



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

Making government work better

Official Audit Report – Issued December 1, 2011

SmileCenter

For the period July 1, 2007 through June 30, 2010



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INTRODUCTION**1**

MassHealth, within the Massachusetts Executive Office of Health and Human Services (EOHHS), administers the state's Medicaid program that provides access to healthcare services, including dental services, to approximately one 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.

During the period covered by our audit, EOHHS awarded a contract to Dental Services of Massachusetts, Inc., (DSM) to administer the Dental Program. However, 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.

On November 16, 2010, the Office of the State Auditor (OSA) issued Independent State Auditor's Report on MassHealth's Administration of Dental Claims, No. 2009-8018-14C. This audit identified millions of dollars in ineligible and, in some cases, potentially fraudulent claims paid by MassHealth resulting from deficiencies in its dental claims processing system. SmileCenter, a sole proprietorship located at 92 Sandwich Street in Plymouth, is one of approximately 2,000 dental providers enrolled in the MassHealth Dental Program. SmileCenter received over \$1.2 million from MassHealth during the audit period July 1, 2007 through June 30, 2010 for general dentistry and orthodontic services provided to 1,289 eligible MassHealth members. Our audit of SmileCenter was conducted as part of the OSA's ongoing independent statutory oversight of the Massachusetts Medicaid program.

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 objectives were to determine whether certain dental claims submitted by SmileCenter were accurate and properly supported by required documentation; services were delivered; and billings and payments were in compliance with applicable laws, rules, and regulations.

Our audit identified that SmileCenter billed and received from MassHealth at least \$253,519 in unallowable, unnecessary, undocumented, and inappropriate claims for dental and orthodontic services during the audit period.

The following ten audit results reveal a pervasive pattern of noncompliance with Medicaid regulations and best practices. In addition to the sole proprietor performing orthodontic work without the proper training and credentials, our audit results consistently demonstrate a high percentage of improper billings by SmileCenter in many billing areas.

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1. SMILECENTER'S SOLE PROPRIETOR LACKED REQUIRED TRAINING IN ORTHODONTICS RESULTING IN UNALLOWABLE ORTHODONTIC PROCEDURES TOTALING \$201,509 **4**

MassHealth's Dental Program regulations require dentists who practice orthodontics to have completed a minimum of two years' training in a Commission on Dental Accreditation (CODA) of the American Dental Association advanced-education program in orthodontics. However, SmileCenter's only practicing orthodontist, also its sole proprietor, did not complete a CODA advanced-education program in orthodontics as required by state regulations but still billed and received payments totaling \$201,509 from MassHealth for orthodontic services, including \$14,601 in unallowable and unnecessary orthodontic consultation claims identified in Audit Result No. 3 and \$3,619 in unallowable oral/facial photographic image claims identified in Audit Result No. 8. Moreover, because this dentist did not meet MassHealth's training requirements in this area, there is inadequate assurance that MassHealth members received proper orthodontic treatment from this dentist. MassHealth officials agreed, indicating that this individual did not meet its training requirements to perform these specialized services and stated that corrective action would be taken, including terminating this provider's specialty, transferring his MassHealth members for continued care, and seeking restitution, as appropriate.

2. UNALLOWABLE DETAILED ORAL SCREENINGS TOTALING AS MUCH AS \$36,065 **10**

During our audit period, SmileCenter was paid as much as \$36,065 for detailed oral evaluations in violation of MassHealth Dental Program regulations. According to MassHealth regulations, detailed oral evaluations are specifically for members undergoing radiation treatment, chemotherapy, or organ transplant. However, SmileCenter submitted 527 claims totaling \$36,065 for detailed oral evaluations for members who were not undergoing chemotherapy, radiation treatments, or organ transplants while being treated by SmileCenter. Rather, SmileCenter's owner indicated that he billed MassHealth for detailed oral evaluations whenever he determined a member required an exam more extensive than a periodic or limited evaluation.

3. UNALLOWABLE AND UNNECESSARY ORTHODONTIC CONSULTATION CLAIMS TOTALING \$14,601 **14**

Dental providers routinely perform orthodontic consultations/evaluations on individuals to determine their need for orthodontic services. However, according to MassHealth's Dental Program Director, clinically accepted standards of care would indicate that such orthodontic consultations are not necessary for children under the age of six. During our audit period, SmileCenter submitted 1,339 claims for orthodontic consultations, of which 415 (31%), totaling \$12,865, were for members between the ages of one and five. These 415 claims represent medically unnecessary procedures and are therefore unallowable. Moreover, our analysis of these 415 orthodontic consultations revealed that SmileCenter submitted multiple claims for 111 members under the age of six.

In addition, MassHealth regulations indicate that it will not pay for an orthodontic consultation as a separate procedure when used in conjunction with ongoing or planned

(within six months) orthodontic treatment. However, during the audit period, SmileCenter was paid for 56 orthodontic consultations performed within six months of the members' orthodontic treatments. DentaQuest did not identify these orthodontic consultations as nonreimbursable program costs because its claims processing system did not include edits to detect and deny claims for orthodontic consultations that violated state regulations. As a result, SmileCenter received unallowable payments totaling \$1,736 for these orthodontic consultations during the audit period.

4. UNNECESSARY AND UNDOCUMENTED FLUORIDE TREATMENT CLAIMS TOTALING AT LEAST \$4,008

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During our audit period, SmileCenter submitted claims for numerous unnecessary and undocumented fluoride treatments for MassHealth members. Specifically, our sample of 30 member files found that SmileCenter provided fluoride treatments for members that exceeded levels recommended by the American Academy of Pediatric Dentistry (AAPD). For example, SmileCenter performed 27 fluoride treatments for one sampled member who was free of caries (cavities or tooth decay) during a 24-month period. Based upon AAPD's recommendations, SmileCenter should have provided this member four fluoride treatments, at most, during this period. In addition, contrary to state regulations, SmileCenter submitted claims for fluoride treatments that were not substantiated by adequate documentation. Consequently, 167 (61%) of the 272 claims for fluoride treatment that SmileCenter submitted to MassHealth for the 30 sampled members resulted in unallowable payments totaling \$4,008.

5. QUESTIONABLE CLAIMS FOR THE PALLIATIVE TREATMENT OF DENTAL PAIN TOTALING \$2,303

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During our audit period SmileCenter submitted 547 claims for the palliative treatment of dental pain. Of this amount, we reviewed 64 claims for the 30 members in our sample. Contrary to state regulations, 34 (53%) of these claims either did not involve palliative treatment for dental pain or were not supported by dental records describing the treatment provided and the emergency nature of the condition. In fact, some of these claims involved only routine visits during which SmileCenter provided non-emergency dental and orthodontic treatments, such as fluoride applications, orthodontic photographs, and orthodontic appliance adjustments. Consequently, these 34 claims, which totaled \$2,303, represent unallowable and questionable costs to the Commonwealth.

6. QUESTIONABLE PAYMENTS TOTALING \$4,787 DUE TO CONFLICTS BETWEEN SMILECENTER'S DENTAL RECORDS AND ITS BILLINGS FOR SERVICES

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Our examination of 30 member files revealed conflicting information within SmileCenter's dental case notes and billing records. Also, these sampled files revealed conflicts between SmileCenter's records and the claims data contained in the Massachusetts Medicaid Management Information System (MMIS). These conflicts raise questions about whether SmileCenter submitted claims for dental procedures that it did not actually perform for members or, conversely, performed services on MassHealth members without properly recording the associated claims revenue in its financial records, which could have income tax implications. In total, these conflicts affected 95

payments totaling \$4,787 that SmileCenter received for dental and orthodontic procedures.

7. OVERPAYMENTS FOR DENTAL SERVICES TOTALING \$2,510 **36**

Our sample of 30 member files revealed 35 instances totaling \$2,510 in which SmileCenter was paid twice for the same dental procedures. In each instance, two payments were found in MassHealth's records for the same dental procedure on the same member within a few days' time. However, MassHealth's dental claims processing system failed to identify and correct these overpayments.

8. UNALLOWABLE PAYMENTS FOR ORAL/FACIAL PHOTOGRAPHIC IMAGES TOTALING \$3,619 **37**

MassHealth regulations prohibit payment for oral/facial photographic images as a separate procedure when taken in conjunction with orthodontic treatment. However, contrary to these regulations, SmileCenter was paid \$3,619 for 77 oral/facial photographic images taken on members receiving orthodontic treatment. These claims should have been denied by DentaQuest because they violated MassHealth's regulations.

9. UNALLOWABLE PAYMENTS FOR ORAL EVALUATIONS TOTALING \$1,885 **40**

MassHealth has established limits on the number of claims that dental providers will be paid for comprehensive, periodic, and limited oral evaluations for members. However, during our audit period, SmileCenter was paid \$1,885 for claims that exceeded the limits established by MassHealth for these procedures because they involved (a) more than two claims for periodic and limited oral evaluations per member per year, (b) more than one claim for an oral evaluation per member per day, and (c) claims for periodic or limited oral evaluation on the same date of service as an emergency treatment visit. These unallowable payments occurred because DentaQuest's claims processing system did not include edits to detect and deny claims for oral evaluations or treatment of dental pain that are improper or violate the limits for these services as established by state regulations.

10. OTHER QUESTIONABLE CLAIMS TOTALING \$452 **43**

Our review of 30 member files identified three other issues warranting further review by MassHealth. Specifically, our review of the sampled members' case notes identified that SmileCenter (a) misrepresented a cosmetic appliance as a mouth guard, (b) billed for member-refused fluoride treatments, and (c) billed for a pre-orthodontic consultation even though the member was undergoing complete orthodontic treatment from a different dental provider.

AUDIT RECOMMENDATIONS **46**

In addition to specific recommendations to findings found herein, the OSA makes the following overall recommendations:

- 1) MassHealth should conduct a comprehensive audit of all claims submitted by SmileCenter from at least 2007 to the present.

- 2) MassHealth should conduct a quality assurance review to determine that all system changes and edits that have been recommended to DentaQuest have been implemented and are performing as intended.
- 3) MassHealth should conduct a thorough review of its dental program regulations so that the rules relative to allowable types of reimbursement are easy to understand and consistent with other MassHealth and federal guidance.

