoint presentation that Apple Tree Dental made to care centers asked care centers to provide Apple Tree Dental with the names of their MA residents. Demographic information, however, is “protected health information” or PHI under HIPAA, and care centers are prohibited from releasing PHI except in certain circumstances. When the MA resident is not already a client of Apple Tree Dental, it is doubtful that any of the exceptions would apply. There are substantial financial penalties for disclosure (up to \$1.5 million per year), and we strongly encourage members not to release names of residents to any outside entity that does not have a previous relationship with the residents.

The Financial Risk to Care Centers

Apple Tree Dental’s presentation also suggested a problematic billing arrangement that poses a significant financial risk to care centers. Under the proposed arrangement, the dental clinic would send the bill for the dental services to the care center, and the care center would pay the clinic out of the resident’s “PETI funds”. Then the care center would submit the bill to the county’s financial worker, who would approve the expenditure and reduce the recipient resource contribution. Subsequently, MA would increase its payment to the care center.

The financial risk is that the services might not be medically necessary. In that case, the care center would have paid for the services, but the MA payment to the care center would not be increased. The care center’s only recourse is to try to get the money from the resident, who may or may not still have it.

There is no reason for the care center to be involved in the billing for the dental services. The responsibility for paying for the dentistry lies with the MA resident or personal representative (usually a family member). The dental provider should bill the resident, and the resident or personal representative should submit the bill to the county. Once the county approves the expenditure, the county should notify the resident/representative and inform the care center of the reduced recipient resource contribution.

Apple Tree Dental’s presentation suggests that they will not be able to continue providing their mobile dental services unless they can be paid for these non-covered services. When a dental clinic provides **non-covered** services to an MA resident, the dental clinic assumes the financial risk that the resident will not pay. Apple Tree Dental proposes to shift that risk to the care center, but it is Apple Tree Dental’s decision to provide **non-covered** services that **Apple Tree Dental thinks are medically necessary**. They may be wrong. Why should the care center be financially at risk if Apple Tree Dental provides dental services that the MA program ultimately concludes are not medically necessary?

An Acceptable Arrangement

As we indicated above, the core strategy proposed by Apple Tree Dental conforms with law,

according to DHS, and could provide valuable dental services that otherwise would not be available. What is needed is an acceptable strategy. There is a simple one.

Apple Tree Dental (or any other dental provider) can provide marketing information to the care center, which can share the information with MA residents. Those residents who choose to receive services from the dental provider can inform the dental provider, with the assistance of the care center if necessary. When the dentist provides the services, the dentist can bill the MA resident/representative, who can submit the bill to the county. Once the county approves the expenditure, the resident/representative can pay the dentist, the county reduces the recipient resource contribution, and MA pays an increased amount to the care center.

The payments are retrospective, and DHS has not yet circulated a bulletin to the counties on this subject. DHS staff told us that it might be two or three months before the process starts to work efficiently.

Of course, it is up to the dentist to decide whether to insist on payment from the MA resident at the time of service or to permit the resident to pay later after hearing from the MA program. Apple Tree Dental's presentation asserts that they provide only medically necessary services, so one would think that they would be willing to treat MA residents in the same manner that other patients with insurance are treated. While this creates an issue of cash flow, this seems minor in comparison to their claim that the loss of revenue for the now non-covered services might be as much as 30 to 50 percent of their revenue and force them to withdraw their services.

Other Questions

1. If Apple Tree Dental insists on payment from the care center, do we have to agree to front the money?

No. The federal regulations require you to provide or arrange for routine dental services to the extent covered by the state's MA plan. The state regulations require you to provide or arrange for routine dental services "as limited by third party payment." MA does not cover these services. Unless the resident has some other insurance, there is no third party payment.

2. Our care center serves as "representative payee" for several residents who have no family. Can we use their Social Security check funds to pay for the dental services? Probably not. The Social Security Administration's website for the representative payee program instructs representative payees: "First, you must make sure the beneficiary's day-to-day needs for food and shelter are met. Then, the money can be used for any of the beneficiary's medical and dental care that is not covered by health insurance, and for personal needs, such as clothing and recreation." Your care center is providing the food and shelter, so the individual's funds must first be applied to the care center's bill.

3. Does this strategy work if the dentist is not an enrolled MA provider?

If an MA recipient receives services from non-MA providers, the recipient is assuming some risk. DHS staff recommends that MA residents only use MA providers. Dental providers frequently provide multiple services during a visit, with MA covering some or most of them. If the dentist is not enrolled in MA, the individual is losing benefits. In

addition, the MA-enrolled dentist is required to tell the individual whether each service is covered; the non-MA dentist is not.

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