



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report-Issued March 11, 2013

Office of Medicaid (MassHealth) – Review of Controls over Dentist Billings for Detailed Oral Screenings and Other Dental Procedures

For the period January 1, 2008 through June 30, 2011



TABLE OF CONTENTS

INTRODUCTION AND SUMMARY OF FINDINGS AND RECOMMENDATIONS 1

OVERVIEW OF AUDITED AGENCY 4

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY 5

AUDIT FINDINGS 8

1. UNALLOWABLE DETAILED ORAL SCREENINGS TOTALING AS MUCH AS \$1,241,235 8

2. UNALLOWABLE ORAL/FACIAL PHOTOGRAPHIC IMAGES TOTALING \$37,687 19

3. UNALLOWABLE ORAL EVALUATIONS TOTALING \$15,803 22

4. DENTAL PROVIDER CLAIMS SUBMITTED AND PAID FOR SERVICES RENDERED BY A NON-MASSHEALTH PROVIDER..... 25

5. UNNECESSARY FLUORIDE TREATMENTS TOTALING \$14,280 27

INTRODUCTION AND SUMMARY OF FINDINGS AND RECOMMENDATIONS

The Massachusetts Executive Office of Health and Human Services administers the state's Medicaid program, known as MassHealth, which provides access to healthcare services, including dental services, annually to approximately 1.3 million eligible low- and moderate-income individuals, couples, and families. The goals of MassHealth's Dental Program are to improve member access to quality dental care, improve oral health and wellness for MassHealth members, increase provider participation in the Dental Program network, streamline program administration to make it easier for providers to participate, and create a partnership between MassHealth and the dental community. In fiscal year 2011, MassHealth paid a total of \$266,987,637 in dental claims.

Our audit was conducted as part of the Office of the State Auditor's (OSA's) ongoing independent statutory oversight of the Commonwealth's Medicaid Program. The heightened concern over the program's integrity was evidenced in January 2003, when the U.S. Government Accountability Office placed the U.S. Medicaid Program on its list of government programs that are at "high risk" of fraud, waste, abuse, or mismanagement. Several previously issued OSA audit reports have disclosed significant weaknesses in the MassHealth Dental Program's claims processing system, which resulted in millions of dollars in unallowable and potentially fraudulent claims. This audit was conducted to determine whether the internal control and regulatory issues that the OSA identified during its previous audits of MassHealth's Dental Program exist within its processing of claims for detailed oral screenings and several other selected dental procedures.

As with any government program, the confidence of the public is essential to MassHealth's success and continued support. To maintain the public's confidence in its Dental Program, MassHealth must have effective controls such as regulations that reflect best industry practices and policies and procedures in place to ensure that members receive only medically necessary services and that claims for such services are processed in accordance with all applicable state and federal laws and regulations.

Highlight of Audit Findings

- MassHealth regulations specify that detailed oral screenings are only for MassHealth members undergoing radiation treatment, chemotherapy, or organ transplant. During our audit period, the 10 sampled dental providers submitted 19,274 claims and received reimbursements totaling \$1,241,235 for detailed oral screenings for members who we

determined were not receiving oncological services or organ transplants. Therefore, this \$1,241,235 represents questionable payments for these services.

- MassHealth regulations allow for payment of oral/facial photographic images when MassHealth specifically requests that a provider take these images. However, two sampled dental providers billed and were paid for 972 oral/facial photographic images totaling \$37,687 during our audit period that MassHealth never requested and that were therefore unallowable.
- The 10 sampled providers performed oral evaluations during our audit period on at least 540 occasions that exceeded the limits established by MassHealth for this procedure, resulting in unallowable costs totaling \$15,803.
- MassHealth only pays for dental services to dental providers who have contractually agreed to participate in the MassHealth Dental Program. However, one dental provider in our sample submitted claims for services performed by his spouse, who is a dentist but not a participating MassHealth dental provider.
- The American Academy of Pediatric Dentistry recommends that individuals, depending on their caries risk, receive between two and four fluoride applications annually. However, one sampled dental provider submitted claims for fluoride treatments that greatly exceeded these annual amounts, resulting in unnecessary payments totaling \$5,466.
- One sampled provider submitted claims for two types of fluoride applications for the same members on the same day, resulting in unnecessary costs to the Commonwealth totaling \$8,814.

Recommendations of the State Auditor

We recommend that MassHealth:

- Review the \$1,241,235 of billings submitted by the 10 sampled providers for detailed oral screenings and recover whatever portion of the total it deems appropriate. MassHealth should also consider reviewing all payments made for these services by all of its providers during the past four fiscal years and recover any additional funds it deems appropriate.
- Recover the \$37,687 that two providers were paid for oral/facial photographic images contrary to state dental regulations.
- Modify the system edits in place in the Dental Program's claims processing system to effectively identify and deny claims that violate the limits for oral evaluations established by MassHealth regulations. In addition, MassHealth should recover the \$15,803 in unallowable payments made to providers for these services during the audit period.
- In the case of the provider submitting claims for services rendered by his wife, who is a non-MassHealth dental provider, instruct the MassHealth provider in question to cease

this practice. Also, MassHealth should recover the total amount that this provider was paid for services performed by his spouse.

- Recover the \$14,280 provided to two dental providers for unnecessary fluoride treatments. In addition, MassHealth and DentaQuest (the contractor that administers MassHealth's dental program) should develop an edit to identify and deny multiple claims for fluoride treatments for the same member on the same day. Also, MassHealth should establish a regulation, consistent with American Academy of Pediatric Dentistry recommendations, limiting the number of annual fluoride treatments for members.

Agency Progress

In response to our audit, MassHealth officials stated that they are taking actions to address some of the issues raised in our report, including implementing more effective controls over the processing of these dental claims and updating MassHealth's regulations to reflect best practices. MassHealth has also implemented an edit within the claims processing system to address our concerns about unallowable oral/facial photographic images.

OVERVIEW OF AUDITED AGENCY

The Massachusetts Executive Office of Health and Human Services (EOHHS) administers the state's Medicaid program, known as MassHealth, which provides access to healthcare services, including dental services, to approximately 1.3 million eligible low- and moderate-income individuals, couples, and families. In fiscal year 2011, the Massachusetts Medicaid program paid more than \$11 billion to healthcare providers; approximately 60%¹ of that amount was federally funded.

The goals of MassHealth's Dental Program are to improve member access to quality dental care, improve oral health and wellness for MassHealth members, increase provider participation in the Dental Program network, streamline program administration to make it easier for providers to participate, and create a partnership between MassHealth and the dental community. All dental providers participating in the Dental Program must comply with MassHealth regulations, including 130 Code of Massachusetts Regulations 420 and 450.

MassHealth has approved over 5,000 dentists as participating providers in the Dental Program, and according to MassHealth officials, during our audit period there were approximately 2,000 dentists actively participating in the program. During fiscal year 2011, MassHealth paid a total of \$266,987,637 in dental claims.

During the period covered by our audit, EOHHS was under a contract with Dental Services of Massachusetts, Inc. (DSM) to administer the Dental Program. DSM performs its contractual responsibilities through a subcontractor currently known as DentaQuest, LLC (DentaQuest). DentaQuest has both programmatic and administrative responsibilities, including (a) dental provider network administration services, (b) customer services, (c) claims administration and processing, (d) contract administration and reporting, and (e) quality improvement/utilization management. MassHealth's administrative responsibilities under the contract include reviewing DentaQuest's performance to verify compliance with the terms of the contract and any applicable laws, rules, and regulations.