This report is being forwarded to the Massachusetts Office of the Attorney General and federal Health and Human Services – Office of the Inspector General for further review.

INTRODUCTION

Background

MassHealth, within the Massachusetts Executive Office of Health and Human Services (EOHHS), administers the state's Medicaid program that provides access to healthcare services, including dental services, to approximately one million eligible low- and moderate-income individuals, couples, and families. Under a contract with EOHHS, Dental Services of Massachusetts, Inc., (DSM) administers MassHealth's Dental Program. DSM performs its contractual responsibilities through a subcontractor currently known as DentaQuest, LLC (DentaQuest). Under this contract, 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. 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.

On November 16, 2010, the Office of the State Auditor (OSA) issued Independent State Auditor's Report on MassHealth's Administration of Dental Claims, No. 2009-8018-14C. This audit identified that deficiencies in MassHealth's dental claims processing system resulted in millions of dollars in ineligible and, in some cases, potentially fraudulent claims paid by MassHealth. This audit was conducted as part of the OSA's ongoing independent statutory oversight of the Massachusetts Medicaid program.

SmileCenter, a sole proprietorship located at 92 Sandwich Street in Plymouth, is one of approximately 2,000 dental providers enrolled in MassHealth's Dental Program. During the period July 1, 2007 through June 30, 2010, SmileCenter received over \$1.2 million from MassHealth for dental services, including both orthodontic and general dentistry services, it provided to 1,289 eligible MassHealth members. The following table details the payments that SmileCenter received from MassHealth during the audit period.

Fiscal Year	Claims Payment
2008	\$ 177,662
2009	431,363
2010	<u>595,444</u>
	<u>\$1,204,469</u>

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the OSA conducted an audit of dental claims submitted by SmileCenter during the period July 1, 2007 to June 30, 2010. 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 objectives were to determine whether certain dental claims submitted by SmileCenter 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, regulations, and the MassHealth Dental Program Manual. We then obtained SmileCenter's dental claims information contained in the Massachusetts Medicaid Management Information System (MMIS), the automated claims processing system used by MassHealth to pay dental providers. We analyzed SmileCenter's data to identify, for the period covered by our audit, (a) the amount and number of paid claims, (b) the type and frequency of services performed, and (c) potential service trends and billing anomalies indicative of systemic billing problems within the claims processing system. From SmileCenter's records, we selected a judgmental sample of 30 member files for review. We then tested each member file to ensure that the paid claims were properly authorized and supported by appropriate documentation, including dental charts, radiographs, prior authorization requests, and related billing forms and records. At the conclusion of our audit, we discussed the results with the sole proprietor of SmileCenter and considered his comments when preparing this report. We also provided the

results of our audit to MassHealth and DentaQuest officials and have included their written comments within the applicable sections of this report.

Our audit identified that SmileCenter billed and received from MassHealth at least \$253,519 in unallowable, unnecessary, undocumented, and inappropriate claims for dental and orthodontic services during the audit period.

AUDIT RESULTS

1. SMILECENTER'S SOLE PROPRIETOR LACKED REQUIRED TRAINING IN ORTHODONTICS RESULTING IN UNALLOWABLE ORTHODONTIC PROCEDURES TOTALING \$201,509

MassHealth's Dental Program regulations require dentists who practice orthodontics to have completed a minimum of two years' training in a Commission on Dental Accreditation (CODA) of the American Dental Association advanced-education program in orthodontics. However, SmileCenter's only practicing orthodontist, also its sole proprietor, did not complete a CODA advanced-education program in orthodontics as required by state regulations, yet still received payments totaling \$201,509 from MassHealth for orthodontic services, as shown in the following table:

Procedure Description	No. of Procedures	Payments
Comprehensive Orthodontic Treatment	74	\$ 89,762
Consultation Visit	1,339	41,509
Periodic Treatment	240	63,208
Retention Visit	3	285
Alternative to Billing Fee	23	3,126
Oral/Facial Photographic Images	<u>77</u>	<u>3,619</u>
Total	<u>1,756</u>	<u>\$201,509</u>

The 130 Code of Massachusetts Regulations (CMR) 420.405(A)(6) promulgated by MassHealth states:

Specialist in Orthodontics. A dentist who is a specialist in orthodontics must have completed a minimum of two years' training in a CODA advanced-education program in orthodontics that fulfills all educational requirements for eligibility for the examination by the American Board of Orthodontics.

However, our audit found that SmileCenter's only practicing orthodontist, also its sole proprietor, did not complete a CODA advanced-education program in orthodontics as required by state regulations. The Dental Program Provider Application that the dental practitioner submitted to MassHealth on June 6, 2007 identifies that he is only board-certified in general dentistry and had not completed the required CODA advanced-education program in orthodontics. Further, as part of this dental practitioner's application process, DentaQuest was required to verify with the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB) his background information, including his

professional education, occupation, field of licensure, and specialty. Responses from NPDB and HIPDB showed that this individual was licensed as a general dentist and confirmed that he neither received advanced-education in orthodontics nor specialized in orthodontics.

Because this dentist appeared to be practicing orthodontics without meeting the training requirements mandated by MassHealth regulations, we asked MassHealth officials to review this provider's compliance with 130 CMR 420.405(A)(6). In response to our request, MassHealth provided a letter and two certificates that this dentist had submitted to MassHealth in January 2008. The letter stated the following:

This letter is requesting that the SmileCenter is allowed to treat orthodontic patients in addition to general dentistry. Please keep SmileCenter listed as General Dentistry in the MassHealth directory. Attached are certificates of completion for [name of dentist] to practice orthodontic treatment.

The certificates submitted by the provider were from the American Association for Functional Orthodontics (AAFO), indicating that this dentist was a member of AAFO in good standing and had successfully completed all required coursework and training for fellowship in AAFO. However, any coursework and training that this dentist may have completed with AAFO does not fulfill the advanced-education requirements of 130 CMR 420.405(A)(6). In this regard, we spoke with CODA officials, who told us that CODA accredits programs such as the Boston University Goldman School of Dental Medicine, Harvard University School of Dental Medicine, and Tufts University School of Dental Medicine, but not associations such as AAFO.

During the audit, we contacted MassHealth officials about this issue. MassHealth subsequently investigated this matter and provided us with a written response that stated, in part:

MassHealth concurs that in this one instance, [name of dentist] did not meet the two-year training requirement for a specialty in orthodontics. It was an oversight during the application review process that the certificate submitted did not meet the appropriate educational requirements. MassHealth has instructed DQ [DentaQuest] to review and verify that all other dental providers currently enrolled in MassHealth with a specialty in orthodontics, appropriately meet the requirements of 130 CMR 420.405(A)(6). To date, [name of dentist] appears to be an anomaly . . . MassHealth is in the process of developing a plan to address all related issues, including terminating this provider's specialty, transferring members for continued care, and seeking restitution as appropriate.

This dentist did not meet the training requirements of 130 CMR 420.405(A)(6); therefore, MassHealth cannot be assured that its members received proper orthodontic treatment from this dentist.

Recommendation

MassHealth should take the corrective measures outlined in its written comments on this matter, including terminating this provider's specialty, transferring MassHealth members from this provider to other properly trained orthodontic providers for continued care, and seeking restitution for the \$201,509 that SmileCenter was paid for orthodontic services, including \$14,601 in unallowable and unnecessary orthodontic consultation claims identified in Audit Result No. 3 and \$3,619 in unallowable oral/facial photographic image claims identified in Audit Result No. 8.

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

Although SmileCenter's Proprietor is not a "Specialist in Orthodontics" under 130 CMR 420.405(A)(6), MassHealth regulations simply do not require a dentist to qualify as a "Specialist in Orthodontics" to offer (and be paid for) orthodontic treatment to MassHealth members. Chapter 420.405(A)(6) defines what a Specialist in Orthodontics is, but does not require a dentist to be a Specialist in Orthodontics to offer orthodontic treatment in the MassHealth program.

At the outset, SmileCenter takes strong issue with the suggestion that "MassHealth cannot be assured that its members received proper orthodontic treatment from this dentist..." SmileCenter did, in fact, provide proper orthodontic treatment, a fact which can be verified as follows:

- The files reviewed by the OSA generally contain photos and X-rays. Far from showing "improper" orthodontic treatment, SmileCenter asserts that these photos and X-rays constitute affirmative evidence of the high-quality care it provides.*
- SmileCenter's proprietor has a valid dental license and a spotless record with the Board of Registration in Dentistry.*
- SmileCenter's proprietor has never been the defendant in any malpractice action.*
- Because he is a general dentist, orthodontic treatment is within the scope of licensure of SmileCenter's Proprietor -a fact confirmed on the Web site of the Executive Office of Health and Human Services, MassHealth's parent agency.*

Chapter 420.405(A)(6), described by the OSA and MassHealth as "requiring" dentists who wish to deliver and bill for orthodontic services to have advanced credentials approved by the ADA's Committee on Dental Accreditation in fact contains no such limitation. The entire text of 130 CMR 420.405(A)(6) is as follows:

(A)The following requirements apply when the dental provider's practice is located in Massachusetts. ... (6) Specialist in Orthodontics. A dentist who is a specialist in orthodontics must have completed a minimum of two years' training

in a CODA advanced-education program in orthodontics that fulfills all educational requirements for eligibility for the examination by the American Board of Orthodontists.

Chapter 420.405(A) defines what a Specialist in Orthodontics is, (along with a number of other dental specialties) but it does NOT say that providers must qualify as Specialists in Orthodontics to offer such treatment. Nothing in any other regulation or statute contains any such limitation.

MassHealth and the OSA "interpret" Chapter 420.405 in such a way as to add restrictions which exist nowhere in the text of the regulation. In its regulations, MassHealth takes no steps to specify that only Specialists in Orthodontics may provide orthodontic treatment under the MassHealth program. It has taken such steps with respect to Specialists in Oral Surgery, creating the irrefutable conclusion that where MassHealth has restricted certain procedures to certain Specialists, those remaining procedures are not so restricted.

