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Attorney General Advisory on Additional Fees Charged By Dental Practices Related to COVID-19

The Attorney General's Office (AGO) issues this advisory to notify consumers and dental practices about their rights and responsibilities when dental practices (or other health care providers) seek to charge consumers additional fees to cover the costs of infection controls, including personal protective equipment (PPE) and materials, relating to COVID-19.

The AGO has received numerous inquiries from consumers about dental providers who are collecting, or intend to collect, these additional fees. In some instances, consumers have not been told about these fees until after the service was provided.

While the AGO recognizes that dental practices may be facing financial challenges resulting from COVID-19-related infection control measures, it is also the case that consumers should be protected from inappropriate charges. Such protections are particularly meaningful at a time when many consumers are dealing with their own financial hardships.

Accordingly, the AGO issues this advisory to highlight dental providers' obligations under the Consumer Protection Law, Chapter 93A, in relation to infection control surcharges, as follows.

- Contracts with dental insurers may prohibit participating dental practices from charging plan members additional fees, even if the fees are meant to cover unexpected costs arising from COVID-19 infection control.
- Dental practices should check with the dental insurers with which they participate to determine whether the types of surcharges described in this advisory are allowed before attempting to collect payment from a patient. Dental practices that are collecting, or attempting to collect, fees from consumers that are not allowed under their provider contracts with insurers may be engaging in unfair and/or deceptive acts and practices in violation of Chapter 93A under these circumstances.
- In situations where charging the additional fees may be allowed, a dental practice must provide consumers notice of any new or additional charges it intends to collect to cover infection control measures and any changes in financial policies due to COVID-19. The notice must be provided on an individual basis and before any service is provided, including, where possible, at the time an appointment is made and when an appointment is confirmed. The AGO will consider failure to provide such notice to be a likely unfair and/or deceptive act in violation of Chapter 93A.

Consumers who are asked to pay a surcharge should contact their dental insurers to determine whether the additional fee is covered by their insurance or prohibited by the terms of the insurer's contract with their dental provider. Consumers with additional questions or concerns may contact the AGO's health care helpline at 1-888-830-6277.