¹ Under the American Recovery and Reinvestment Act of 2009, Massachusetts's Federal Matching Assistance Percentage was temporarily increased from 50% to 60% for fiscal year 2011.

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor (OSA) conducted an audit of dental claims for detailed oral screenings and other dental procedures during the period January 1, 2008 through June 30, 2011. Except for the scope limitation noted below, we conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our objective was to determine whether dental claims filed by the participating dental providers in our sample were accurate and properly supported by required documentation; services were delivered; and billings and payments were in compliance with applicable laws, rules, and regulations. To achieve our objectives, we reviewed applicable state and federal laws, rules, and regulations, and the MassHealth Dental Program Manual. We then obtained and analyzed dental claims information contained in the Massachusetts Medicaid Management Information System, MassHealth's automated claims processing system used to pay dental providers. We analyzed this data to identify (a) the amount and number of paid claims per participating dental provider, (b) the type and frequency of services performed by participating dental providers, and (c) service trends and billing anomalies indicative of systemic billing problems within the Dental Program. In addition, we compared this information with related source documents, interviewed knowledgeable MassHealth officials about the data, and reviewed MassHealth's 2011 Claims Operations Internal Control Plan as well as its responses to the Office of the State Comptroller's Fiscal Year 2010 Internal Control Questionnaire, which included questions about information technology security. We determined that the data was sufficiently reliable for the purposes of this report. Our analysis of this data identified 185 dental provider locations that submitted claims for detailed oral screenings during the audit period. We judgmentally selected the 12 dental providers² with the largest number of claims for detailed oral screenings for on-site reviews. However, because of scope impairment with two of the providers, we are only reporting on 10 sampled providers. The selected dental providers included a

² Four of the 10 dental provider locations selected for review (Ekaterina Mamulashvili, DMD; Everett Dental; Malden Dental Center; and Sameka Dental Management) are owned by Dr. Ekaterina Mamulashvili. All dental services are performed by independent dentists who contract with Dr. Mamulashvili. Each independent dentist is a participating provider in MassHealth.

specialist in oral surgery and nine providers who practice general dentistry. We selected a judgmental sample of 200 files from these providers for review. We tested each member file to ensure that related paid claims were properly authorized and supported by appropriate documentation, including dental charts, radiographs, prior authorization requests, and related billing forms and records. Our audit work at these locations was limited to this file review and did not include a detailed review of the providers' internal controls over claims processing.

We consulted with MassHealth and DentaQuest officials during our audit fieldwork and considered their comments when preparing our report. Also, at the conclusion of each field audit, we discussed the results with the sampled dental providers, and we considered their comments when preparing this report.

Scope Impairment

The OSA is authorized by its enabling legislation, Chapter 11, Section 12, of the General Laws, to perform audits both of governmental entities and of state contractors to “determine compliance with the provisions and requirements of the contract or agreement, the grant, and the laws of the commonwealth.” This statute further mandates that “the state auditor shall have access to such accounts at reasonable times and said department [OSA] may require the production of books, documents, vouchers, and other records relating to any matter within the scope of such audit” and provides that “such audits shall be conducted in accordance with the standards for audits of governmental organizations, programs, activities, and functions published by the Comptroller General of the United States.” Finally, governmental audit standards promulgated by the Comptroller General of the United States state, in Section 6.35 of Government Auditing Standards:

Avoiding interference with investigations or legal proceedings is important in pursuing indications of fraud, noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse. Laws, regulations, and policies may require auditors to report indications of certain types of fraud, noncompliance with provisions of laws, regulations, contracts, or grant agreements, or abuse to law enforcement or investigatory authorities before performing additional audit procedures. When investigations or legal proceedings are initiated or in process, auditors should evaluate the impact on the current audit. In some cases, it may be appropriate for the auditors to work with investigators or legal authorities, or withdraw from or defer further work on the audit or a portion of the audit to avoid interfering with an ongoing investigation or legal proceeding.

Our audit of MassHealth's dental payments for the selected providers was impaired, resulting in a scope limitation. A scope limitation occurs when an auditee or another party places restrictions on the scope of the auditor's work. Such restrictions result in an inability to apply all of the audit

procedures that the auditor considers necessary in the circumstances of the engagement. During the audit, our audit work was impaired by two of the sampled dental providers. This limited our ability to evaluate the services performed by these providers and any related claims paid by MassHealth during the audit period.

As a result of these providers' refusal to produce member records for our review, the OSA filed a civil action against the providers in Massachusetts Superior Court in November 2011. Subsequently, in May 2012, the court issued an order in favor of the OSA that compelled the dental providers in question to permit the OSA to audit all of the records of the dental providers, including patient health records. However, since the court's decision was issued after the end of our audit field work, a separate audit of these dental providers is being conducted, and the results of this audit will be reported on in a separate report.

AUDIT FINDINGS

1. UNALLOWABLE DETAILED ORAL SCREENINGS TOTALING AS MUCH AS \$1,241,235

According to MassHealth regulations, dental providers are allowed to bill for specialized oral examinations called detailed oral screenings only for members undergoing radiation treatment, chemotherapy, or organ transplant. However, we found that during our audit period, the 10 judgmentally sampled dental providers submitted 19,274 claims to MassHealth and were paid \$1,241,235 for detailed oral screenings on members who, based on our review of dental records and comments made by the dental providers, were not undergoing chemotherapy, radiation treatments, or organ transplants. Consequently, the \$1,241,235 in claims represents questionable costs to the Commonwealth.

MassHealth allows its dental providers to bill for detailed oral screenings they perform on certain members. The fee for detailed oral screenings includes payment for (a) comprehensive oral examinations, (b) consultations, (c) oral hygiene evaluations and instructions, (d) fluoride treatments and construction of fluoride trays, (e) salivary flow measures, and (f) follow-up examinations and salivary evaluations. According to MassHealth's regulations, dental providers can bill for detailed oral screenings only for members undergoing chemotherapy, radiation treatments, or organ transplants. The 130 Code of Massachusetts Regulations (CMR) 420.456(B)(1) and Subchapter 602 of the 2010 MassHealth Dental Program Office Reference Manual provide specific billing instructions for this type of examination, which is billed by providers under MassHealth's Procedure Code D0160, as follows:

130 CMR 420.456:

(B) Oral Screenings for Members Undergoing Radiation Treatment or Chemotherapy.

(1) The MassHealth agency pays for oral screenings for members undergoing radiation, chemotherapy, or both, or who are on long-term immunosuppressive therapy....

Dental Program Office Reference Manual:

Exhibit A: Benefits Covered

D0160 - Detailed and extensive oral evaluation – problem focused, by report (only for members undergoing radiation treatment, chemotherapy, or organ transplant)...

To be billed only for oral screening for members undergoing radiation treatment, chemotherapy, or organ transplants. Include a narrative documenting medical necessity for the procedure.

Providers are required to maintain dental records for each patient, including a medical history report that identifies, among other things, whether a member is undergoing organ transplants or treatments for cancer. At each of the 10 sampled provider locations, we selected a judgmental sample of 20 from all of the files of the patients who received a detailed oral exam during our audit period. Based on our review of these records and our conversations with officials at each of the providers, we determined that none of the members in our sample of 200 were undergoing cancer treatment or organ transplants. In some instances, providers appeared to have provided pre-operative or post-operative dental care, emergency examinations, or routine dental examination but billed for these services using the incorrect Procedure Code D0160. Although the providers should not have received payment under Procedure Code D0160 for these types of procedures, we found that, in some instances, they could have received payment under a different procedure code, and may be eligible for an adjustment in their payment to reflect the proper billing code. In other instances, providers billed for detailed oral screenings and other types of dental examinations on the same day for the same member. Therefore, in these instances, the providers received more than full payment for the services they provided and would not be eligible for any type of billing adjustment, but rather should reimburse the program for the payments under Procedure Code D0160. The table below summarizes providers' total number of detailed oral screenings, total payments, and the number of potential case adjustments for our audit period.