The structure of Chapter 420 also underscores the faults in the OSA/MassHealth "interpretation" of Chapter 420.405(A)(6), because the OSA/MassHealth interpretation would lead to an absurd and unreasonable outcome. Chapter 420.405(A) applies only "when the dental provider's office is located in Massachusetts." Chapter 420.405(B), concerning out-of-state providers, does not contain the specialist references found in 420.405(A). Thus, under the OSA/MassHealth "interpretation," SmileCenter could simply move over the state line to evade the "specialist-only" requirement, while continuing to treat MassHealth patients..."

The ADA publishes a Practical Guide to Dental Procedure Codes containing the Code on Dental Procedures and Nomenclature (the "Code Federal regulations require that MassHealth base its procedure codes on the Code. See 45 C.F.R. § 162. 1 002(a)(4), (b)(1) (in which the Secretary of the United States Department of Health and Human Services "adopts [the Code] as the standard medical data code set."); 45 C.F.R. [Code of Federal Regulations] § 162.100 (stating that "covered entities" (which includes the Medicaid program) "must comply with the applicable requirements of [45 CFR § 162]")....

One of the Code's 12 categories of service is the D8000 series for orthodontic procedures. In conformity to the Code, MassHealth groups its orthodontic codes in the D8000 series. Yet, the Code affirmatively refutes the notion that only Specialists in Orthodontics should perform orthodontic procedures. As the Code makes clear:

The grouping of procedure codes into twelve (12) categories of service are solely for convenience in using the Code and should not be interpreted as excluding general practitioners from performing or reporting such procedures that reflect a recognized dental specialty.

General practitioners and specialists alike may perform procedures, as long as they are acting within the scope of their licensure.

The Code, therefore, not only debunks the proposition that only Specialists in Orthodontics may perform Orthodontic services, but it affirmatively endorses the proposition that general dentists (such as SmileCenter's Proprietor) may perform orthodontic services, within the scope of their licenses.

SmileCenter's Proprietor holds a valid license to practice general dentistry. As a licensed dentist and "provider," SmileCenter's Proprietor holds all the qualifications necessary to

offer orthodontic treatment to MassHealth patients, and receive payment for such treatment. The Executive Office of Health and Human Services confirms that orthodontic treatment is within the scope of the Proprietor's dental license.... Consistent with MassHealth's regulations, SmileCenter's proprietor is a "provider," within the meaning of both Chapter 450.101 and the Provider Agreement between SmileCenter and MassHealth.... Chapter 420.431 explicitly allows for orthodontic treatment by "providers" -it permits them to perform the "fabrication and insertion of orthodontic appliances" -and it makes no allusion to "Specialists." The fact that some "providers" may also qualify as "Specialists in Orthodontics" does not create a requirement that all providers offering orthodontic treatment qualify as Specialists in Orthodontics.

Thus, as a provider acting within the scope of his license, SmileCenter's Proprietor has all the qualifications required to offer orthodontic treatment to MassHealth's patients. Also, to the extent that MassHealth and the OSA propose to bar him from performing any procedures in the D8000 series because he is not a "Specialist in Orthodontics," the ADA, which created the D8000 series, explicitly rejects such an approach.

Auditor's Reply

We agree that SmileCenter's proprietor holds a valid license to practice general dentistry. However, contrary to the assertion made by SmileCenter's attorney in the agency's response, SmileCenter's proprietor does not meet all the qualifications necessary to offer orthodontic treatment to MassHealth members. In this regard, MassHealth regulations allow general dentists to provide MassHealth members with both general dentistry and orthodontic treatment if they are licensed dentists and have completed a minimum of two years' training in a CODA advanced-education program in orthodontics that fulfills all educational requirements for eligibility for the examination by the American Board of Orthodontics. SmileCenter acknowledges that its sole proprietor had not completed the prerequisite CODA advanced-education program in orthodontics. As noted in this report, SmileCenter's proprietor completed coursework and training for fellowship in the American Association for Functional Orthodontics (AAFO). However, the AAFO is not a CODA-accredited program, but rather an association. Therefore, SmileCenter's proprietor has not received the training required by MassHealth in order to provide orthodontic treatment for its members and should only provide general dentistry services.

It should be noted that once we brought this matter to the attention of MassHealth, it took action, validating our conclusion that SmileCenter's proprietor does not hold all the qualifications necessary to offer orthodontic treatment to MassHealth members. Specifically, MassHealth issued a "Notice of Immediate Termination of MassHealth Provider Specialty in

Orthodontics” (Notice) to SmileCenter’s proprietor, dated March 4, 2011. The Notice states, in part:

This letter is to inform you that MassHealth is terminating your MassHealth provider Specialty in Orthodontics effective immediately. This action does not affect your participation as a provider in the MassHealth program as a general dentist.

MassHealth is taking this action because you do not meet all the conditions to participate with a Specialty in Orthodontics under the MassHealth program. Your specialty coursework and training for certification is not recognized by the Commission on Dental Accreditation [CODA] of the American Dental Association.... To be eligible to participate as a MassHealth provider with a Specialty in Orthodontics, a dentist must have completed a minimum of two years training in a CODA advance[d] education program in orthodontics that fulfills all educational requirements for eligibility for the examination by the American Board of Orthodontics....

MassHealth is taking this action immediately because it believes, based upon the information before it, that your continued participation with a provider Specialty in Orthodontics during the pendency of the administrative process could reasonably be expected to endanger the health, safety or welfare of its members or compromise the integrity of MassHealth....

After receiving this Notice, an attorney representing SmileCenter submitted a letter to MassHealth, dated March 28, 2011, in which he contested MassHealth’s decision to terminate the SmileCenter proprietor as a provider of orthodontic services. The letter detailed the SmileCenter proprietor’s education, coursework, licensure, and malpractice record. The letter also included a discussion on MassHealth’s regulations relative to specialists in orthodontics, dental procedure codes, and payment for dental services. In addition, the attorney for SmileCenter emphasized that the SmileCenter proprietor was not a danger to the health, safety, or welfare of its members or that his participation in MassHealth could compromise the integrity of MassHealth. MassHealth reviewed this information, as well as supplemental information submitted by the attorney for SmileCenter, and maintained its decision to immediately terminate the SmileCenter proprietor’s Specialty in Orthodontics. MassHealth conveyed its decision via a final determination letter to the SmileCenter proprietor dated July 14, 2011. MassHealth’s decision validates our conclusion that SmileCenter’s proprietor does not hold all the qualifications necessary to offer orthodontic treatment to MassHealth members.

It should be noted, the attorney for SmileCenter has filed a claim for an adjudicatory hearing with MassHealth’s Board of Hearings relative to this matter. The claim, which was filed on July 26, 2011, had not been acted upon as of September 12, 2011.

2. UNALLOWABLE DETAILED ORAL SCREENINGS TOTALING AS MUCH AS \$36,065

During our audit period, SmileCenter was paid as much as \$36,065 for detailed oral screenings in violation of MassHealth Dental Program regulations. According to MassHealth regulations, detailed oral screenings are specifically for members undergoing radiation treatment, chemotherapy, or organ transplant. However, SmileCenter submitted 527 claims totaling \$36,065 for detailed oral evaluations for members who, based on our review of member medical history reports and comments made by SmileCenter's dental practitioner, were not undergoing chemotherapy, radiation treatments, or organ transplants.

Under procedure code D0160, MassHealth dental providers can bill for an oral screening for members undergoing radiation treatment, chemotherapy, or organ transplant. Specifically, 130 CMR 420.456(B)(1) and the MassHealth Dental Program Office Reference Manual, respectively, provide dental providers with the following specific billing instructions for Procedure Code D0160:

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

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.

Our sample review of 30 member files identified that SmileCenter submitted 43 claims for detailed oral evaluations totaling \$3,083.¹ However, our review of medical history reports and case notes that SmileCenter maintains for these members revealed that these claims were submitted for members who were not undergoing chemotherapy, radiation treatments, or organ transplants.

Although we did not review the medical history reports of all the members that were involved in the 527 claims SmileCenter submitted to MassHealth, we question \$36,065 in payments for several reasons. First, SmileCenter's proprietor stated that he submits claims for detailed oral evaluations whenever he believes a member requires an exam more extensive than a periodic or limited evaluation. Second, SmileCenter's proprietor never indicated to us that a member's

¹ Our sample test of 30 member files identified that SmileCenter actually submitted 45 claims totaling \$3,220 for detailed oral evaluations. However, the number presented has been reduced to omit any duplication of questioned amounts presented in other audit results in this report.

oncological health played a role in his decision to submit claims for detailed oral evaluations. Third, although projections of our sample test of 30 member files may not be statistically valid, 100% of the detailed oral evaluations within our sample were billed and paid contrary to state regulations. Consequently, we question all of SmileCenter's billings for detailed oral evaluations.

Recommendation

MassHealth should recover the \$3,083 in inappropriate billings for detailed oral evaluations submitted by SmileCenter during our audit period. In addition, MassHealth should investigate all the payments that SmileCenter has received for detailed oral screenings and recover whatever additional funds it deems appropriate.

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

The OSA's finding that SmileCenter has submitted "inappropriate billings" for conducting (and billing for) Detailed Oral Exams under Procedure Code D0160 does not conform to the text of 130 CMR 420.456(B)(1).

Notwithstanding the OSA's assertion that "[s]pecifically, 130 CMR 420.456(B)(1) ... provide[s] dental providers with the following specific billing instructions for Procedure Code D0160," chapter 420.456 in fact makes no mention whatsoever of procedure D0160, entitled "detailed and extensive oral eval-problem focused, by report." Chapter 420.456(B)(1) speaks only of "oral screenings," and the term "oral screening" is undefined. There is simply no indication in the text of Chapter 420.456 that it, in fact, refers to procedure D0160. Codes D0120, D0140, D0145 and D0150 are also various types of "oral evaluations." Even if a dentist could divine from the text of Chapter 420.456(B)(1) that it intended to limit one of the four defined "oral evaluations," it would be impossible to determine, from the text of the rule, which "oral evaluation" it addresses.

Moreover, Chapter 420.456(B)(1) affirmatively allows oral screenings for patients undergoing radiation, chemotherapy, or both, or who are on long-term immunosuppressive therapy. It says nothing that can be construed as restricting other patients from receiving such "oral screenings."

