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**Proposed New Methodology to be Used to Determine Fees that Delta Dental
Pays Participating Dentists Pursuant to G.L. c. 176E, §4**

Docket No. G2010-03

**Decision and Order Regarding the New Fee Methodology
Proposed for the Delta Premier and Delta PPO Plans**

I. BACKGROUND

Dental Services of Massachusetts d/b/a Delta Dental Plan of Massachusetts (“Delta”) is a Massachusetts nonprofit dental service corporation organized pursuant to G.L. c. 176E. Formed under c. 176E on September 1, 1966, Delta commenced business in the Commonwealth on January 1, 1970; and began operating as a separate entity in 1986. Under Delta’s dental service plans, some or all of the cost of dental services furnished to subscribers and covered dependents is paid by Delta directly to registered dentists who agree, in writing, to be participating dentists and to abide by Delta’s by-laws, rules and administrative procedures. G.L. c. 176E, § 1. The Commissioner of Insurance (“Commissioner”) has authority, under G.L. c. 176E, § 4 (“§ 4), to oversee the method of determining the fees to be paid to such participating dentists:

The fees to be paid to participating dentists for their services to the subscribers or to insured dependents, or the method of determining such fees, shall at all times be subject to a public hearing as provided by section two of chapter thirty A and to the written approval of the commissioner. Such fees shall not be equal to or higher than the fees charged by participating dentists to their average nonsubscriber patients; and in consideration of said fees submitted for his approval, he shall give weight to the ease and certainty of collection by the participating dentists of said fees charged subscribers through such corporation.

Decision and Order Regarding the New Fee Methodology Proposed for the Delta Premier and Delta PPO Plans; Docket No. G2010-03; Proposed New Methodology to be Used to Determine Fees that Delta Dental Pays Participating Dentists Pursuant to G.L. c. 176E, §4

Under § 4, the Commissioner undertakes to ensure that fees paid to participating dentists fall within a range of reasonableness and that the method of determining such fees is reasonable, considering the costs of running a dental practice.

In 2008, pursuant to G.L. c. 176E, § 4, the Division of Insurance ("Division") held a hearing in Docket No. G2008-10, Concerning Fees that Dental Services of Massachusetts, Inc., d/b/a Delta Dental Plan of Massachusetts, Pays Participating Dentists and the Method Used to Determine Such Fees Pursuant to M.G.L. c. 176E, § 4 ("hearing in Docket No. G2008-10"). The *Decision and Order Regarding the Fee Methodology of the Delta Dental Premier Plan* filed on April 14, 2009 found that the methodology currently employed by Delta to reimburse participating dentists of its Delta Dental Premier Plan ("Premier"), an indemnity plan, was unreasonable ("*Decision in 2008 Hearing*"). The *Decision in 2008 Hearing* ordered Delta to submit for the Division's approval a new fee methodology for its Premier product, together with a plan for implementing it, within 90 days. It also provided that the docket could be reopened for further orders, as appropriate.

On July 7, 2009, Delta requested the Division to extend the deadline for submitting its new Premier fee methodology to October 1, 2009. In support of its request, Delta indicated that it intended to replace the current "usual and customary" methodology with a new provider reimbursement methodology. Delta also stated that it intended to submit similar proposed changes to the fee methodology employed for its preferred provider plan, DeltaPreferred Option ("Delta PPO").

The Division issued an order extending the submission deadline for Delta's proposed new Premier fee methodology to October 1, 2009, and also stated that Delta was expected to submit to the Division a proposed new fee methodology for Delta PPO by the same date.

II. DELTA'S FILING

On October 1, 2009, Delta submitted a filing with the Division's Bureau of Managed Care ("October Filing"), supplemented this submission on November 25, 2009 ("November Filing"); and submitted a third submission on January 29, 2010 ("January Filing"). In addition, Delta on March 3, 2010 submitted a written response to several questions that had been asked at

Decision and Order Regarding the New Fee Methodology Proposed for the Delta Premier and Delta PPO Plans; Docket No. G2010-03; Proposed New Methodology to be Used to Determine Fees that Delta Dental Pays Participating Dentists Pursuant to G.L. c. 176E, §4

the hearing on February 26 (“March Filing”). Unless drawing attention to a particular page of a particular submission, I will refer to Delta’s four written submissions as Delta’s “Filing.”