Dental Provider	Detailed Oral Screenings	Total Payments	Potential Case Adjustments
Facial Cosmetic & Maxillofacial Surgery	4,529	\$ 309,666	4,454
Everett Dental	3,570	234,832	74
Gary H. Mikels, DMD	2,310	153,288	35
Great Expressions Dental Centers	2,179	136,358	2,179
Sameka Dental Management	2,014	128,660	61
Brockton Family Dental, Inc.	1,583	78,752	21
Michael D. Keefe, DMD	1,267	80,387	867
Richard P. Sansouci, DMD	652	42,129	652
Malden Dental Center	833	55,364	17
Ekaterina Mamulashvili, DMD	<u>337</u>	<u>21,799</u>	<u>6</u>
Total	<u>19,274</u>	<u>\$ 1,241,235</u>	<u>8,366</u>

We did not review the medical history reports of all the members involved in these 19,274 claims. In addition, because we reviewed a nonstatistical sample of claims, we cannot project the results of our sample tests to the entire population of claims for detailed oral screenings. Nonetheless, we question the total payments on these claims for two reasons. First, 100% of the detailed oral screenings within our sample were not in accordance with MassHealth's regulations for these services. Second, none of the providers indicated that a member's organ transplant or oncological health played a role in their decision to submit claims for detailed oral screenings. Consequently, we believe that it is reasonable to question all of the providers' billings for detailed oral screenings.

During the audit, MassHealth officials agreed that Dental Program regulations limit the use of detailed oral screenings to members undergoing radiation treatment, chemotherapy, or organ transplants.

Recommendation

As noted above, we question all of the 19,274 claims totaling \$1,241,235 for detailed oral screenings submitted to MassHealth by the 10 dental providers in our sample during our audit period. Based on our review of member dental records and comments made by the dental providers, these billings were clearly not for members undergoing chemotherapy, radiation treatment, or organ transplants as required by MassHealth regulations. However, we recognize that, in some cases, it would have been reasonable for some of the providers in our sample to bill for one type of oral examination rather than the more expensive detailed oral screening. Consequently, we recommend that MassHealth review the billings submitted by these 10 providers for detailed oral screenings and recover whatever amount of the \$1,241,235 it deems appropriate. MassHealth should also consider reviewing all payments made for this procedure by all of its providers during the past four fiscal years and recover any additional funds it deems appropriate.

Auditees' Responses

Facial Cosmetic & Maxillofacial Surgery provided the following excerpted comments:

In response to your detailed audit report, Facial Cosmetic & Maxillofacial Surgery PC would like to extend further explanation of our rationale for billing the CDT Code D0160. It is important for you to note that we conduct our billing practices in accordance with the Current CDT Reference Manual published by the American Dental Association for all dental procedures....

Facial Cosmetic & Maxillofacial Surgery acknowledges that Mass Health has a unique definition of the D0160 Code....

Following our audit and our meeting with [OSA auditors] . . . we have ceased our use of the CDT Code D0160 and have commenced utilization of the Comprehensive oral evaluation, code D0150 when applicable.

It was not our intent to commit fraud. The actualized restitution of the aggregate differences between the two codes was nominal. We are willing to recompense the Commonwealth for the aggregate differential amount of the two billing codes. Again, I would like to re-affirm that our billing office was following the billing guidelines set by the American Dental Association.

An attorney representing Dr. Mikels provided the following excerpted comments:

Dr. Mikels uses an expensive and very accurate system of chemo-fluorescence to test patients for oral cancer. However, use of this system, sometimes known as the "Vizilite" exam, involves the purchase of a kit that typically costs about \$20. Obviously, in light of the allowed fees of DHCFP, use of this system simply would not be feasible for MassHealth patients. Therefore, Dr. Mikels did what any responsible practitioner should do - he directed that MassHealth be consulted. [A DentaQuest representative] at MassHealth was spoken to and advice was given that an exam using the Vizilite system should be billed under the D0160 code. Dr. Mikels never used the D0160 code for MassHealth patients until advised by [the DentaQuest representative] that such use was permissible. In June 2011, when Dr. Mikels learned that MassHealth took the position that this code was to be used only for CRIT patients, Dr. Mikels immediately ceased using this code....

The Draft OSA Report states "According to MassHealth regulations dental providers are allowed to bill for specialized oral exams called detailed oral screenings only for members undergoing radiation treatment, chemotherapy or organ transplant" (p. 8). Such a statement is simply wrong. As noted, the regulations say absolutely nothing of the sort. As stated in § 420.422(A) "The MassHealth agency pays for a comprehensive oral evaluation once per member per provider." Thus OSA is wrong when it states that the regulations limit this category of service - comprehensive oral examinations - to members who are undergoing CRIT care....

A second reason why the Audit Report is incorrect as a matter of administrative practice is that MassHealth seems to be unique among all states that have been examined and the ADA in restricting its use of code D0160 to CRIT patients. In every other state, this code is available for patients regardless of diagnosis or care. It is certainly true that MassHealth is entirely free to set whatever standards it deems appropriate for the care it pays for. However, it seems entirely wrong as an administrative matter, for MassHealth to hide that unique application of the CDT Code and actively take steps to mislead practitioners as to the CRIT limitation. The regulations contain no such restriction. The Office Reference Manual contains no such CRIT limitation. The 2010 Transmittal Letter (DEN-84) contains no such restriction. The June 2012 Transmittal Letter (DEN-87) contains no such restriction. The OSA Report should be directing MassHealth to let the dental community know of its unique application of this code and to educate practitioners regarding the limitation to CRIT patients instead of keeping it a secret. Or perhaps MassHealth should be told to revise the regulations to reflect a CRIT limitation, since there is no such limitation now.

Great Expressions Dental Centers (GEDC) provided the following excerpted comments:

We have reviewed the audit results and the relevant claims that were billed to MassHealth, and appreciate the professional manner in which the auditors worked with our staff. Although the audit report indicates that the audit samples may not be statistically valid, in order to bring immediate closure to this matter, GEDC accepts the findings of the audit with the changes outlined below. The use of incorrect billing codes was not done maliciously or to knowingly enrich

GEDC; rather, it was a result of a misunderstanding and error by the front desk staff as the doctor's treatment was keyed into the practice management/billing software.

Section 1. Unallowable Detailed Oral Screenings, we propose an adjusted recovery amount of \$56,976, computed as the repayment of the erroneously charged D0160 code totaling \$136,358 offset by the billing of the correct codes totaling \$79,382. As the report points out in Section 1, alternate exams codes could be appropriate, and GEDC feels the aforementioned amounts properly reflect the correct economics of the service to the patients.

An attorney representing Brockton Family Dental provided the following excerpted comments:

Brockton Family Dental has performed the federally mandated American Dental Association's ("ADA") Code on Dental Procedures (the "Code") D0160 in conformity with its definition. The ADA's description of services for D0160 states that this service is a "detailed and extensive problem focused evaluation [which] entails extensive diagnostic and cognitive modalities based on the findings of a comprehensive oral evaluation." See CDT 2013 Dental Procedure Codes....