Chapter 420.456(B) also says nothing about the submission of bills, further undermining the OSA's assertion that SmileCenter has "billed ... contrary to state regulations." Pursuant to ADA and AAPD guidance, SmileCenter codes for what it does. Even if chapter 420.456(B) did contain language preventing the general patient population from receiving examinations under D0160 (and it does not) then MassHealth—not SmileCenter—is in conflict with its regulation by paying the claim instead of simply denying it.

The Draft Audit's assertion that "the detailed oral evaluations within our sample were billed and paid contrary to state regulations" simply has no basis in the text of the regulations.

The "service limitation" contained in the 2007 Office Reference Manual and cited by the Draft Audit ...is not a statute or regulation and does not have the binding force attributable to a full-blown regulation...

SmileCenter's proprietor had previously been unaware of this restriction—which is not found in the regulations, which makes no reference to Chapter 420.456, and which has no basis in the federally mandated Code definition of procedure D0160. SmileCenter codes for what it does. To the extent any standard has not been met, MassHealth—not SmileCenter—made an error by making payments without documentation of the specified conditions and without reference to its own payment policies.

Nevertheless, having been made aware of the Service Limitation, SmileCenter will agree to abide by it in the future.

SmileCenter has performed procedure D0160 in conformity with the federally mandated ADA guideline for such examinations. The ADA guideline, found in the Code, contains no requirement that the patient be undergoing radiation treatment, chemotherapy or organ transplant, and the proposed limitation—found only in the 2007 Office Reference Manual—would fundamentally alter the definition of D0160.

The ADA's Code definition for D0160 states in relevant part that:

Examples of conditions requiring this type of evaluation may include dentofacial anomalies, complicated perio-prosthetic conditions, complex temporomandibular dysfunction, facial pain of unknown origin, conditions requiring multi-disciplinary consultation, etc.

The Code definition does not restrict such a broadly applicable procedure to such a narrow category of patients. The proposed MassHealth/OSA 'restriction,' through its fundamental alteration of the ADA-prescribed definition of D0160, would contradict federal regulation by effectively amending the definition of D0160.... Here, SmileCenter's use of procedure D0160 complies with the federally mandated Code definition. For example, Audit Summary Exhibit D questions SmileCenter's use of the procedure on Patient AP-753 on September 28, 2009. The case notes for that day show "EXTEN/EMER FL2 SWELLING UA OR TRIMMED WIRE CF NV OR IMPO FOR IR/" The notes show SmileCenter considering multiple aspects of dentistry in examining both the swelling and protruding wire. Audit Summary Exhibit D also questioned such exam on the same patient January 13, 2010, when the case notes say, "EXTEN/EMER PT FELL ORTHO BRK CUT PTS LIP MINOR SWELLING CF NV CK HEALING." Again, multiple aspects of dentistry were considered. Such examinations clearly require "multi-disciplinary consultation" within the meaning of the Code, meaning SmileCenter provided treatment in accordance with the federally mandated Code.

Given that SmileCenter's billing complied with the Code and all applicable regulations, there is no need for further investigation by MassHealth.

Auditor's Reply

We agree with SmileCenter's assertion that MassHealth's use of Procedure Code D0160 (Detailed and Extensive Oral Evaluation) appears to be inconsistent with the American Dental Association's Code on Dental Procedures. However, dental providers such as SmileCenter participating in MassHealth's dental program are obligated to be cognizant of and only bill for Procedure Code D0160 in accordance with the regulations that MassHealth has promulgated for its Dental Program. In this regard, 130 CMR 420.456(B)(1) specifies that MassHealth pays for oral screenings for members undergoing radiation, chemotherapy, or both, or who are on long-term immunosuppressive therapy. Moreover, within the MassHealth Dental Program Office Reference Manual (Office Reference Manual), MassHealth specifies that such oral screenings are reimbursable under Procedure Code D0160. MassHealth updates these documents through transmittal letters in which it summarizes changes to the Dental Program regulations and provides revised pages for the Office Reference Manual. MassHealth supplies these documents to all participating providers to help ensure that providers only bill for allowable member services. Clearly, participating dental providers need to refer to both the dental program regulations as well as MassHealth's Office Reference Manual when billing for member services because, taken together, they constitute MassHealth's complete guidance on the Dental Program. SmileCenter's proprietor did not follow MassHealth's guidance when billing for Procedure Code D0160, but rather asserted that he relied upon the American Dental Association's Code on Dental Procedures. Consequently, the proprietor received unallowable payments totaling \$36,065 for detailed and extensive oral evaluations during the audit period.

In its response, SmileCenter states that pursuant to ADA and AAPD guidance, SmileCenter codes for what it does, and asserts that MassHealth is in conflict with its own regulations by paying claims that conflict with its regulations rather than simply denying them. In general, we have not questioned the right of dental providers to bill for services they provide for MassHealth members. MassHealth's claims processing system should have edits in place to identify and deny claims that exceed member service limits as specified by state regulation. For example, MassHealth will pay for members to receive two prophylaxes per year. If a member receives a third prophylaxis during the same calendar year, MassHealth's claims processing system should detect the problem and reject the claim. However, in these instances SmileCenter did not simply submit claims for detailed and extensive oral examinations that exceeded program limits.

Rather, SmileCenter submitted these claims for purposes other than those allowed under 130 CMR 420.456(B)(1) and the Office Reference Manual. A qualitative problem such as this cannot be detected by the edits within MassHealth's claims processing system. Rather, they can only be detected by an audit of member records.

Finally, during our audit, we brought these matters to the attention of MassHealth officials. In response, MassHealth provided us with written comments in which the agency states it agrees with our conclusion that SmileCenter did not submit claims for Procedure Code D0160 in accordance with state regulations. MassHealth's comments stated, in part:

Based on the reported findings, MassHealth agrees that SmileCenter appears to be in violation of... 130 CMR 420.456(B) in billing the D0160 code. Procedure code D0160 does not require prior authorization in order to be able to provide the service; only a post payment record review would capture this violation and, as discussed previously, MassHealth has such a process in place. 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.

3. UNALLOWABLE AND UNNECESSARY ORTHODONTIC CONSULTATIONS TOTALING \$14,601

Dental providers routinely perform orthodontic consultations/evaluations on individuals to determine their need for orthodontic services. However, according to MassHealth's Dental Program Director, clinically accepted standards of care would indicate that such orthodontic evaluations are not necessary for children under the age of six. During our audit period, SmileCenter submitted 1,339 claims for orthodontic consultations, of which 415 (31%), totaling \$12,865, were for members between the ages of one and five. These 415 claims represent medically unnecessary procedures and are therefore unallowable. Moreover, our analysis of these 415 orthodontic consultations revealed that SmileCenter submitted multiple claims for 111 members under the age of six. Specifically, SmileCenter submitted two claims for 84 members, three claims for 24 members, and four claims for three members. SmileCenter's decision to perform these multiple orthodontic consultations for children under the age of six was not only unnecessary but represents an abuse of MassHealth's Dental Program.

130 CMR 420.410(A)(1) states, in part:

The MassHealth agency pays only for medically necessary services to eligible MassHealth members.

Moreover, under 130 CMR 420.431(B) and 130 CMR 420.431(E), respectively, MassHealth describes the purpose of orthodontic consultations, the maximum age for members to receive orthodontic consultations, and the appropriate time for members to begin comprehensive orthodontic treatment, as follows:

The MassHealth agency pays for an orthodontic consultation only for members under 21 and only for the purpose of determining whether orthodontic treatment is necessary, and if so, when treatment should begin.

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a severe and handicapping malocclusion... The permanent dentition must be reasonably complete (usually by age 11).

Because a member's permanent dentition must be reasonably complete before undergoing comprehensive orthodontic treatment, we questioned MassHealth officials about the medical necessity of orthodontic consultations for children under the age of six.

In response, MassHealth's Dental Program Director provided the following comments:

During our meeting in November 2010 you inquired about clinical guidelines and standards regarding the age that would be appropriate for the ADA [American Dental Association] [P]rocedure Code D8660. This code had the ADA descriptor "pre orthodontic treatment visit." Current MH regulations do NOT specify an age, maximum or minimum that is a limiting factor. I have been in contact/consultation with the MassHealth Dental Advisory Committee, American Orthodontic Society, and individual practitioners. There is a consensus the code is not applicable to [members] under age six. Therefore based on clinically accepted standards of care, MH has requested modifications to edits in the claim system administered by DentaQuest to deny payment for this code for members under age six for dates of service on or after February 10, 2011. Providers may request prior authorization where medically necessary, for members under age six.

130 CMR 420.410(A) specifies that MassHealth will pay only for medically necessary services to eligible MassHealth members. Accordingly, based upon the Dental Program Director's comments, the orthodontic consultations that SmileCenter performed for members under the age of six were not medically necessary and, represent unallowable costs to the Commonwealth.

The table below details the orthodontic consultations SmileCenter performed for members under the age of six during the audit period:

Member Age	Orthodontic Consultations	Payments
1	1	\$ 31
2	35	1,085
3	115	3,565
4	135	4,185
5	<u>129</u>	<u>3,999</u>
Totals, Ages 1-5	<u>415</u>	<u>\$12,865</u>

Our audit also found that SmileCenter was paid for orthodontic consultations in violation of state regulations. Specifically, 130 CMR 420.431(B) indicates that MassHealth will not pay for an orthodontic consultation as a separate procedure when used in conjunction with ongoing or planned (within six months) orthodontic treatment. However, according to payment data maintained in the Massachusetts Medicaid Management Information System (MMIS), during the audit period SmileCenter was paid for 56 orthodontic consultations performed within six months of members' comprehensive treatments. DentaQuest did not identify these orthodontic consultations as nonreimbursable program costs because its claims processing system did not include edits to detect and deny claims for orthodontic consultations that violated state regulations. As a result, SmileCenter received unallowable payments totaling \$1,736 for these orthodontic consultations during the audit period, as detailed in the following table:

Fiscal Year	Orthodontic Consultations	Payments
2008	7	\$ 217
2009	33	1,023
2010	<u>16</u>	<u>496</u>
Totals	<u>56</u>	<u>\$1,736</u>

In prior audits, the OSA identified other orthodontists who had received payments for orthodontic consultations contrary to state regulations. In response to those audits, MassHealth officials provided us with the following written comments:

DentaQuest is enhancing its internal audit process to ensure that any payment for D8660 [orthodontic consultation] is recovered if the date of service for D8080 [comprehensive orthodontic treatment] is within six months of the original payment (for 8660) to the same provider. DentaQuest has also designed an edit to prohibit D8660 from being paid once payment for comprehensive orthodontics has been made.