On February 2, 2010, the Commissioner issued a Hearing Notice that announced that a hearing pursuant to G.L. c. 176E, § 4 would be held on February 26, 2010, concerning the new fee methodology that Delta proposed to use for paying participating dentists of its Premier and Delta PPO products.¹ Those persons who provided oral or written comments on Delta’s proposed new fee methodology are listed in Appendix A.

III. ANALYSIS AND CONCLUSIONS

The Division has convened this proceeding to review Delta’s proposed new fee methodology for its Premier and Delta PPO products pursuant to its authority under G.L. c. 176E, § 4. Delta must persuade the Division in this proceeding that its proposed new fee methodology meets the statutory requirements of § 4 and that its fee methodology is a reasonable approach to achieving compliance with the statute. The Division does not have the power to require Delta to use any particular methodology to ensure compliance with c. 176E or to set the amount by which its fees must be lower than those charged by participating dentists to their average nonsubscriber patients. Necessarily there are a number of reasonable approaches that Delta could use to ensure compliance with the statute. Delta risks an adverse decision, however, if it fails to provide information sufficient to persuade the Division to approve its proposed new fee methodology. Delta must furnish information adequate to enable the Commissioner to determine whether its proposed new fee methodology falls within a range of reasonableness. See generally, *e.g.*, *Travelers Indemnity Co. v. Commissioner of Insurance*, 362 Mass. 301, 307 (1972) (making adequate evidence available to enable the Commissioner to establish a range of reasonableness is a "fundamental requirement"); *Massachusetts Medical Service v. Commissioner of Insurance*, 346 Mass. 346, 348 (1963); *Determination Following Pre-hearing Conference*, filed on December 4, 2008 in Docket No. G2008-10.

¹ Comments were made during the course of this hearing about the statutory provisions that govern the payment of fees to nonparticipating dentists by a G.L. c. 176E dental service corporation such as Delta. See G.L. c. 176E, § 7. These concerns, however, are outside of the scope of this proceeding. Any new fee methodology for Delta, however, must comply with all aspects of G.L. c. 176E.

Part A: Proposed New Fee Methodology Components

1. Compliance with the Statutory Mandate of G.L. c. 176E, § 4

G.L. c. 176E, § 4 requires that the fees paid by a c. 176E dental service corporation to participating dentists for their services to its subscribers “shall not be equal to or higher than the fees charged by participating dentists to their average nonsubscriber patients” (“the statutory mandate”). In its proposed new fee methodology Delta ensures that the statutory mandate is satisfied by applying a 1% discount whenever it will be paying a participating dentist his or her submitted fee, a situation that will occur only if the submitted fee is less than the relevant fee schedule amount. Because Delta will continue to require as part of its participating dentist contracts that Delta participating dentists charge their Delta subscriber patients the same amount that they charge nonsubscriber patients, the 1% discount will ensure that the statutory mandate is satisfied. On the day on which the service is rendered, the submitted fee, by contract, must be the same as the charge that would be made on that day to a nonsubscriber patient. Delta asserts that it will continue to do fee verification during office audits when it compares the fees submitted by the dentist for Delta subscribers to the fees charged to the dentist’s non-subscriber patients. Dentists failing to comply with the contractual requirement will be subject to a disciplinary hearing and sanctions.

2. The Thomson-Reuters Database

Thomson-Reuters has a database of approximately 350,000 procedure submissions, each submission consisting of a submitted and allowed fee. Its database contains Massachusetts allowed fee amounts and submitted fee amounts by CDT codes and by geographical area defined by 3-digit zip codes. It is the only database Delta knows of that contains both submitted and allowed fees. Delta proposes to use only Thomson-Reuters’ Massachusetts data. The ratio of allowed to submitted fees will be based solely on what Thomson-Reuters identifies as non-PPO fees.

