

## COMMONWEALTH OF MASSACHUSETTS

### Office of Consumer Affairs and Business Regulation

#### DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200

(617) 521-7794 • Toll-free (877) 563-4467

<http://www.mass.gov/doi>

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COMMISSIONER OF INSURANCE

June 19, 2019

Mr. Dennis Leonard  
President and CEO  
Dental Services of Massachusetts, Inc.  
465 Medford Street  
Boston, MA 02129-1454

Re: Dental Service of Massachusetts, Inc. d/b/a Delta Dental of Massachusetts  
Proposed Methodology to Reimburse Participating Dentists  
Docket No. G2018-01

Dear Mr. Leonard:

The Division has reviewed the proposed new reimbursement methodology that you submitted on behalf of Dental Services of Massachusetts, Inc., doing business as Delta Dental of Massachusetts ("Delta"), on June 13, 2018, as well as the supplemental materials and information submitted on January 22, 2019, for fees to be paid to participating dentists pursuant to M.G.L. c. 176E. Within the submission, Delta filed to seek approval of a methodology that consists of a two-step process: an initial rebasing of existing fees (the "Initial Rebasing") to take effect no less than 60 days after the Division's approval, and a protocol for annually adjusting fees, to take effect on January 1, 2020.

The submitted reimbursement methodology was the subject of two public hearings under Division of Insurance ("Division") Docket No. G2018-01, called to consider the proposed methodology in accordance with the provisions of M.G.L. c. 176E, §4 which states that "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." Based upon a review of the materials and information submitted by Delta, as well as the comments submitted to the public docket for this matter, Delta's new reimbursement methodology is hereby

APPROVED subject to the conditions set forth in this letter.

### **Summary of Proceedings and Standard of Review**

As you are aware, the Division held a regulatory hearing on July 12, 2018 to consider the proposed methodology and listened to comments presented by representatives of Delta, the Massachusetts Dental Society, and individual dentists. The Division considered the submitted comments and issued an order on November 28, 2018 that responded to two elements of the Delta filing that were scheduled to go into effect on January 1, 2019 without making a decision about the entire submitted filing. On January 22, 2019, Delta submitted supplemental materials to be added to Docket No. G2018-01, and a second hearing was held on March 8, 2019 to hear comments on the supplemental materials.

The Commissioner's authority to oversee the method of determining the fees paid to participating dentists derives from M.G.L. c. 176E, §4:

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.

Under M.G.L. c. 176E, §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. See Docket No. 2010-03, *Proposed New Methodology to Be Used to Determine Fees that Delta Dental Pays Participating Dentists Pursuant to G.L. c. 176E, §4*, Decision and Order Regarding the New Fee Methodology Proposed for the Delta Premier and Delta PPO Plans, March 16, 2010.

### **Conditions of Approval**

The Division approves Delta's proposed reimbursement methodology as outlined in its June 13, 2018 and January 22, 2019 submissions for a trial period lasting through December 31, 2022 subject to the following conditions:

First, the Division understands that Delta had originally proposed that the Initial Rebasing be implemented as of January 1, 2019 and the formal new methodology as identified in the proposal be implemented beginning January 1, 2020. Delta agrees to implement any re-basing no earlier than October 1, 2019 and delay the implementation of Market-Based RVUs, Peer Groups and Levels until January 1, 2021 with the result being that the 2020 fees will be the same as the



fees effective October 1, 2019. The above referenced trial period shall not apply to the Initial Rebasing.

Second, the Division understands that the approved Delta methodology relies on the use of claims data to develop the peer groups and derive Relative Value Unit calculations to be used in developing January 1, 2021 rates of reimbursement and includes aggregate and specific limits on how such rates are to be implemented. Delta will provide the Division, by July 31, 2020, reports to support the Peer Group, Levels, and Market-Based RVUs – as described in the proposed methodology - used to develop the fees to be distributed to participating providers by October 15, 2020 and effective January 1, 2021. The Division will examine such calculated amounts by September 15, 2020 to review that they are consistent with the standards and limitations identified in the approved methodology prior to their being implemented.

Third, in order to mitigate any potential disruptive impact that the implementation of this change may have on existing care systems, Delta agrees to limit the re-basing of Delta Premier that it implements as of January 1, 2020 to reduce fees by no more than 8.8% below those that are currently in effect and dentists participating in the Total Choice PPO and accepting payments electronically from Delta will receive a 1% incentive, resulting in a net 7.8% rebasing.

Fourth, in order to mitigate any potential disruptive impact that the rebasing may have on providers with a significant number of their patients being part of the MassHealth Program, Delta agrees to the following:

Delta will finance a \$1,200,000 rebasing fund ("Medicaid Fund") for those Delta participating dental practices that received a significant majority of their practice revenue from MassHealth payments in 2018 to be distributed according to a plan acceptable to the Division.