Recommendation

MassHealth officials told us that they are improving their internal controls relative to the processing of claims for orthodontic consultation services and have requested modifications to edits in the claims processing system administered by DentaQuest to deny payments for orthodontic consultations for members under age six for dates of service on or after February 10, 2011. These measures will serve to better ensure that MassHealth pays only for medically necessary orthodontic consultations. However, MassHealth should also ensure that it recovers from SmileCenter the \$14,601 in unallowable and unnecessary payments it received for orthodontic consultations during our audit period, which is part of the \$201,509 in unallowable orthodontic service claims that MassHealth indicated it is considering recovering from this provider (see Audit Result No. 1).

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

The OSA questioned SmileCenter's performance of "Pre-Ortho Consultation Visits (D8660)" on MassHealth members below the age of 6. Yet, MassHealth's 2007 Office Reference Manual specifically allows such examinations on children 6 and under. Moreover, MassHealth and the OSA concede that current "regulations do NOT specify an age, maximum or minimum that is a limiting factor."

Consistent with the 2007 Office Reference Manual, SmileCenter respectfully disputes the notion that it is never appropriate to perform a pre-orthodontic screening on a child under the age of 6. In his 25 years of experience, SmileCenter's Proprietor has found that children frequently benefit from having their dentist pay close attention to possible orthodontic issues at a young age. For example, the Proprietor informs me that a pre-orthodontic consultation under the age of 6 can reveal permanent teeth forming under baby teeth. In some situations, especially if some permanent teeth are missing, such exams will guide future orthodontic treatment—including decisions about "whether orthodontic treatment is necessary, and if so, when treatment should begin"—because certain defects in the bite can also be more readily corrected if identified early, through a pre-orthodontic consultation before the age of 6. 130 CMR 420.431 (B).

The American Association of Orthodontists would appear to agree with SmileCenter's assessment of when to begin monitoring a child's orthodontic development. The AAO lists 12 "warning signs" that "it might be time to schedule an orthodontic exam." Some of the signs include "early or late loss of baby teeth," "difficulty chewing or biting," "mouth breathing," "finger sucking or other oral habits" and "protruding teeth." None of

the factors has anything to do with achieving the age of 6, and most are seen in children under 6. Sometimes orthodontic intervention is appropriate to correct such problems on young children. MassHealth even has billing codes for such issues (e.g., D8050 "interceptive treatment of the primary dentition," with age limitation "0-20" according to the 2007 Office Reference Manual.)

Furthermore, a 2011 bulletin from DentaQuest, MassHealth's contract administrator, informs providers of "recent changes," wherein "we also implemented age restrictions regarding orthodontics occurring prior to 6 years of age... If the restrictions were only "implemented" as of early 2011, then by extension, they did not previously exist.

Moreover, it should come as no surprise that such exams might be performed more than once on some children. MassHealth regulations allow multiple exams. The only frequency limitation on pre-orthodontic examinations is found in 130 CMR 420.431 (B), which states that MassHealth will only pay for pre-orthodontic exams "once per six-month period." If the drafters of the regulation meant to prevent children from receiving more than one pre-orthodontic exam over the course of their childhood (as opposed to more than one every six months) they would have said so. Among the reasons a dentist might perform multiple pre-orthodontic exams on a child under 6 are to monitor developing bites, including overbites and underbites, and to monitor potentially damaging oral habits. Monitoring a child's developing bite through occasional pre-orthodontic exams permits a dentist to determine "whether orthodontic treatment is necessary, and if so, when treatment should begin" - exactly as 130 CMR 420.431(B) envisions. The ADA also does not limit a child to one pre-orthodontic visit. See Code, Exhibit F at 180 ("What is the intent of code 'D8660 pre-orthodontic treatment visit'? - This code is intended to report a visit to monitor growth and development before the patient is ready to begin orthodontic treatment.").

Lastly, the Draft Audit concedes that there are obvious solutions to the so-called "problem" of providers performing pre-orthodontic exams on children under 6. First, MassHealth could simply require that providers request prior authorization. Second, MassHealth could deny payments for orthodontic consultations for members under the age of 6.... SmileCenter can abide by such restrictions in the future. However, SmileCenter rejects the notion that, because unnamed individuals do not ever agree with the performance of pre-orthodontic exams on children under 6 -notwithstanding MassHealth's explicit instructions to providers allowing procedure D8660 on patients aged 0-20, that SmileCenter has performed medically unnecessary procedures.

With respect to the OSA's finding that SmileCenter performed "orthodontic consultations in violation of state regulations" by performing such consultations within six months of members' comprehensive treatments, state regulations do not, in fact, impose a per se prohibition on such treatment. The OSA correctly quoted 130 CMR 420.431(B), stating that MassHealth "does not pay for an orthodontic consultation as a separate procedure when used in conjunction with ongoing or planned (within six months) orthodontic treatment." Yet, the mere fact that a patient begins orthodontic treatment within six months of having had a pre-orthodontic exam does not prove that the exam was used as part of treatment planned to begin within six months. The OSA's assertion that any payment for a pre-orthodontic examination within six months of treatment is automatically "unallowable" [and] thus misstates the regulation.

The likely intent of Chapter 420.431(B) is to avoid having MassHealth pay for the final pre-orthodontic exam where orthodontic treatment is scheduled to begin. So long as no

orthodontic treatment is planned, the payment is appropriate. In the event a provider later deems it appropriate to begin orthodontic treatment within six months of the final pre-orthodontic exam, the "allowable" payment would suddenly become "unallowable" under the OSA's approach. The OSA's approach would essentially prohibit a dentist from beginning orthodontic treatment for at least six months after the last exam. It cannot have been the intent of the regulation to impose such a limitation on providers' treatment decisions.

Of course, Chapter 420.431(B) says nothing of providers' submission of bills; it regulates only what MassHealth will and will not pay for. In the event that a provider deem it appropriate to begin orthodontic treatment within six months of the final pre-orthodontic exam, MassHealth might consider adopting an approach utilized by other insurers who simply deduct the cost of the pre-orthodontic exam from the first orthodontic treatment payment. Such an approach prevents the insurer from paying for an exam too close in time to the start of treatment, without imposing an arbitrary treatment restriction on the provider and patient. MassHealth's adoption of such an approach would allow it to "not pay for an orthodontic consultation as a separate procedure," as Chapter 42.431 (B) requires.

Auditor's Reply

We agree that, during the audit period, MassHealth's 2007 Office Reference Manual allowed pre-orthodontic consultation visits for members aged 0-20 years. However, such visits must be medically necessary as specified in 130 CMR 420.410(A)(1). We found that SmileCenter routinely submitted claims for pre-orthodontic visits for infants and toddlers (415 claims for children ages 1 to 5) and performed multiple pre-orthodontic visits on these young children as well (multiple claims for 111 members). While we acknowledge that there may be instances where a pre-orthodontic consultation is medically necessary for someone under the age of 6, the sheer volume of claims submitted by SmileCenter suggests a potential misuse of this dental procedure. Moreover, 130 CMR 420.431(E) states that the permanent dentition must be reasonably complete (usually by age 11) before undergoing comprehensive orthodontic treatment. Consequently, the pre-orthodontic visits performed by the SmileCenter Proprietor for children ages 1 to 5 years, according to the guidance in this regulation, could have been medically unnecessary and therefore represent unallowable costs to the Commonwealth.

Additionally, as noted in our report, during our audit we sought guidance from MassHealth on this matter. In this regard, MassHealth's Dental Program Director told us that he conferred with the American Orthodontic Society, as well as other orthodontic experts, to determine the applicable clinically accepted standards of care for this procedure. As noted within the report, the Dental Program Director responded, "... there is a consensus the code [Procedure Code D 8660, Pre-orthodontic Consultation] is not applicable to [Members] under age six. Therefore,

based on clinically accepted standards of care, MH [MassHealth] has requested modifications to edits in the claims system administered by DentaQuest to deny payment for this code for members under age six for dates of service on or after February 10, 2011...” Although MassHealth’s actual regulatory change occurred after our audit period, based upon MassHealth’s comments and actions, SmileCenter did not meet the clinically accepted standards of care for pre-orthodontic consultations. Therefore, we question the payments that MassHealth made to SmileCenter for pre-orthodontic consultations for children ages 1 to 5 years during our audit period.

In its response, SmileCenter indicates that among the reasons a dentist might perform multiple pre-orthodontic exams on a child under six are to monitor developing bites including overbites and underbites and to monitor potentially damaging oral habits. SmileCenter also indicates that monitoring a child’s developing bite through occasional pre-orthodontic exams permits a dentist to determine whether orthodontic treatment is necessary and if so when treatment should begin. We agree that monitoring the dentition and oral habits of young children is an important part of their overall oral health care. In this regard, MassHealth provides for such monitoring through both periodic oral evaluations and diagnostic imaging (X-rays). Specifically, each member’s general dentist can perform a semi-annual periodic oral evaluation which includes an update of the member’s medical and dental history, the examination and charting of the member’s dentition and associated structures, periodontal charting if applicable, diagnosis, and the preparation of treatment plans and reporting forms. To assist general dentists in the monitoring process, MassHealth pays for radiographs/diagnostic imaging taken as an integral part of diagnosis and treatment planning. For example, MassHealth pays for panoramic films which are used to monitor the growth and development of permanent dentition. Since the SmileCenter Proprietor was paid separately for periodic oral evaluations and radiographs on members, there did not appear to be a medical necessity for him to perform any pre-orthodontic visits for children ages 1 to 5 years.

Typically, a general dentist will refer members to an orthodontist when a member has a severe and handicapping malocclusion that may require orthodontic treatment to correct. In such cases, the general dentist makes this referral based upon the results of a member’s periodic oral evaluations and X-rays. The orthodontist would perform the member’s pre-orthodontic visit. However, SmileCenter functioned as both a general dentist and orthodontist during the audit

period. This dual role enabled him to perform pre-orthodontic consultations on his member patients who otherwise may not have been referred for such services resulting in unnecessary charges to the Commonwealth.