There has been no challenge in the record about the reliability of the Thomson-Reuters data. Delta’s proposed use of the Thomson-Reuters data was criticized, however, because the Thomson-Reuters database is expected to include what Delta has allowed as fees in the past, which allowed fees were determined by use of the 5% discount and CPI adjustment. The critics

therefore argue that using the Thomson-Reuters database will perpetuate these unreasonable aspects of Delta's current fee methodology. Despite these criticisms of using the Thomson-Reuters database, it is reasonable to use some historical data when building a fee methodology. It is likely that *any* historical Massachusetts dental fee data will contain a great deal of Delta data because of its market position; if historical data is used this cannot be avoided. Concerns about using the Thomson-Reuters data are moderated in the case of Delta's proposed new fee methodology because the Thomson-Reuters data will be used only to establish a *ratio* of allowed to submitted fees. The *value* of submitted fees that Delta proposes to use directly to establish its new fee schedules will not come from the Thomson-Reuters data.

Delta has shown that its proposed use of Thomson-Reuters data to establish a ratio of allowed to submitted fees is reasonable.

3. The Ingenix Database

The record of this proceeding raises significant questions about the reliability and fairness of using an Ingenix database as a basis by Delta for setting participating dentist reimbursement levels. See "Underpayments to Consumers by the Health Insurance Industry," June 24, 2009 Office of Oversight and Investigations Staff Report for Chairman Rockefeller, Committee on Commerce, Science and Transportation ("Rockefeller Report"), and other materials submitted by Attorney O'Rourke. While the judicial decisions that have been identified in the record have concerned medical reimbursements, Delta has not shown that similar concerns also do not affect the Ingenix database it proposes to use.² It is not reasonable to transition from the current Delta fee methodology to a proposed new fee methodology that incorporates a database that contains unverified data and which suffers from an inherent conflict of interest, as has been admitted by the operators of Ingenix. As observed at page 8 of the Rockefeller Report, the key assumption behind using particular data is a belief that it presents the accurate distribution of health charges in a given area. Delta on this record has not persuaded me that the Ingenix database that it proposes to use would meet this basic requirement. Although given an opportunity to respond to the criticisms of the Ingenix database, Delta has not provided on the record any persuasive

² The Rockefeller report refers to dental reimbursements at pages iii, 15 and 20.

reason that supports using the dental database of a company that has been the origin of medical databases that have received significant negative judicial and legislative scrutiny. Delta's argument that Ingenix has the advantage of being the biggest of all such databases is unpersuasive. Even if Ingenix is the largest database, if its data is unreliable, it nevertheless is not reasonable to use it. Ms. Donohue's statement that Delta uses Thomson-Reuters data as well as Ingenix data misses the point that Delta's proposed new fee methodology uses Thomson-Reuters data only to determine the ratio of submitted to allowed fees; *which ratio then is applied to the Ingenix data* to develop Delta's so-called market-based fee schedules. Hearing transcript of February 26, 2010, pages 156-157. The use of Thomson-Reuters data will not moderate the effect of the Ingenix data on the fee schedule amounts.

The advent of the new not-for-profit FAIR system to replace Ingenix provides no basis for approving the proposed new fee methodology. The FAIR system is not operational at this time, and Delta has not shown on the record of this hearing that use of Ingenix data for any period of time, even a transitional period, would be reasonable. Because Delta's proposed new fee methodology uses a three-year weighted average, furthermore, the effect of questionable Ingenix data would last for years after the new database was created.

On this record, Delta has not persuaded me that the use of Ingenix data is reasonable.