Further, section VIII of the MassHealth Transmittal Letter DEN-87, June 2012, states that "MassHealth will pay for extensive oral evaluations (service Code D0160) according to the description in the ADA code book." ...Therefore, it was reasonable for Brockton Family Dental to have assumed that it would be paid and could bill MassHealth for performing the detailed oral screenings in the cases cited as errors under the rules and policies as communicated by MassHealth which does cite to the ADA code book as the professional standard....

Notwithstanding the Audit's conclusion that Brockton Family Dental did not correctly follow D0160, Brockton Family Dental asserts that these detailed evaluations were necessary to properly evaluate each patient's dental condition and provide adequate care in keeping with long established ADA guidelines and professional standards of care. It was good clinical practice and therefore appropriate to have rendered detailed oral evaluations for the patient cases reviewed in the Audit and cited as errors....

Even if some of the error cases were validly included in a demand for refund, under widely recognized rules on extrapolation methodologies for governmental program audits and refund demands, the sample size used in the Audit was not large enough to ensure statistical significance and therefore the total payment amount is skewed and unreliable. Additionally, the Audit states that the medical history reports of all the members involved in these claims were not actually reviewed, and therefore neither MassHealth nor the Auditor actually has reviewed the clinical records in all of the cases being denied for payment. In the cases included in this overpayment assessment by virtue of the extrapolation, Brockton Family Dental asserts that it did follow the ADA D0160 guideline by conducting extensive oral evaluations that were necessary and appropriate for the MassHealth patients covered in this overpayment initial finding and the need for such examination was described in sufficient detail in the record.

An attorney representing Dr. Keefe provided the following excerpted comments:

...First, as to the audit regarding unallowable detailed oral screenings, it had been my client's practice to bill under this code for overall dental evaluations on his patients for many years. Neither DentaQuest, Doral nor MassHealth ever complained about such billings, and, instead, continued to pay all such bills, leading my client to believe that such billing was appropriate. If such billing was not appropriate, my client believes that DentaQuest it [sic] at least as responsible as he is because they paid for such coded activity for many years without notifying him that another code might be more appropriate. When I have previously pointed this out to

DentaQuest and requested that they now allow coding to be substituted under different codes for dental evaluation, they have refused to do so.

Dr. Sansouci provided the following excerpted comments:

Detailed and extensive oral evaluations are received by each patient that enters my practice. ALL patients are screened for oral cancer. The description of service code D0160 effective 3/1/2006 implemented by Mass Health and also the CDT codes established by the American Dental Association were used to determine the billing...

Dr. Mamulashvili provided the following excerpted comments for her practice, Malden Dental Center, Everett Dental, and Sameka Dental Management:

As we brought it to your attention at our initial meeting, the discrepancy between The American Dental Association's CDT codes and Masshealth descriptions of the same codes has been confusing and misleading. The CDT code, with which we as doctors are trained in dental schools, does not limit the use of that code on the cancer patients. At no point in time, did [our representative at Masshealth] who we relied on to help implement these protocols in our business make distinctions between the two codes. She even came out on site to the Sameka Dental location periodically to review our billing procedures and policies and did not determine that the billing procedures we were employing and that she had initially set up were incorrect and/or not up to Masshealth standards. Thus, the structure that was set up in Sameka Dental was later implemented in Malden Dental, which was purchased in 2009. In this way, the businesses implemented the same protocol from the beginning.

To help understand my next point, it's important to consider the procedures by which Masshealth pays for services performed on its insured patients. As you already know, not all dental procedures are covered by Masshealth and as such, when Masshealth receives a bill or request for prior authorization, it has edits in place to either approve or deny coverage for the procedure. Masshealth has never been shy in the past about denying payment for services and thus one can deduce that if a procedure is billed in error, Masshealth will deny its coverage for this procedure. However, the bills for D0160's were never denied. Thus, there was no reason to think that there were mistakes in how these claims were coded and this protocol became routinized within the businesses. Here, Denta Quest needs to be asked an important question; why, over a six year period, did they not deny these services? Denta Quest should have had edits in place all along that would have led to the denial of services which your preliminary report proposes to be inappropriately approved and paid for by them.

On April 26 of this year, Denta Quest issued a notification of overpayment and systems corrections notice to all of their dental providers, in which they announced that they have been inappropriately paying providers for the D0160 exam codes and that they have updated their systems so that providers will now receive a denial letter when billing this code directing them to call in and supply more documentation to Masshealth to have the claims reviewed. Masshealth by its own admission is stating only in April of this year that their systems needed updating in order to properly review the D0160 claims and prevent overpayments for these procedures. This notice indicates that this update in their systems occurred only recently. However, the preliminary findings of the audit incorporates procedures dating back to January 1, 2008 when Masshealth did not have proper systems in place to deny these claims and give notice and clarification regarding their proper processing. Common sense and the law (see the Doctrine of Laches) both indicate that it is unreasonable to expect recoupment from another party when one has failed to be diligent in its own duties over an unreasonable period of time. Whether the failure of Denta

Quest to implement edits in their system to deny such claims was in error or because of a failure in its general policies is an important question that needs to be asked of Denta Quest. We urge Denta Quest to review and correct this inefficiency in their system to prevent occurrence of problems that you have reviewed in your preliminary report in other dental businesses. It is regrettable that failure of Denta Quest to properly review and edit claims they receive has contributed to this unfortunate matter and I can only hope that it leads to vast changes in how Denta Quest processes its claims.

In addition to the erroneous set up of protocol regarding the dental exam billing procedures by Masshealth's own representatives and Masshealth's failure to correctly process these claims, these businesses were further handicapped by a receivership which came about as a result of a two year litigation between [my then business partner, the General Manager of the businesses] and I (Superior Court Civil Action No. MICV2009-02281-C). From July, 2009 to October, 2010 Sameka Dental, Malden Dental and Everett Dental became part of a Receivership.... The court appointed a Receiver who was responsible for all general and more specifically, day to day operations of the businesses including the management, billing, staffing, financial duties and other related duties.... During this period, the Receiver employed me at these businesses only in the capacity of a Dentist. I had no legal control over the day-to-day operations and had to defer all those duties to the Receiver. The procedures used by the Receivership professionals to direct and manage the day to day operations of the businesses are not something I can attest to as I had legal direction from the court to not be involved in those matters. I believe it is important to further specify the information noted in your report by dates and separate the period under which the businesses were under the control of the court appointed Receiver. This is imperative information, which if excluded, will lead to a distorted representation of the facts, since during more than one third of the time period incorporated into your report, these businesses were not under my legal control and direction and I am not in position to attest to their operations....

After performing the dental services for the patients, each doctor enters case notes for the procedures performed and checks his or her billing ledger (called "the day sheet") for the day for accuracy. Each dentist then signs the day sheet as acknowledgment of its accuracy. After the "day sheet" is verified by the doctor, each patient's bill is sent to the corresponding insurance companies. Thus, each doctor directs the billing for the services they perform, as they are the ones with best knowledge of what services were performed in the operatories. These policies are implemented in each location to prevent errors in billing. Once each office receives payment from insurance companies, the payment gets divided between the dentist and the business. Note that for the procedures under discussion in your preliminary report, the corresponding service providers have all been paid their share of the payments...