During the audit, MassHealth provided the following written response on this matter as well.

There was no age limit on this procedure code D8660 for the dates of service at the times these claims were processed. Payments were therefore made consistent with MassHealth regulations. MassHealth requests the OSA's work papers identifying the specific claims regarding code D8660, so that we may review claims for medical necessity in accordance with 130 CMR 450.204. 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 since implemented an age limitation of 6-21 on procedure code D8660, effective for dates of service on or after 1/14/2011. The service is still available when medically necessary under EPSDT with PA for members under age six.

Regarding the payments that SmileCenter received for pre-orthodontic consultations within six months of comprehensive orthodontic treatment, SmileCenter states, “... the mere fact that a patient begins orthodontic treatment within six months of having had a pre-orthodontic exam does not prove that the exam was used as part of treatment planned to begin within six months...” However, this statement is contrary to 130 CMR 420.431(B). In fact, based upon 130 CMR 420.431(B) the sole purpose for an orthodontic consultation is to determine whether orthodontic treatment is necessary, and if so, when treatment should begin. If SmileCenter used pre-orthodontic consultations (those within six months of treatment) for purposes other than planning whether treatment is necessary and when it should begin, then it used this procedure for other than its intended purpose.

During our audit we discussed this matter with MassHealth officials who agreed that SmileCenter was paid for pre-orthodontic evaluations in a manner contrary to state regulations and provided us with the following written comments:

As stated in MassHealth's previous response dated January 25, 2011, to a prior Auditor finding, DentaQuest created an edit to automatically void any previously paid claims for D8660 if either a D8080 or D8690 is going to pay within 6 months of payment for a D8660. This change was successfully tested and implemented on 2/10/2011 but was not in place at the time of the claims subject to this audit. MassHealth agrees SmileCenter appears to be in violation of 130 CMR 420.431. 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. UNNECESSARY AND UNDOCUMENTED FLUORIDE TREATMENT CLAIMS TOTALING AT LEAST \$4,008

Our review identified that SmileCenter submitted 167 claims totaling \$4,008 for unnecessary and, in some instances, undocumented fluoride treatments for MassHealth members. Specifically, our sample test of 30 member files found that SmileCenter provided fluoride treatments for members that exceeded levels recommended by the American Academy of Pediatric Dentistry (AAPD).² Also, contrary to state regulations, SmileCenter submitted claims for fluoride treatments that were not supported by adequate documentation. Consequently, 167 (61%) of the 272 claims for fluoride treatment that SmileCenter submitted to MassHealth for the 30 sampled members resulted in unallowable payments totaling \$4,008.

AAPD recommends that children at moderate caries (cavities or dental decay) risk should receive a professional 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). As such, the AAPD recommends that members, depending upon their caries risk, receive between two and four fluoride applications per year. However, we found that for the 30 members in our sample, SmileCenter frequently submitted claims for fluoride treatments that greatly exceeded AAPD's recommendation. For example, one sampled member was caries-free during a 24-month period in which he received dental care from SmileCenter. Accordingly, based upon AAPD's recommendation, SmileCenter should have provided him with a maximum of four fluoride treatments during this period. However, SmileCenter submitted 27 claims to MassHealth for fluoride applications for this member, or 23 more than recommended by AAPD.

Additionally, 130 CMR 420.414(B) states, in part:

Services for which payment is claimed must be substantiated by clear evidence of the nature, extent, and necessity of care provided the member. . . . The member's medical and dental records determine the appropriateness of services provided to members.

SmileCenter's proprietor explained that, following each member's visit, either he or the attending hygienist documents the dental procedures performed and updates the member's case notes within the member's dental file, detailing such information as the dates of service, procedures

² 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.

performed, and future treatments. As part of our audit, we reviewed each sampled member's dental records to determine SmileCenter's compliance with 130 CMR 420.414(B) and confirm that SmileCenter performed the services for which it was paid. However, we found that, contrary to state regulations, 63 (23%) of the 272 claims that SmileCenter submitted for fluoride treatments for the 30 sampled members were not substantiated by clear evidence within the member's records. Specifically, in each instance, the member's case notes provided no indication that SmileCenter performed the procedure on the applicable service date. Moreover, in some instances, the case notes did not even indicate that the member visited SmileCenter on the service date in question.

The following table summarizes the 167 claims totaling \$4,008 that SmileCenter submitted for unnecessary fluoride treatments as well as the 63 claims that SmileCenter submitted for undocumented fluoride treatments within the 30 sampled members' case files.

Sampled Member	Fluoride Treatment Period (Months)	No. of Teeth Treated for Caries	AAPD Recommended Fluoride Treatments	Actual Fluoride Treatments	Unnecessary Fluoride Treatments	Unallowable Claim Payments	Fluoride Treatments Not Documented in Case Notes
1	27	0	5	21	16	\$384	7
2	17	0	3	15	12	288	4
3	4	0	1	9	8	192	2
4	13	0	2	18	16	384	4
5	24	0	4	20	16	384	5
6	14	8	5	15	10	240	9
7	19	4	7	17	10	240	6
8	31	4	12	21	9	216	3
9	24	0	4	27	23	552	3
10	19	0	3	16	13	312	4
11	27	1	10	28	18	432	11
12	3	0	1	7	6	144	4
13	9	0	2	7	5	120	0
14	6	0	<u>1</u>	<u>6</u>	<u>5</u>	<u>120</u>	<u>1</u>
Totals			<u>60</u>	<u>227</u>	<u>167</u>	<u>\$4,008</u>	<u>63</u>

MassHealth Dental Program regulations do not establish a maximum yearly limit for member fluoride treatments, possibly contributing to the problems we identified at SmileCenter. Without such a procedure limit, DentaQuest is not required to develop an edit check within the dental

claims processing system to detect and deny excessive/unnecessary claims for member fluoride treatments. During the audit, we discussed this matter with the Dental Program Director, who provided us with the AAPD recommendations on fluoride treatments for patients as well as the following written comments about his planned actions to rectify the situation.

I will continue to investigate and ascertain if the literature supports any more often than that, as I am tasked with updating our dental regulations to make them consistent with best practices, and current sciences. Clearly the current state will need to be modified.

Recommendation

MassHealth should recover from SmileCenter the \$4,008 it received for providing unnecessary fluoride treatments for the sampled members, analyze all claims for fluoride treatments submitted by SmileCenter not reviewed during our audit, and recover any additional funds it deems appropriate. Further, MassHealth should consider investigating, in conjunction with the Office of the Attorney General, the propriety of the undocumented claims for fluoride treatments that we identified during this audit.

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

The Draft Audit concedes that "MassHealth Dental Program regulations do not establish a maximum yearly limit for member fluoride treatment..." In connection with a lawsuit in the United States District Court for the District of Massachusetts, MassHealth already agreed, in 2006, to amend its regulations to "allow topical fluoride treatment without limitation and without prior authorization." Health Care/or All, Inc., v. Romney, No. 00-CV-10833, First Joint Report on Proposed Remediation, at 2 (emphasis added)... Nevertheless, the OSA proposes to have MassHealth recoup funds paid to SmileCenter for fluoride treatment in excess of AAPD recommendations of a wholly non-binding nature. MassHealth never made providers aware that the AAPD recommendations would be binding. Moreover, the implementation of a limit on fluoride treatment runs contrary to the agreement entered into by MassHealth and endorsed by the federal Court. Notwithstanding the binding agreement endorsed by the federal Court to "allow topical fluoride treatment without limitation," to the extent the OSA or MassHealth seek[s] to adopt the AAPD guidelines as a limitation, they must provide some notice that treatment in excess of the AAPD guidelines (as interpreted by the OSA) will constitute a per se finding that the dentist has provided medically unnecessary treatment.

Also, the OSA has gone so far as to purport to exercise dental judgment about how many fluoride treatments are appropriate within AAPD guidelines. At the outset, the 30 MassHealth patient files reviewed by the OSA did not appear to represent a random cross-section of SmileCenter's patient population. The OSA apparently selected files of patients with a higher rate of utilization for SmileCenter's services. These patients frequently had oral health issues more complicated than those of the average patient, along with braces and substandard oral hygiene habits. The fluoride applications in the

AAPD guidelines may be appropriate for some patients, but SmileCenter has found that other patients—especially those with braces and poor oral hygiene habits—benefit from more frequent fluoride treatment.

For example, the Draft Audit references one patient who had 27 fluoride treatments over 24 months with no caries. ... SmileCenter identified this patient and considers her treatment a success, given that she had braces and lacked the most fundamental oral hygiene habits, yet still managed to go two years with no caries. SmileCenter's case notes for Patient AP-753 confirm the trouble with fundamental oral hygiene. ... That Patient AP-753 managed to go two years with no caries is testimony to SmileCenter's treatment decisions.

The OSA apparently determined that AP-753 should have had four fluoride treatments (two per year). On the other hand, the OSA allowed additional fluoride treatments for "Sampled Member" 6, whom the auditors found should have had five fluoride treatments in 14 months, perhaps due to eight teeth treated for caries. The auditors summarized the AAPD recommendations as allowing for as many as four annual fluoride treatments "depending upon [patients'] caries risk..." The auditors, however, apparently made no consideration of risk, and simply allotted extra fluoride treatments after-the-fact to patients who had more caries....

If MassHealth wants to impose a limit the number of fluoride treatments available to its members each year, it has the tools to do so, and it can then deny payment beyond that limit. MassHealth conceded, in communication with the OSA, that it has not taken such steps: "Clearly," MassHealth wrote, "the current state will need to be modified...."

The fact that not all fluoride treatment is documented in case notes does not mean that such treatment was not provided. As stated above, SmileCenter has previously relied on its billing records to augment its case notes. SmileCenter is also committed to improving its record keeping. Yet, SmileCenter vigorously maintains that it provided all such treatment.

As stated above, SmileCenter normally records patient treatment by having the dentist and/or hygienist who conducts the treatment log it in both the case note and billing ledger. A clerical employee then manually enters the billing ledger entries into the online MassHealth claims system. It is a system managed by humans, and as with any such system, it is prone to errors. The Draft Audit has identified deficiencies which SmileCenter is working to correct. Moreover, SmileCenter has also relied, in part, on claims history reports generated and maintained by MassHealth. SmileCenter has learned that these claims history reports, which are relied upon by providers, frequently omit procedures, including fluoride treatments, which have apparently been performed.