4. The Urban-Suburban-Rural Distinctions

Delta made the following assertions about how it arrived at its decision to propose a rural, suburban, and urban fee differential in its proposed new fee methodology. Delta evaluated for reasonableness several different geographic classifications to adjust for differences in the costs of dental practice as reflected in submitted fees: (1) west, central, and east regions; (2) rural, suburban, and urban areas; and (3) a state-wide region. It analyzed submitted fee data by area on a weighted and non-weighted average basis. On a weighted average basis, submitted charges for urban areas were highest, suburban was 5% less than urban, and rural was 5% less than suburban. Delta also tested the urban, suburban and rural differentials on a code by code basis and found the urban submitted amounts for the majority of the codes were greater than suburban, and suburban submitted amounts for the majority of the codes were greater than rural. Delta asserted that it selected the designations of urban, suburban and rural because they showed the

closest correlation between population density and cost. Based on this foundation, Delta has shown that establishing different fee schedules for urban, suburban and rural areas is a reasonable method to reflect differences in practice costs.

5. The Cost-based Fee Schedule and Cost Index

The Delta submissions in this record do not explain the cost index aspects of its proposed new fee methodology in enough detail, and clearly enough, to permit sufficient understanding for meaningful review. Delta's explanation of its cost-based fee schedule and cost index does not provide information adequate for the Division to determine whether these aspects of its proposed new fee methodology are reasonable.

Delta's proposed cost-based fee schedule is developed by collecting cost data for four categories of dental practice costs: (1) non-dentist wages, payroll taxes and fringe benefits; (2) dental supply costs; (3) laboratory services costs; and (4) all other "fixed" expenses including mortgage/rent, insurance, office supplies, utilities, *etc.* See October Filing, page 7; November Filing, page 16; March Filing, pages 2-3. In its Filing, Delta uses different terms when referring to the components that go into making its proposed cost-based fee schedule, and provides the following explanation of how it creates that schedule. The above four categories of cost (non-dentist staff salary, dental laboratory costs, dental supply costs and all other costs) account for all "dental practice overhead costs." March Filing, page 2. Delta determines the "total practice cost" by using the cost-based fees, which were derived by using the four categories. *Id.* at 3. The cost-based fee schedule is created through "a deliberate and structured process" and Delta uses it to calculate the "total practice cost." *Id.* at 2. Delta validates that the "practice overhead costs" are consistent with data published by Rosen & Associates, LLC ("Rosen"), a Massachusetts accounting firm that provides accounting services to a substantial number of Massachusetts dental practices and accumulates and makes publicly available profit and loss statements based on actual financial data from Massachusetts dentists. *Id.*; October Filing, page 7.

Delta's cost-based fee schedule does not include compensation to dentists, whether salaried dentist employees or practice owners, as a component of "practice cost expenses." March Filing, page 2. Delta states that its methodology, after using the cost-based fee schedule

to calculate the “total practice costs,” then compares the “total practice costs” to the “calculated total reimbursement from our base fees” to ensure that dentists are receiving compensation consistent with the Rosen data. Use of a cost index as part of a fee methodology allows an error check on what numbers come out of the market-based Thomson-Reuters and submitted fee data. A base cost calculation would be unreasonable, however, if it contains no provision for compensating dentists for their services to patients. It appears that Delta’s cost-based fee schedule acknowledges that providing compensation for dentists for their services must be part of a reasonable fee methodology.³ How Delta determines or measures this compensation, however, is unclear from its Filing.

Delta states that it validates that the “practice overhead costs” are consistent with data from Rosen, but the only explanation it makes about dentist compensation is a vague statement that “[b]y comparing the total cost of providing the procedures to the total reimbursement of those procedures we can determine whether the dentist’s compensation is consistent with what Rosen and Associates, LLC (Rosen) reports.” It is unclear whether Delta is attempting to describe an approach whereby its fee methodology allows compensation for the dentist in connection with each CDT code procedure at a ratio equal to total dentist compensation compared to total practice cost as reported by Rosen. Delta needed to more fully explain the dentist compensation aspect of its proposed new fee methodology.⁴