I hope to continue our association with Masshealth to continue serving patients in our communities that carry this insurance. However, our continuing relationship must be based on confidence and competence on both ends. Right after concluding that billing errors were made, I, as well as the other Masshealth providers at the three locations under discussion acted urgently and with diligence and have implemented new billing procedures to ensure that the correct Masshealth protocol is used and appropriate codes are used at all times. I will note that finding out Masshealth's currently correct protocol regarding the exams has been very challenging. The lack of consistency and clarification when attempting to get answers regarding specific protocol questions from Masshealth representatives over the phone, as well as on its website has been an ongoing problem and an increasingly frustrating task. However, I am confident that our current procedures in the three businesses ensure consistent and complete adherence to these protocols. I, as well as the other doctors at these three locations urge Masshealth to make the same corrections and implement more efficient systems on their end. We all have the same goal in mind, and that is the health and well being of our patients. We must service their needs as

efficiently and thoroughly as we can. I have attempted to do this to the best of my ability and hope that Denta Quest can do the same.

Auditor's Reply

The responses we received from eight of the 10 sampled dental providers indicate that they bill for all dental procedures in accordance with the Current Dental Terminology (CDT) Reference Manual published by the American Dental Association. Also, several of these providers state that the CDT Reference Manual conflicts with MassHealth's Dental Program regulations, leading to confusion over billings for Procedure Code D0160. However, providers participating in the MassHealth Dental Program have signed a MassHealth Provider Agreement, stating that they will comply with all state and federal statutes, rules, and regulations applicable to their participation in MassHealth. MassHealth, similar to other dental insurance programs, has established limits on covered dental procedures. These specific limits are not described within the CDT Reference Manual. Consequently, MassHealth dental providers must bill for Procedure Code D0160 in accordance with 130 CMR 420.456(B)(1) and Subchapter 602 of the MassHealth Dental Program Office Reference Manual. These documents specify that MassHealth pays for detailed oral screenings for members who are undergoing radiation, chemotherapy, or both, or who are on long-term immunosuppressive therapy.

MassHealth frequently updates its Dental Program regulations and notifies providers of these changes through formal transmittal letters that summarize and detail regulatory changes. These transmittal letters also include revised pages for the Dental Program Office Reference Manual. MassHealth provides these updates to all participating providers to help ensure proper billing of member services. Participating dental providers need to refer to the Dental Program regulations and Office Reference Manual when billing for member services. Taken together, these documents constitute complete guidance on MassHealth's Dental Program.

The attorneys for Dr. Mikels and Brockton Family Dental both cite MassHealth's June 2012 Transmittal Letter (DEN-87) in support of their clients' claims for Procedure Code D0160. However, this transmittal letter was issued after the audit period and therefore has no bearing on the audit finding.

The responses from Dr. Keefe and Dr. Mamulashvili indicate that these dentists, for many years, billed for Procedure Code D0160, and DentaQuest and MassHealth never questioned their use of

this code. This led Dr. Keefe and Dr. Mamulashvili to believe that their billings for Procedure Code D0160 were appropriate. Also, Dr. Mamulashvili noted that DentaQuest should have had edits in place to deny these claims, if in fact they violated state regulations. While DentaQuest is responsible for processing claims submitted by dental providers and establishing system edits to identify and deny unallowable claims, each dental provider is responsible for submitting claims in accordance with state regulations as noted throughout this report. The fact that DentaQuest's claims processing system did not have the necessary edits in place to identify and deny improper claims for Procedure Code D0160 does not absolve each dental provider from the responsibility of complying with MassHealth's regulations.

Facial Cosmetic & Maxillofacial Surgery's response indicates that it plans to use Procedure Code D0150, when applicable. Facial Cosmetic & Maxillofacial Surgery should also consider using the medical service codes established under 130 CMR 420.453. These service codes were established for dental providers specializing in oral surgery and include payment for, among other things, member evaluations and examinations. In addition, MassHealth could consider these medical service codes when determining the amount Facial Cosmetic & Maxillofacial Surgery owes the Commonwealth.

Dr. Mikels' response indicates that he received approval from a DentaQuest official to bill Procedure Code D0160 for member oral cancer screenings performed using the Vizilite chemo-fluorescence system. However, MassHealth does not pay for this type of test under Procedure Code D0160 or any other code. In addition, we spoke with this DentaQuest representative, and he had no recollection or documentation of having authorized Dr. Mikels to bill Procedure Code D0160 in this manner.

Dr. Mikels' attorney offers a defense of his client's use of Procedure Code D0160 that is based on 130 CMR 420.422(A). However, this regulation is applicable to Procedure Code D0150 (comprehensive oral evaluation). We are not questioning Dr. Mikels' use of Procedure Code D0150. Rather, we are questioning the claims he submitted for Procedure Code D0160 (detailed oral screenings), which are covered under 130 CMR 420.456(B) and Subchapter 602 of the MassHealth Dental Program Office Reference Manual.

Contrary to Dr. Mikels' attorney's assertion, MassHealth's regulations and the Dental Program Office Reference Manual did include limitations on procedure D0160 during the audit period. These

limits are described throughout the report. Moreover, MassHealth's written response to our draft audit report cites 130 CMR 420.456(B) as the applicable regulation for detailed oral screenings.

Based on the reported findings, MassHealth agrees that the sampled providers appear to be in violation of the regulation 130 CMR 420.456(B) in billing the service code D0160. Service code D0160 does require that the provider must include with the claim a narrative documenting the medical necessity for the procedure. Once MassHealth receives the final auditor's report, MassHealth will take appropriate action as necessary, which may include, but not be limited to, recovery of any overpayments in accordance with 130 CMR.450.237.

In its response, GEDC proposed a financial resolution to expeditiously resolve this matter. However, MassHealth is ultimately responsible for determining any amounts due to the Commonwealth.

We agree with Brockton Family Dental's attorney that dental providers must properly evaluate each patient's dental condition and provide adequate care. In order to ensure such proper care, the MassHealth Dental Program provides for five types of oral evaluations: comprehensive, periodic, limited, emergency, and detailed oral screenings. Each of these examinations has a specific purpose that MassHealth clearly defines within its regulations and the Dental Program Office Reference Manual. However, Brockton Family Dental failed to submit claims for detailed oral screenings in accordance with these documents. In addition, it routinely submitted claims for multiple oral examinations of the same member on the same day. In most instances, these claims included a charge for Procedure Code D0160. The fact that Brockton Family Dental submitted two and sometimes three claims for oral examinations/screenings for the same member on the same day indicates potential fraud.

Though Brockton Family Dental's attorney questions our audit methodology, including the sample size and member file review, our methodology is sound because the financial impact was determined not only by our review of member records, but also from written statements provided by Brockton Family Dental. These written statements provided clear evidence that, contrary to state regulations, Brockton Family Dental did not consider a member's oncological condition when performing and submitting claims for detailed oral screenings. Therefore, all claims submitted by Brockton Family Dental for Procedure Code D0160 represent unallowable costs to the Commonwealth.

Dr. Sansouci's response indicates that he provided detailed oral screenings for all members in accordance with state regulations effective March 2006. However, as of March 1, 2006, MassHealth

restricted the use of this procedure code to members undergoing radiation, chemotherapy, or organ transplant. Consequently, by routinely billing Procedure Code D0160 for all members, Dr. Sansouci violated 130 CMR 420.456(B)(1) and Subchapter 602 of the MassHealth Dental Program Office Reference Manual.

Dr. Mamulashvili's response indicates that a MassHealth employee helped to develop billing policies, procedures, and protocols used at Dr. Mamulashvili's practices. However, we find it highly unlikely that the MassHealth employee would help establish and approve a billing system that operates contrary to state regulations. Specifically, in most instances, Dr. Mamulashvili billed for Procedure Code D0160 and another oral examination/screening for the same member on the same day. Common sense dictates that such billings represent duplicative charges and unallowable costs to the Commonwealth.