SmileCenter provided all fluoride treatments questioned by the OSA. Most of the patients questioned by the OSA had complicated histories and poor oral hygiene. SmileCenter has found that such patients often benefit from frequent fluoride treatment, beyond the AAPD recommendations cited by the OSA. For these patients, SmileCenter would have provided fluoride treatment practically as a matter of course, during their frequent dental visits. SmileCenter's Proprietor and hygienist appear to have simply neglected to log these treatments in the case note, even though they logged them in the billing ledger, which they also relied upon to document treatment.

The case notes for members with undocumented fluoride treatment underscore the poor hygiene and complicated patient histories that prompted such treatment as a matter of

course. For example, "Sampled Member 11" represents 11 of the 63 undocumented fluoride treatments, the largest number of any patient referenced in the Draft Audit. Based upon a review... Sampled Member 11 appears to be MR-673. His file features frequent commentary on his home care habits, along with references to Cavitron treatment—both of which are sure signs of a patient who would benefit from more frequent fluoride application...

Meanwhile, MassHealth's claims history report for MR-673 contains just one fluoride treatment—on June 10, 2011. In the event a SmileCenter dentist or hygienist made reference to MassHealth's inaccurate claims history report, it is also at least possible that it prompted the dentist or hygienist to believe that the patient had not previously had fluoride treatment...

Sampled Member 1 appears to be patient WD-775, whom the OSA asserted had seven undocumented fluoride treatments. His case notes also show a patient with poor hygiene habits and potentially serious dental issues which benefitted from more frequent fluoride application. On March 17, 2008—his first recorded visit—SmileCenter was so concerned that the notes show it prescribed 1 milligram tablets of oral fluoride. Yet, SmileCenter could not always be assured that a low-income 18-year-old would spend his available money on prescription fluoride pills, and consistently take them, so it continued to provide topical fluoride treatment whenever he came for treatment on his various dental problems. The case notes also reveal ongoing problems with hygiene...

Other patients listed on Audit Summary A (who appear to constitute the Sampled Members of Draft Audit ...) had similar problems. JE-041 was Sampled Member 2, and the OSA found four supposedly undocumented treatments. His case note[s] include: Oct. 14, 2008 ("went over homecare, flossing & brushing"); July 30, 2009 ("Recc. pt increase homecare"); Aug. 30, 2010 ("Recc pt increase flossing"). ... Patient MO-036 (Sampled Member 7, with six undocumented treatments) also had habits which caused SmileCenter to believe she would benefit from more frequent fluoride application...

MassHealth's claims history reports from masshealth-dental.net for these patients also omit numerous fluoride treatments. JE-041's claim history report ... shows just one fluoride treatment, on August 30, 2010. MO-036's claim history report ... shows one treatment on December 8, 2010. AJ-961's claim history report ... shows two fluoride treatments on July 16, 2008 and May 24, 2011). To the extent a dentist or hygienist relied on MassHealth's records for accurate treatment history, they may also have been led to believe there had been no prior fluoride treatment.

In essence, it went without saying that SmileCenter would provide such patients with extensive fluoride treatment. While there is room for improvement in SmileCenter's record keeping with respect to these patients, the evidence shows how such a procedure could have become so routine as to be overlooked when SmileCenter's Proprietor and hygienists made their case notes. MassHealth's incomplete claims history reports (which frequently do not show treatments MassHealth says it paid for) could also have affected treatment decisions.

Ultimately, with SmileCenter committed to improving its record-keeping, no further investigation is warranted.

Auditor's Reply

We agree with SmileCenter that MassHealth regulations do not establish a maximum yearly limit for member fluoride treatment. Consequently, we relied upon AAPD recommendations on this matter, which the MassHealth Dental Program Director provided. The mission of the AAPD is to advocate policies, guidelines, and programs that promote optimal oral health and oral health care for infants and children through adolescence, including those with special health care needs, and not just for the average patient. AAPD recommendations take into account members' caries risk assessments and dietary sources of fluoride. As noted within the audit report, AAPD recommends that those children with high caries risk, such as those described by SmileCenter, should receive professional fluoride applications every three to six months. Thus, the maximum number of treatments recommended by AAPD for children is four per year. Certainly, SmileCenter's usage of fluoride treatment "as a matter of course" during member's frequent dental visits conflicts with AAPD recommendations and appear to represent medically unnecessary treatment.

In analyzing the SmileCenter proprietor's use of fluoride for members, we relied upon AAPD's recommendations, which consider caries risk. We did not simply allot extra fluoride treatments after-the-fact to patients who had more caries as suggested by SmileCenter in its response. In one case noted by SmileCenter (Sampled Member 6), the member received 15 fluoride treatments over a 14-month period. Based upon AAPD's recommendations, the member should have received four fluoride treatments during the first year and an additional treatment during the first quarter of the second year, or a total of five treatments.

In addition, AAPD's website emphasizes that a child may face the condition called enamel fluorosis if he/she gets too much fluoride during the years of tooth development. Too much fluoride can result in defects in tooth enamel. In severe cases of enamel fluorosis, the appearance of the teeth is marred by discoloration or brown markings. The enamel may be pitted, rough, and hard to clean. Consequently, we believe it is important to adhere to the AAPD recommendations for fluoride treatments to avoid causing these serious medical conditions.

In its response, SmileCenter indicated that fluoride treatments provided to members were not always documented in the case notes. However, 130 CMR 420.414 requires that patient records

include adequate documentation as to the nature, extent, and the necessity of care provided to the member. In addition, 130 CMR 450.205(A) states the Division will not pay a provider for services if the provider does not have adequate documentation to substantiate the provision of services payable under MassHealth. MassHealth should recover the payments it made to SmileCenter for any undocumented or inadequately documented services.

5. QUESTIONABLE CLAIMS FOR THE PALLIATIVE TREATMENT OF DENTAL PAIN TOTALING \$2,303

During our audit period SmileCenter submitted 547 claims for the palliative treatment of dental pain. Of this amount, we reviewed 64 claims for the 30 MassHealth members in our sample. Based on our review of SmileCenter's dental records, 34 (53%) of these claims either did not involve the palliative treatment of dental pain or were not supported by dental records describing the treatment provided and the emergency nature of the condition, contrary to state regulations. In fact, some of these claims involved only routine visits during which SmileCenter provided members with non-emergency dental and orthodontic treatments, such as fluoride applications, orthodontic photographs, and orthodontic appliance adjustments. Consequently, these 34 claims totaling \$2,303 represent unallowable and questionable costs to the Commonwealth.

130 CMR 420.456(D) states, in part:

The MassHealth agency pays for palliative treatment to alleviate dental pain or infection in an emergency. Palliative treatment includes those services minimally required to address the immediate emergency including, but not limited to, draining an abscess, prescribing pain medication or antibiotics, or other treatment that addresses the member's chief complaint. The provider must maintain in the member's dental record a description of the treatment provided and must document the emergent nature of the condition.

As previously discussed, SmileCenter maintains member case notes in which its dentist or the attending hygienist records all pertinent information about a member's visit. This information should include a description of any member emergencies involving dental pain or infection as well as the treatment provided to remedy the member's problem. However, contrary to 130 CMR 420.456(D), SmileCenter's case notes did not document a description of the treatment provided and the emergency nature of the member's condition in these 34 claims.

Recommendation

MassHealth should recover from SmileCenter the \$2,303 in questionable payments it received from MassHealth for the treatment of dental pain for the 30 members in our sample. Additionally, MassHealth should investigate the additional 483 claims that SmileCenter submitted for the treatment of dental pain for all members during the audit period in order to identify any other questionable or unallowable billings for these services.

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

The OSA questions 34 instances in which SmileCenter offered palliative treatment. SmileCenter has attempted to keep notes that would sufficiently describe patients' pain and emergencies. Still, a contextualized reading of SmileCenter's case notes generally reveals patients with obviously painful conditions, who would benefit from "emergency treatment of dental pain," as the ADA describes code D911.... It should come as no surprise that such patients would seek treatment from SmileCenter, and the Draft Audit does not support a finding that SmileCenter offered unnecessary treatment.

For example, the Audit Summary questions SmileCenter's emergency pain treatment of Patient WD-775 on June 18, 2008. SmileCenter's case note for that day says "EMERG CK EXT SITE. A review of the case notes as a whole shows that Patient WD-775 had four impacted teeth extracted by another provider on June 9, 2008. Id. That he should be in pain the following week should not surprise anyone, and an "emergency check of extraction site" would have been in order to "address the member's chief complaint." 130 CMR 420.456(D). Indeed, SmileCenter's notes for a visit a month later, on July 28, states "Emer PT is still feeling pain after ext's perio rinse for dry socket." The Audit Summary did not question the inclusion of code D9110 on this date. Taken as a whole, the record reveals that Patient WD-775 underwent a series of extractions which dentists and laypeople alike could agree would be painful. He then suffered a complication—dry socket—that is once again known by dentists and patients alike as a particularly painful one. It is completely understandable and predictable that somewhere in the midst of this unpleasant summer of procedures, Patient WD-775 should seek treatment from SmileCenter for pain.

[T]he Audit Summary questioned pain treatment given to Patient SH-504 on December 15 and December 22, 2008. While SmileCenter's notes for those days may be difficult to understand, they show a patient in the midst of painful multi-day root canal therapy. The notes show that on December 4, the patient arrived in SmileCenter's office in pain. SmileCenter established the need for multiple tooth extractions and emergency root canal therapy. (The Audit Summary did not question the pain treatment on this day). The course of treatment continued for some months, during which the patient appeared in SmileCenter's office "jumpy and sensitive during cleaning" until another provider finally removed eight teeth in April 2009... That SmileCenter offered services to address such a painful emergency situation ("the member's chief complaint," in the words of section 420.456(D)) should not come as a surprise.