³ It “appears” to be true, but statements such as the following, from page three of the March Filing, makes certainty about this problematic (emphases added):

Those four categories of cost (non-dentist staff salary, dental laboratory costs, dental supply costs and all other costs) account for all dental practice overhead costs. We distribute those costs across all CDT procedure codes. We weight the codes based of the frequency that they are performed and then we add them all up to determine the total practice overhead cost to provide those procedures. We also multiply all CDT procedures by the market-based fees weighted by the frequency that they are performed to determine *the total reimbursement that the dentists will receive*. By comparing the total cost of providing the procedures to *the total reimbursement of those procedures* we can determine whether the dentist’s compensation is consistent with what Rosen and Associates, LLC (Rosen) reports. We are happy to use the Rosen data to create a Cost Index to use as part of the method to adjust fees in the future.

⁴ Delta’s use of the CPI adjustment to limit fees was found to be unreasonable in the 2008 hearing because it was an arbitrary number; arbitrary because it was a number that was not related to the cost of running a dental practice. Some comments in this proceeding appear to suggest that any Delta fee methodology, to be reasonable, must be tailored to each individual participating dentist, with the goal of ensuring that each particular dentist will be prosperous. See, e.g., House written comments, page 7. This is not an appropriate conclusion to draw from the

If Delta decides in the future to propose using a cost-based fee schedule, it also should address a potential concern about using the expenses incurred and costs paid by Oral Health Clinic (OHC), its affiliate in Westborough, for this purpose. Delta describes OHC in its November Filing as a multi-specialty dental practice with more than 20,000 patient visits per year. If Delta decides to use data from OHC, it should address whether OHC costs and expenses reflect the market power of Delta or economies of scale. As Dr. Snail commented, most dental practices are small businesses. The question arises, therefore, whether a reasonable fee methodology should employ some factor to adjust for any cost advantages that Delta's affiliate may enjoy.

6. The 25% Reduction from Its Proposed Premier Fee Schedule for PPO Participating Dentists

In criticizing the comparisons made by Delta in the 2008 hearing between the fees paid by non-Delta PPO products and Premier fees, Dr. Snail on behalf of the Massachusetts Dental Society argued that PPO fees always are lower than other fees paid by dental insurers. See page 12 of his written testimony dated December 18, 2008, in Docket No. G2008-10. At page four of this written testimony, Dr. Snail stated that "For Delta Preferred and ASO patients, Delta Dental pays dentists based on a Table of Allowance that incorporates discounts of up to 25 percent. For DeltaCare patients, Delta Dental pays dentists capitated rates that incorporate discounts of up to 45 percent." As was noted in footnote 35 of the *Decision in 2008 Hearing*:

At the 1996 hearing, Scott O'Gorman, Senior Vice President of Delta, testified that "DeltaPreferred [a Delta preferred provider plan] utilizes a limited network of providers who agree to accept a lower table of allowances which, with Delta's implemented increase of six percent effective April 1, 1996, approximates a 25 percent reduction from the usual and customary fees paid under DeltaPremier." According to Dr. Snail, Delta's website currently reports discounts off dental fees of at least 10% for Premier, but of up to 25% for Delta preferred provider plans.

See also page 17 of the *Decision in 2008 Hearing*:

Decision in 2008 Hearing. Using a general market approach to establish a cost-based check on fees may be reasonable, but I cannot reach a conclusion about the reasonability of Delta's methodology based on the record of this proceeding.

The Dental Society asserts that Dr. Wu's comparisons of Premier fees to those paid under preferred provider plans are not meaningful. Among other reasons, Dr. Snail explained that dentists who participate in preferred provider plans accept discounts to their dental service fees because they expect the marketing practices of such plans to bring additional patients to them, in part because their marketing practices have features that have no parallel in plans such as Premier.

The 25% reduction proposed by Delta appears to be within the range of reasonable discounts that are common in the market for PPO participating dentists. Dentists always have the option of not servicing PPO patients.