Dr. Mamulashvili stated that during a portion of the audit period, her dental practices were under the control of a court-appointed Receiver, so that she did not have control over business operations such as submission of dental claims. However, these legal matters did not affect the Receiver's submission of claims for Procedure Code D0160. Specifically, throughout the entire audit period, which included the Receivership period, multiple claims for oral examinations/screenings were submitted for the same member on the same day, without regard for members' oncological condition, contrary to state regulations. The Receiver did not establish this erroneous billing practice but rather continued a system established by Dr. Mamulashvili.

Dr. Mamulashvili stated that the independent dentists contracting with Everett Dental, Malden Dental Center, and Sameka Dental Management direct the billing for services they perform, as they are the ones with best knowledge of what those services were. However, while these dentists record the procedures performed on patients, they rely upon Dr. Mamulashvili's staff to submit claims in accordance with state regulations. Dr. Mamulashvili is responsible for ensuring that her billing staff is knowledgeable about all insurance programs, including any coverage limitations. A knowledgeable staff is vital because there are various types of insurance plans that have distinct rules and limitations governing covered services.

At the conclusion of our audit, we brought this matter to the attention of MassHealth officials. MassHealth provided written comments in which the agency agreed with our conclusion that the

providers did not submit claims for Procedure Code D0160 in accordance with state regulations by stating,

Based on the reported findings, MassHealth agrees that the sampled providers appear to be in violation of the regulation 130 CMR 420.456(B) in billing the service code D0160. Service code D0160 does require that the provider must include with the claim a narrative documenting the medical necessity for the procedure. Once MassHealth receives the final auditor's report, MassHealth will take appropriate action as necessary, which may include, but not be limited to, recovery of any overpayments in accordance with 130 CMR.450.237.

As detailed in Transmittal Letter DEN-87, MassHealth will pay for extensive oral evaluations (Service code D0160) according to the description in the American Dental Association code book effective July 1, 2012.

2. UNALLOWABLE ORAL/FACIAL PHOTOGRAPHIC IMAGES TOTALING \$37,687

MassHealth regulations prohibit payment for oral/facial photographic images taken of a member unless specifically requested by MassHealth. However, contrary to these regulations, two of the 10 judgmentally sampled dental providers, Dr. Keefe and Dr. Sansouci, billed and were paid for 972 photographic images during our audit period that MassHealth did not request. These claims should have been denied by DentaQuest, the dental benefits administrator of MassHealth's Dental Program, because they violated MassHealth regulations.

The 130 CMR 420.423(E)(3), promulgated by MassHealth, states:

The MassHealth agency may request digital or diagnostic photographic prints for other services that require prior-authorization.

However, we found that the internal controls that DentaQuest had implemented in MassHealth's claims processing system were not adequate to ensure compliance with this regulation. Specifically, the Dental Program's claims processing system does not include edits to detect and deny claims for photographic images that violate state regulations.³ As a result, two dental providers in our sample received unallowable payments totaling \$37,687 for photographic images during the audit period, as detailed in the following table:

³ Our prior audit report, Independent State Auditor's Report on MassHealth's Administration of Dental Claims, No. 2009-8018-14C, dated November 16, 2010, stated that DentaQuest's claims processing system did not include edits to detect and deny claims for oral/facial photographic images.

Provider	Paid Claims	Amount
Michael D. Keefe, DMD	812	\$31,894
Richard P. Sansouci, DMD	<u>160</u>	<u>5,793</u>
Total	<u>972</u>	<u>\$37,687</u>

During our audit, we discussed this matter with the two dental providers identified as having received payments for oral/facial photographic images. Dr. Keefe stated that he routinely submits oral/facial photographic images to substantiate requests for prior authorization for medically necessary dental services for members but does not remember MassHealth ever requesting these images. Dr. Sansouci stated that he sends oral/facial images to MassHealth to substantiate the necessity of a claim that MassHealth has denied. However, since MassHealth never requested these images, these claims should not have been paid.

During previous audits, we identified other dental providers who had received payments for oral/facial photographic images contrary to state regulations.⁴ At the time of those audits, we brought the matter to the attention of MassHealth officials, who provided the following written comments:

DentaQuest has already implemented an edit to remove this code from paying as a separate procedure. Any claims will be denied in conjunction with the regulation unless the service was requested by MassHealth.

Recommendation

Based on its written comments, MassHealth has implemented an edit within the claims processing system to address our concerns about unallowable oral/facial photographic images. In addition, MassHealth should recover the \$37,687 that these two providers were paid for oral/facial photographic images contrary to MassHealth regulations.

⁴ Our prior audit reports No. 2009-8018-14C, No. 2011-4546-3C, and No. 2011-4552-3C identified three orthodontists who had submitted claims for oral/facial photographic images contrary to state regulations. In each instance, DentaQuest's claims processing system lacked edits to identify and deny the claims, resulting in a total of \$227,679 unallowable payments over the three audits.

Auditees' Responses

The attorney representing Dr. Keefe provided the following excerpted comments:

Regarding the unallowable oral/facial photographic images, you state in your audit that MassHealth regulations allow for payment for oral/facial photographic images when MassHealth specifically requests a provider to take these images only. This position is contrary to the documentation provided to my client by Doral... [The MassHealth Dental Program Office Reference Manual] specifically states that Code D0350 regarding oral/facial photographic images may be utilized by the provider for "nonorthodontic treatment, only when medically necessary." It does not require a request from MassHealth, as alleged in the audit. In addition... the MassHealth Provider Manual Series/Dental Manual... specifically states that Code D0350, regarding oral/facial photographic images, that the code may be utilized for all patients, whether over or under 21, and does not list any prior authorization requirements, report requirements or notations necessary for use of the code. As such, I believe the interpretation being used by you in the audit as to when the code may be utilized is incorrect.

Dr. Sansouci provided the following excerpted comments:

Less than 4% of my Mass Health patients required oral-facial photographs in order to have their NECESSARY dental treatment approved. After further review of 130 CMR 420, there is no indication that this service will be paid only when requested by Mass Health.

Auditor's Reply

All providers participating in the MassHealth Dental Program must comply with 130 CMR 420.000 and 450.000. These regulations govern, among other things, the billing and payment for dental services under MassHealth. The Dental Program Office Reference Manual is intended for the convenience of dental providers and does not contain every federal or state law and regulation that might affect a provider's participation in MassHealth; it represents MassHealth's effort to give each provider a single convenient source for the essential information dental providers need in their routine interaction with MassHealth and its members. The criteria outlined in the manual are designed as guidelines for authorization and payment decisions and are not intended to be all-inclusive or absolute. Moreover, as described in the Dental Program Office Reference Manual, if there is a conflict between the manual and the regulations, the regulations take precedence in every case.

Under 130 CMR 420.423(E)(3), MassHealth specifies that it may request digital or diagnostic photographic prints for services that require prior authorization. In such instances, payments for these oral/facial images would be allowed under the MassHealth program. However, MassHealth did not request the oral/facial images taken by Dr. Keefe and Dr. Sansouci. Therefore, the claims they submitted for these services represent unallowable costs to the Commonwealth.

3. UNALLOWABLE ORAL EVALUATIONS TOTALING \$15,803

MassHealth regulations limit the number of claims for which dental providers will be paid for comprehensive, periodic, and limited oral evaluations for members. However, during our audit period, the 10 providers in our sample billed and were paid \$15,803 for claims that exceeded the established limits for these services.

The 130 CMR 420.422 limits the frequency with which MassHealth will pay dental providers for providing these oral evaluations, as follows:

(A) Comprehensive Oral Evaluation. The MassHealth agency pays for a comprehensive oral evaluation once per member per provider....