To be eligible to participate in the Medicaid Fund, the participating provider must demonstrate and certify on a Federal Tax Identification Number (TIN) basis the percentage of its 2018 operating revenue that was generated from MassHealth insurance payments. To establish its eligibility, each provider must submit to Delta, at a minimum, its 2018 MassHealth-related Form 1099 and its submitted 2018 federal tax return.

The provider must submit its eligibility documentation to Delta during the time period from October 1, 2019 (rebasing effective date) to December 31, 2019 (the "Eligibility Period"). Any documentation received after the Eligibility Period will not be considered by Delta. To be eligible to participate in the Medicaid Fund, a provider must have received 75% or greater of its 2018 operating revenue from Mass Health insurance payments.

For those providers that were in the highest percentage bracket (First Bracket) of MassHealth payments (95% to 100% operating revenue that was generated from MassHealth insurance payments), Delta will reimburse the providers the applicable

rebasings (8.8 % or 7.8%) of their Premier and PPO network insurance paid claims for the period from October 1, 2019 to October 1, 2020 (the "Reimbursement Period").

For those providers in the next highest percentage bracket (Second Bracket) (90% to 95% operating revenue that was generated from MassHealth insurance payments), Delta will reimburse such providers 75% of the applicable rebasing of their PPO and Premier network insurance paid claims for the Reimbursement Period.

For those providers in the lowest percentage bracket (Third Bracket) (75% to 90% operating revenue that was generated from MassHealth insurance payments) Delta will reimburse such providers 50% of the applicable rebasing of their PPO and Premier network insurance paid claims for the Reimbursement Period.

Delta agrees by July 1, 2020 to present to the Division information, in a format agreeable to the Division, that documents the dentists who were provided rebate amounts under this Program and the calculations used to derive each of the noted amounts.

Fifth, Delta will mail updated fees to be effective between October 1, 2019 and December 31, 2020 and educational materials to providers at least 60 days prior to October 1, 2019. In future years, Delta will mail the updated fees and educational materials to providers by October 15 each year, for fees effective January 1 of the following year.

Sixth, Delta agrees to submit quarterly reports to the Division of Insurance, within 60 days following the end of each quarter from the last quarter of 2019 through the end of calendar year 2020 showing the total number and percentage of participating dentists by town, county, and specialty, as well as the number of non-participating dentists by town, county, and specialty, with a dentist being counted if he/she has submitted a claim within the last calendar year.

Seventh, Delta agrees to submit quarterly reports to the Division of Insurance, within 60 days following the end of each quarter from 2021 through calendar year 2022 showing the following information:

- The total number and percentage of participating dentists by town, county, and specialty, as well the number of non-participating dentists by town, county, and specialty, with a dentist being counted if he/she has submitted a claim within the last calendar year;
- A comparison of total allowed fees (maximum fee allowance) per Practice (combination of service location and tax ID) under the new methodology by quarter vs the fees in place as of October 1, 2019;
- Billed and allowed charges by Peer Group, Level, and Practice by quarter; and
- The number of Practices with an administrative level exception.



Mr. Dennis Leonard  
Dental Services of Massachusetts, Inc.  
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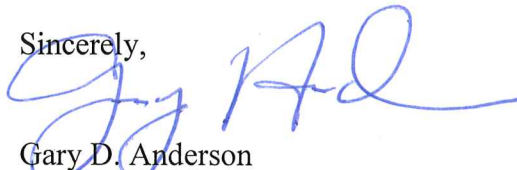
In the event that any of the information or material required to be submitted to the Division is or contains proprietary information, the Division, upon written request, will substitute instead the examination of said information or material by the Division at the offices of Delta.

With the exception of the Initial Rebasing portion of Delta's proposed reimbursement methodology to which the trial period shall not apply, the Division will reassess this conditional approval based upon the above-noted reports and will notify Delta by no later than August 1, 2022 regarding extending the approval beyond the trial approval period.

Kindly confirm Delta's consent to the conditions of this Approval by signing below and returning this letter to me no later than the 21st day of June 2019. This letter may be signed in counterparts.

If you have any further questions, please contact Kevin Beagan, Deputy Commissioner, Health Care Access Bureau, at kevin.beagan@mass.gov or (617) 521-7323.

Sincerely,



Gary D. Anderson  
Commissioner of Insurance

AGREED TO THIS 20th day of June, 2019, by a duly authorized representative of Dental Service of Massachusetts, Inc. :

Dennis J. Leonard 6/20/19  
Signature Date

Dennis J. LEONARD  
Name

President & CEO  
Title

cc: Kevin Beagan, Deputy Commissioner, Health Care Access Bureau