7. The Three-Year Weighted Average Approach

As a general principle, the Division endorses the concept of applying some means of applying a brake on rapid increases in premiums so as to avoid "sticker shock" by consumers of Delta's products. When using a three-year weighted average approach, however, it is unreasonable not to give most weight to the most recent of the years.

8. The Specialist / Generalist Approach

Based on its current fee methodology, Delta finds a 9% difference in fees across generalists and specialists, and plans to use this figure in developing the PPO specialty fee schedule. This appears to be a reasonable, Massachusetts-specific, data-driven foundation for creating such a differential in fee schedules. Because Delta's proposed new fee methodology is being disapproved by this Decision, however, Delta is urged to carefully consider the issues raised by some, particularly Dr. Snail, about the specialist/generalist concept. Delta may want to consider modifying this concept if Delta decides to propose using it in a future filing.

9. The Prevention Focused Incentive Plan

Delta has argued that a Prevention Focused Incentive Plan (PFIP) will not be part of the fee methodology that is subject to the Division's approval under § 4. At present, however, Delta's PFIP really is nothing more than an intention; the structure and workings of the PFIP has not been decided upon by Delta. Section 4 subjects to the Commissioner's review "[t]he fees to be paid to participating dentists for their services to the subscribers or to insured dependents, or the method of determining such fees." Until there is more substance to Delta's PFIP, the Division cannot determine whether it believes that it will be subject to the Division's review.

When Delta has fully developed a PFIP it should submit it to the Division's Bureau of Managed Care. Only at that time will the Division be able to appropriately evaluate whether its authority under § 4 includes review of the PFIP.

Part B: Transition Issues

In addition to the integral components of Delta's proposed new fee methodology, there are two transition issues that merit comment.

1. Calendar Year 2010: Foregoing the Submission of Semi-annual Fee Updates in 2010 When Reducing the Current 5% Discount During 2010

The proposed reduction of the 5% discount to 3% as of April 2010 would have constituted a reduction of the current discount to a number that would have fit within the range of reasonableness, albeit at the high end, vis-à-vis reflecting the ease and certainty of payment by Delta to participating dentists. See *Decision in 2008 Hearing*, pages 10-12. That Delta proposed to swap, or trade-off, this reduction in a discount stipulated within existing participating dentist contracts in exchange for foregoing submission of April and October updates of fees also agreed-upon in these contracts was reasonable given that Delta's agreements with its customers were based upon the terms of Delta's contracts with its participating dentists. Any participating dentist who objects to the amendment of his or her present Premier contract, furthermore, will be able to cancel the contract with Delta on six months notice. Any Delta PPO dentist who objects to the amendment of his or her present contract will be able to cancel the contract with Delta on 90 days notice.⁵ Within the context of a transition to a new fee methodology made difficult by

⁵ This situation differs from what would have presented relative to the proposed new fee schedules. As Ms. Donohue explained in the March Filing:

Providers participating in Delta Dental's networks may give notice of their termination of participation in our networks at any time. Premier dentists' contracts will terminate 6 months after they give Delta Dental notice of their intent to terminate. PPO dentists' contracts will terminate 90 days after Delta Dental receives notice. Under the proposed implementation plan, Delta Dental will be creating fee schedules early in 2010 so that we will be able to deliver the fee schedules to dentists in a timeframe that will allow them a reasonable amount of time to review the new fees and decide whether they want to participate. Both Premier and PPO participating providers will have enough time to terminate their contracts if they are not happy with the new fees before the January 1, 2011 implementation. We believe the early distribution of the fee schedules will address any concerns the dentists might have that they will be subject to a methodology against their will.

the simultaneous existence of two types of contracts (one with dental providers; the other with dental consumers), this proposed accommodation for a short period of time would have been found to be reasonable. Because this Decision does not approve the proposed new fee methodology that Delta has proposed, however, the foregoing of the submission of April and October updates of fees also is not approved.