(B) Periodic Oral Evaluation. The MassHealth agency pays for a periodic oral evaluation twice per member per calendar year.... This service is not covered on the same date of service as an emergency treatment visit.

(C) Limited Oral Evaluation. The MassHealth agency pays for a limited oral evaluation twice per member per calendar year.... A limited oral evaluation is not covered on the same date of service as an emergency treatment visit.

MassHealth officials stated that, in addition to the limits established by 130 CMR 420.422, dental providers should not bill for certain oral examinations such as comprehensive oral evaluations, periodic oral evaluations, and emergency evaluations on the same date of service for the same member. Multiple claims such as these would represent medically unnecessary dental procedures. However, our audit revealed that the 10 dental providers in our sample submitted and were paid for 540 claims totaling \$15,803 during the audit period contrary to these requirements. The following chart identifies the excessive claims that MassHealth paid for during our audit period for the 10 providers in our sample:

Dental Provider	More than One Comprehensive Exam per Member per Provider	Cost	More than Two Periodic Oral Evaluations per Year per Member	Cost	More than Two Limited Oral Evaluations per Year per Member	Cost	Periodic and Emergency Exams on Same Day	Cost	Limited and Emergency Exams on the Same Day	Cost	Total Questioned Costs
Facial Cosmetic & Maxillofacial Surgery	-	-	-	-	5	\$ 186	-	-	-	-	\$ 186
Everett Dental	17	\$ 852	-	-	9	351	2	\$ 40	-	-	1,243
Gary H. Mikels, DMD	1	37	3	\$ 60	2	72	-	-	-	-	169
Great Expressions Dental Centers	31	1,231	12	285	-	-	1	29	1	\$ 36	1,581
Sameka Dental Management	9	396	6	145	72	2,726	3	67	18	701	4,035
Brockton Family Dental	10	433	2	40	-	-	3	69	-	-	542
Michael D. Keefe, DMD	1	37	3	60	27	1,053	283	6,178	-	-	7,328
Richard P. Sansouci, DMD	-	-	1	20	15	603	-	-	-	-	623
Malden Dental Center	-	-	-	-	1	39	1	20	-	-	59
Ekaterina Mamulashvili, DDS	<u>1</u>	<u>37</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>37</u>
Total	<u>70⁵</u>	<u>\$ 3,023</u>	<u>27⁵</u>	<u>\$ 610</u>	<u>131⁵</u>	<u>\$ 5,030</u>	<u>293⁵</u>	<u>\$ 6,403</u>	<u>19⁵</u>	<u>\$ 737</u>	<u>\$ 15,803</u>

⁵ These numbers added together equal the 540 claims in question.

Because DentaQuest's claims processing system did not include edits to detect and deny claims for oral examinations that violated the limits for these services established by state regulations, the Commonwealth unnecessarily reimbursed these providers a total of \$15,803 for the services in question during the audit period.

Recommendation

DentaQuest and MassHealth should modify the system edits in place in the Dental Program's claims processing system to effectively identify and deny claims that violate the limits for these procedures established by these regulations. In addition, MassHealth should recover the \$15,803 in unallowable payments made to the providers for these services during the audit period.

Auditees' Responses

The attorney representing Dr. Mikels provided the following excerpted comments:

In addition, naming Dr. Mikels for \$169 in questioned costs, although not otherwise addressed in this letter, would cause damage far out of proportion to the amounts involved.

GEDC provided the following excerpted comments:

Because of the small number of claims and the nominal recovery amount, GEDC accepts the audit results as proposed.

The attorney representing Brockton Family Dental provided the following excerpted comments:

To the extent Brockton Family Dental has been denied any claims due to the failure of DentaQuest's claims processing, and not due to any known billing by Brockton Family Dental of uncovered services, the Audit should not reverse the prior payments made to Brockton Family Dental for these procedures.

The attorney representing Dr. Keefe provided the following excerpted comments:

My client does not believe that he billed for two exams on the same day. He does believe that he may have billed for emergency treatment on the same day as a periodic exam. This situation would generally occur when an individual would come to his office for emergency treatment, and my client determined the individual was also due for or was about to be due for a periodic examination. In an effort to save the individual time, my client would, on the same day, conduct the emergency treatment and then proceed to conduct the periodic evaluation in order to avoid the need to have the patient make two trips. As such, my client does not believe that an overpayment occurred.

Dr. Sansouci provided the following excerpted comments:

Code 9110 can be substituted for D0140 in which instance Mass Health owes me.

The dental providers Facial Cosmetic & Maxillofacial Surgery, Ekaterina Mamulashvili, Everett Dental, Sameka Dental Management, and Malden Dental Center did not respond to this issue.

Auditor's Reply

As previously discussed, MassHealth has established 130 CMR 420.422 and 420.456, which limit the frequency and circumstances under which it will pay claims for member oral evaluations and emergency treatment visits, respectively. The fact that DentaQuest's claims processing system did not have the necessary edits in place to properly administer these regulations does not absolve Brockton Family Dental of responsibility for complying with them. In addition, Dr. Keefe's performing emergency and periodic examinations on the same day for the same member to "save time" violates state regulations that prohibit billing for these two types of examinations on the same day. Also, Dr. Sansouci's response that Procedure Code D9110 (emergency treatment) can be substituted for D0140 (limited examination) is without merit. Each of these procedure codes is designated by MassHealth for a specific dental procedure, and they cannot be used interchangeably for purposes of maximizing revenues. Lastly, while the amount questioned at Dr. Mikels' office is minimal, we presented the amount to ensure full disclosure of this issue.

We brought this matter to the attention of MassHealth officials, who provided comments that are excerpted below:

DentaQuest currently has edits in the system that do not allow oral evaluations to be paid for more than the established limit as stated in the regulation. Once MassHealth receives the final auditor's report, MassHealth will take appropriate action as necessary, which may include, but not be limited to, recovery of any overpayments in accordance with 130 CMR 450.237.

4. DENTAL PROVIDER CLAIMS SUBMITTED AND PAID FOR SERVICES RENDERED BY A NON-MASSHEALTH PROVIDER

MassHealth's regulations state that it will only pay for services rendered by dentists who are participating providers in its Dental Program. However, we found that one MassHealth dental provider's spouse performed services on members even though she was not a participating provider. This dental provider submitted claims for services performed by his spouse to MassHealth under his MassHealth provider identification number. Since the participating dentist did not actually perform

these services, the claims that MassHealth paid for these services represent unallowable costs to the Commonwealth.

The 130 CMR 420.404 promulgated by MassHealth states, in part:

Provider Eligibility: Participating Providers

The MassHealth agency pays for services described in 130 CMR 420.000 only to providers of dental services who are participating in MassHealth on the date of service. The participating provider is responsible for the quality of all services for which payment is claimed, the accuracy of such claims, and compliance with all regulations applicable to dental services under MassHealth. In order to claim payment, the participating provider must be the dentist who actually performed the service, except as described in 130 CMR 420.404(A) through (D).

(A) dentist who is a member of a group practice can direct payment to the group practice under the provisions of the MassHealth regulations governing billing intermediaries in 130 CMR 450.000. The dentist providing the services must be enrolled as an individual provider, and must be identified on claims for his or her services.

In addition, 130 CMR 450.222 and 130 CMR 450.231 detail the circumstances under which a dentist may become a participating provider and submit claims for services, respectively, as follows:

450.222: Provider Contract: Application for Contract

A person or entity may become a participating provider only by submitting an Application for Provider Contract. If approved by the MassHealth agency, the application will be part of any subsequent provider contract between the applicant and the MassHealth agency. Any omission or misstatement in the application will (without limiting any other penalties or sanctions resulting therefrom) render such contract voidable by the MassHealth agency.