2. Calendar Years 2011 and 2012: Applying a Discount From the New Fee Schedules that are Effective January 1, 2011 to June 31, 2012, Other Than to Ensure Compliance with § 4

From January 1, 2011 to June 30, 2011 and from July 1, 2011 to June 30, 2012, Delta proposed continuing to apply a discount to participating dentists' fees of 3% and 2% respectively. Thereafter, Delta proposed to apply a 1% discount only when necessary to ensure compliance with § 4. As a conceptual matter, this proposal could have been reasonable if the discount from January 2011 to June 2012 were applied to fees that were based on allowed fees collected in a database in which Delta allowed fees did *not* predominate.⁶ Applying a discount to fees developed based on undiscounted data (submitted fees) also could have been reasonable.⁷

IV. CONCLUSIONS

For the reasons stated in this Decision, I find that Delta has not demonstrated that the new fee methodology proposed by Delta to reimburse its Premier and Delta PPO participating dentists is reasonable.

V. ORDERS

No later than 30 days from the filing date of this Decision, Delta shall submit for the Division's approval a new proposed fee methodology for its Premier and Delta PPO products, together with a plan for implementing the fee methodology.

⁶ Using Thompson-Reuters Massachusetts allowed fee data could be problematic for this reason. Delta may have been able to avoid the problem of Delta fee predominance by using Ingenix data, but using Ingenix data is unreasonable for other reasons discussed earlier in this Decision.

⁷ Delta could have chosen to base its proposed new fee methodology on the three decades of data it already possesses about Massachusetts participating dentists' submitted charges. The fees that participating dentists *submitted* to Delta would not have been affected by Delta's prior (and current) fee methodology.

Decision and Order Regarding the New Fee Methodology Proposed for the Delta Premier and Delta PPO Plans; Docket No. G2010-03; Proposed New Methodology to be Used to Determine Fees that Delta Dental Pays Participating Dentists Pursuant to G.L. c. 176E, §4

Delta's existing contracts with Premier and Delta PPO participating dentists and subscriber accounts shall continue in force despite the filing of this Decision, as shall the current fee methodology used for Delta's Premier and Delta PPO products, including the submission to the Division of semi-annual updates of Premier's fee schedules. Delta, furthermore, may continue to renew or enter into new Premier and Delta PPO contracts with subscribers and dentists on the same terms as it does at present until new Premier and Delta PPO fee methodologies are approved.

This docket may be reopened for further orders, as appropriate.

Filed: March 16, 2010

Stephen M. Sumner, Esq.
Presiding Officer

Affirmed:

Date: March 16, 2010

Joseph G. Murphy
Commissioner of Insurance

APPENDIX A

The following persons provided oral and written comments: Fay Donohue, Dental Services of Massachusetts d/b/a Delta Dental Plan of Massachusetts; Vincent F. O'Rourke, Esq.; David S. Samuels, D.M.D.; Timothy S. Snail, Ph.D.; William R. Dennis, D.D.S.; and Donald R. House, Jr., Ph.D. The following persons provided written comments: Dennis W. Miniscalco of BSA-ILA Health, Welfare & Clinics Fund; Dr. Donald R. House, Jr., Ph.D.; Dr. David S. Samuels, D.M.D.; Dr. William R. Dennis, D.D.S.; Dr. Timothy S. Snail; David Hoffman of Boston Law Collaborative, LLC; Dr. John Morgan, D.D.S.; Christopher M. Powers of Benefit Development Group; Sybil L. Phillips of Harbor Sweets; Dr. Catherine Hayes, D.M.D.; Bill Higgins of O'Connell Insurance Group Inc.; Sharon L. Ronga of LaRonga Bakery; Stephanie Allen of Allco Donuts d/b/a Dunkin Donuts; Joseph G. Malone of Middlesex Periodontal and Dental Implant Center; Dr. John P. Fisher, D.D.S.; Dr. Milton A. Glicksman, D.M.D.; Dr. Andrea Richman, D.M.D.; and Dr. Charles L. Silvius, D.D.S.