450.231: General Conditions of Payments

(A) Except to the extent otherwise permitted by state or federal regulations, no provider is entitled to any payment from MassHealth unless on the date of service the provider was a participating provider and the person receiving the benefits was a member.

During our audit, we judgmentally selected 20 member files at Dr. Richard Sansouci's office for review. Four of the 20 files contained notations such as "per order of Dr. Cathy" and "exam by Dr. C," indicating that Dr. Catherine Sansouci had performed examinations and other dental procedures on members. Dr. Catherine Sansouci is not a participating provider in the Dental Program and therefore is not entitled to receive payment from MassHealth for her services.

During the audit, we questioned MassHealth officials about Dr. Catherine Sansouci's enrollment status. These officials indicated that she is not enrolled as a participating provider and does not have a pending application.

Recommendation

MassHealth should instruct the dental provider in question to cease billing MassHealth for services performed by his spouse. Also, MassHealth should determine the total amount that this provider was paid for services performed by his spouse and recover these amounts.

Auditee's Response

Dr. Richard Sansouci provided the following excerpted comments:

My wife has a private practice and she excludes HMO's, PPO's and all government subsidized programs from her patient base. In the interest and concern of the patient she may assist, however, I provide all services billed in my name.

Auditor's Reply

As previously stated, Dr. Sansouci's patient files contained notations such as "per order of Dr. Cathy" and "exam by Dr. C." These notations indicate that his spouse performed examinations and other dental procedures on certain MassHealth members. Since his wife is not a participating provider in the MassHealth Dental Program, any claims for services she performs are not allowable.

We brought this matter to the attention of MassHealth officials. MassHealth provided written comments in which the agency states that it agrees with our conclusion that the provider is in violation of 130 CMR 420.404, as follows:

Based on the reported findings, MassHealth agrees that the sampled provider appears to be in violation of the regulation. Once MassHealth receives the final auditor's report, MassHealth will take appropriate action as necessary, which may include, but not be limited to, recovery of any overpayments in accordance with 130 CMR.450.237.

It should be noted that only a post payment record review would capture this violation and, as discussed previously, MassHealth has such a process in place. In addition, DentaQuest will schedule an educational meeting on billing procedures with the office.

5. UNNECESSARY FLUORIDE TREATMENTS TOTALING \$14,280

We found that during our audit period, two of the 10 dental providers in our sample – Brockton Family Dental and Dr. Keefe – submitted 2,052 claims totaling \$53,941 for fluoride treatments for MassHealth members. We determined that 528 of these claims, totaling \$14,280, were for unnecessary fluoride treatments. Specifically, these providers either (a) applied two types of topical fluoride (e.g., fluoride gel, foam, varnish) on the same members on the same day or (b) provided

fluoride treatments for members that exceeded annual levels recommended by the American Academy of Pediatric Dentistry (AAPD)⁶.

The 130 CMR 420.424(B)(1) states that MassHealth will pay for the following topical fluoride treatments:

(a) Members Under Age 21. The MassHealth agency pays for topical fluoride treatment. Topical fluoride treatment consists of continuous topical application of an approved fluoride agent such as gels, foams, and varnishes, for a period shown to be effective for the agent. The MassHealth agency pays for treatment that incorporates fluoride with the polishing compound as part of the prophylaxis...

(b) Members Aged 21 and Older. The MassHealth agency pays for topical fluoride only for members who have medical or dental conditions that significantly interrupt the flow of saliva.

Additionally, the AAPD recommends that children at moderate caries (cavities or dental decay) risk should receive a professional topical fluoride treatment at least every six months and that those with high caries risk should receive professional fluoride applications more frequently (i.e., every three to six months). Thus, the AAPD recommends that members, depending upon their caries risk, receive between two and four fluoride applications per year. AAPD guidelines do not distinguish between types of topical fluoride (e.g., gel, foam, varnish). However, we found that Brockton Family Dental submitted 338 claims totaling \$8,814 for fluoride varnish and other topical fluorides for the same member on the same day. Also, we found that Dr. Keefe submitted 190 claims totaling \$5,466 for fluoride treatments that greatly exceeded AAPD's recommendations

During our audit, we determined that MassHealth's Dental Program's claims processing system does not contain edits to identify and deny claims submitted by providers for multiple applications of topical fluoride on the same member on the same day. In addition, during the audit period, MassHealth Dental Program regulations did not establish a maximum yearly limit for member fluoride treatments. Therefore, DentaQuest did not include an edit within the claims processing system to identify and deny excessive treatments. We discussed this matter with the Dental Program Director, who provided the following written comments about his planned actions to rectify the situation.

⁶ At the time of the audit, MassHealth had not established a limit on the number of fluoride applications a member could receive per year. Consequently, we relied upon the AAPD recommendations on this matter, which the MassHealth Dental Program Director provided.

MassHealth is in the process of developing and implementing frequency limitations of once per quarter on fluoride treatments based on AAPD accepted standards of care. Any treatments above the limit will be available when medically necessary under EPSDT [Early and Periodic Screening, Diagnosis and Treatment] with PA [Prior Authorization].

Recommendation

MassHealth should recover the \$14,280 provided to the two dental providers for unnecessary fluoride treatments. In addition, MassHealth and DentaQuest should develop an edit to identify and deny multiple claims for fluoride treatments for the same member on the same day. Also, MassHealth should establish a regulation, consistent with AAPD recommendations, limiting the number of annual fluoride treatments for members.

Auditees' Responses

An attorney representing Brockton Family Dental provided the following excerpted comments:

Brockton Family Dental asserts that before providing treatment to MassHealth patients, its dental professionals first check the MassHealth website to determine what, if any topical fluoride treatments had been performed and when. Brockton Family Dental relied upon the MassHealth website and would only perform the fluoride treatment when it was clear from the website that a treatment was due or had not been performed within the allotted timeframe under MassHealth reimbursement rules.

Brockton Family Dental performed the fluoride services in accordance with the American Academy of Pediatric Dentistry and also after consulting the MassHealth website. If the website was not accurate or not properly updated, that was not the fault of Brockton Family Dental, which was actively trying to provide good care to its pediatric patients. Accordingly, the fluoride usages were part of the proper and necessary treatment and there were no entries on the MassHealth website putting Brockton Family Dental on notice that the delivered fluoride treatments were not necessary or reimbursable by MassHealth. Therefore, an overpayment determination in these cases is not correct.

An attorney representing Dr. Keefe did not respond to this issue.

Auditor's Reply

At Brockton Family Dental, we questioned the multiple applications of topical fluoride on the same member on the same day. However, Brockton Family Dental's response does not address this concern. Rather, the provider discusses annual limits established by the AAPD and the administrative process the provider follows for determining a member's need for fluoride treatment.

We brought this matter to the attention of MassHealth officials, who provided the following excerpted comments:

There was no frequency limitation on the service code D1203 for the dates of service the fluoride treatments were provided. Payments were therefore made consistent with MassHealth regulations. Once MassHealth receives the final auditor's report, MassHealth will take appropriate action as necessary, which may include, but not be limited to, recovery of any overpayments in accordance with 130 CMR.450.237.

MassHealth has implemented system edits effective February 2011 that will deny a claim billed with D1203 if D1206 was already paid for the same date and same member. Additionally, a frequency limitation of once per quarter on fluoride treatments has been implemented based on American Academy of Pediatric Dentistry accepted standards of care. Any treatments above the limit will be available when medically necessary under EPSDT with Prior Authorization.