Moreover, the OSA apparently determined that certain claims for palliative treatment were made "contrary to state regulation" because some of the claims "involved only routine visits during which SmileCenter provided members with non-emergency dental and orthodontic treatments ... " Yet, MassHealth has specifically informed dentists that "Other nonemergency medically necessary treatment may be provided during the same visit that is nonemergency codes may be billed in conjunction with D9110." (sic). In the Health Care for All lawsuit, MassHealth also agreed to "allow reimbursement for other non-emergency, medically necessary treatment provided during the same visit as an emergency care visit."... The fact that patients also received "fluoride applications, orthodontic photographs, and orthodontic appliance adjustments" ... is simply irrelevant to the issue of whether or not SmileCenter provided appropriate palliative treatment.

Further investigation is not warranted. Yet, notwithstanding SmileCenter's assertion that it has provided appropriate palliative treatment, SmileCenter is committed to ensuring that patient records are easily comprehensible not only to SmileCenter staff, but to outside auditors. To that end, SmileCenter staff has been reminded to take fuller notes documenting conditions calling for palliative treatment.

Auditor's Reply

Contrary to SmileCenter's assertion, the OSA did not misconstrue the applicability of Procedure Code D9110. 130 CMR 420.456(D) clearly states that the provider must maintain a description of the treatment provided in the member dental record and must document the emergency nature of the condition. In addition, 130 CMR 450.205 states, in part:

The Division will not pay a provider for services if the provider does not have adequate documentation to substantiate the provision of services payable under MassHealth. All providers must keep such records, including medical records, as are necessary to disclose fully the extent and medical necessity of services provided to, or prescribed for, members.

Regarding the 34 noted claims, the SmileCenter proprietor neither documented the member's emergency nor the treatment provided to alleviate the pain. Moreover, as noted in the audit report, in some instances, SmileCenter submitted claims for palliative treatment of dental pain, but the member's case notes only indicated that non-emergency dental and orthodontic treatment was provided. Consequently, the 34 claims represent unallowable costs to the Commonwealth.

In its response, SmileCenter states, "a contextualized reading of SmileCenter's case notes generally reveals patients with obviously painful conditions, who would benefit from "emergency treatment of dental pain." In its first example, SmileCenter indicates that the member's case notes for June 18, 2008, state "EMERG CK EXT SITE (emergency check extraction site). However, SmileCenter's assertion that this limited notation meets the

requirements of 130 CMR 420.456(D) and 130 CMR 450.205, is incorrect. First, according to SmileCenter's records, it did not perform the related series of extractions on the member in question. It is reasonable to assume that the oral surgeon who actually performed these extractions nine days earlier would have instructed the member to contact him/her if any problems arose. Moreover, the notation within the member's case notes does not describe the emergency nature of the condition or a description of the treatment provided. Consequently, based upon MassHealth regulations, this claim represents an unallowable cost to the Commonwealth.

In its second example, SmileCenter states that, although the case notes for December 15 and 22, 2008 for the member in question may be difficult to understand, they show a patient in the midst of painful multi-day root canal therapy. We agree that the member in question could have experienced pain related to the multi-day root canal therapy. However, MassHealth's payment to SmileCenter for the root canal therapy includes payment for all preoperative and postoperative treatment, including the treatment of related pain. In addition, the member's case notes do not describe the treatment provided to alleviate the dental pain. Therefore, SmileCenter's claims for palliative treatment of pain on December 15 and 22, 2008 represent duplicate payments as well as payments for undocumented service.

We agree with SmileCenter that MassHealth allows reimbursement for other non-emergency, medically necessary treatment provided during the same visit as an emergency care visit. However, certain member records only identify non-emergency treatment on days in which SmileCenter submitted claims for both emergency and non-emergency treatment. In such instances, we questioned the claim for palliative treatment of pain because the member's file did not contain the supporting documentation required by 130 CMR 420.456(D) and 130 CMR 450.205.

Finally, in its response, SmileCenter states "the fact that patients also receive 'fluoride applications, orthodontic photographs, and other appliance adjustments' ... is simply irrelevant to the issue of whether or not SmileCenter provided appropriate palliative treatment." We would agree with SmileCenter if it was simply providing both emergency and non-emergency services on the same day. However, this was not the case. In fact, SmileCenter was submitting claims for both types of procedures, yet the case notes reviewed only revealed non-emergency

treatments. Such claims suggest that SmileCenter may be billing for member services it did not actually provide.

6. QUESTIONABLE PAYMENTS TOTALING \$4,787 DUE TO CONFLICTS BETWEEN SMILECENTER'S DENTAL RECORDS AND ITS BILLINGS FOR SERVICES

Our examination of 30 sampled member files revealed conflicting information within SmileCenter's case notes and billing records. Also, these sampled files revealed conflicts between SmileCenter's records and the claims data contained in the Massachusetts Management and Information System (MMIS). These conflicts raise questions about whether SmileCenter submitted claims for dental procedures that it did not actually perform for members or, conversely, performed services on MassHealth members without properly recording the associated claims revenue in its financial records, which could have income tax implications. In total, these conflicts affected 95 payments totaling \$4,787 that SmileCenter received for dental and orthodontic procedures.

MassHealth regulations require dental providers such as SmileCenter to maintain accurate and complete records of the services they provide to members. Specifically, 130 CMR 420.404 and 130 CMR 420.414(B), respectively, state, in part:

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.

Payment by the MassHealth agency for dental services listed in 130 CMR 420.000 includes payment for preparation of the member's dental record. Services for which payment is claimed must be substantiated by clear evidence of the nature, extent, and necessity of care provided to the member.

As described previously, SmileCenter maintains case notes for its members that detail such information as dates of service, dental and orthodontic diagnoses, planned and provided services, member concerns and complaints, and referrals to dental specialists. SmileCenter's staff update the case notes immediately following a member's visit. Additionally, SmileCenter maintains a billing ledger for each member that details such information as dates of service, services provided, amounts billed, and payments received. Based upon 130 CMR 420.404 and 130 CMR 420.414(B), these records should reflect precisely the same information. However, our review of these records for the 30 members in our sample found at least 95 conflicts between the information recorded in the member case notes and SmileCenter's related billing

ledgers and the information relative to these billings in MMIS. The following two examples are representative of the 95 conflicts that we found between member case notes and SmileCenter's related billings as documented in MMIS.

- MMIS indicates that SmileCenter performed 16 separate dental procedures for a sampled member on March 18 and 19, 2008 for which it was paid \$679. SmileCenter posted each of the 16 procedures to the member's billing ledger, including dates of service, billed amounts, and payments received. However, our review of the related case notes revealed that the member did not even visit SmileCenter on March 18 or 19, 2008. In this example, our concern is that SmileCenter is submitting claims for dental procedures that it does not perform for members.
- MMIS indicates that SmileCenter performed a prophylaxis and orthodontic consultation for a member on October 14, 2008 for which it was paid \$96. SmileCenter detailed these two procedures within the member's October 14, 2008 case notes. However, the related billing ledger does not reflect SmileCenter's claim for these services or the payment it received from MassHealth. In this example, our concern is that SmileCenter is receiving payments for services that it actually did perform on MassHealth members but is not recording this revenue in its financial records, which could have income tax implications.

Recommendation

Based upon the large number of conflicts we found within just 30 member files reviewed, a further investigation is warranted to determine whether these conflicts represent a systemic deficiency within SmileCenter's billing process or a more serious (potential fraudulent) situation. Consequently, MassHealth should conduct a comprehensive investigation of SmileCenter's dental records and billing practices to determine the extent and causes of the noted problems. After completing this investigation, MassHealth should take appropriate actions to address this issue, including recovering any amounts that were inappropriately billed and received by SmileCenter and, if warranted, referring this matter to the state's Office of the Attorney General.

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

The Draft Audit's findings of "Conflicts between SmileCenter's Dental Records and its Billings for Services" appear to result from clerical errors. There is, however documented evidence that many of the "questionable" procedures were, in fact, performed. Although SmileCenter concedes that the Draft Audit found problems in its record keeping, which it is working to correct, it does not concede that the problems rise to the level of anything "systemic," and it strongly disputes any assertion of a "more serious (potentially fraudulent) situation...."

SmileCenter can, in fact, document some of the procedures which were apparently billed but not listed in case notes reviewed by the OSA. For example, the first "representative sample," described on one patient who had two days of treatment, account[ed] for 16 of the 98 conflicts the OSA identified. Based on a review of Audit Summary..., the first "representative sample" patient appears to be WD-775. In concluding that SmileCenter failed to document these procedures, the OSA apparently reviewed printouts of the patient's case notes which did not include entries for March 18 and March 19, 2008. SmileCenter did, in fact, make case notes on these days, and the additional notes, not previously reviewed by the OSA... document the billed procedures.

Moreover, even the incomplete file reviewed by the OSA provides evidence that these procedures were performed. Among the procedures shown on the billing record (but not the incomplete case note reviewed by the OSA) for March 18, 2009 are an "Extraction Single" (D7140) for tooth "E" - a baby tooth still present on a then 18-year-old man. ... A panoramic X-Ray in the file dated March 17, 2008 shows the tooth still in place. By the "Start Date" of the patient's braces on May 28, 2008, the tooth is gone -as photographs taken that day clearly show. Thus, the tooth was clearly pulled in that two-month period. Even if one ignores the case note, there is indisputable proof that the tooth was extracted. Such evidence should mitigate the OSA's "concern ... that SmileCenter is submitting claims for dental procedures that it does not perform."

A similar situation exists in the file of patient RP-679, listed on Audit Summary ... as having undergone a tooth extraction on October 22, 2008. The extraction is not listed in the case note (the case note shows no patient visit at all), but the procedure is listed in the billing ledger, which shows the removal of baby tooth "T." ... An X-Ray dated September 24, 2008 shows the tooth (which is easy to see due to a filling). In a photo taken May 6, 2009, the tooth is gone. The only reasonable explanation is that SmileCenter extracted the tooth.

The second "Representative Sample" patient appears to be patient JE-041. The Draft Audit questions two procedures dated October 14, 2008, which appear on the case notes but not the billing ledger. Here, the OSA does not appear concerned that it paid for service not performed; instead, it speculates about SmileCenter's tax returns. Nevertheless, the Draft Audit uncovered only about \$1,400 in payments not "posted in billing ledger" over three years according to Audit Summary ... SmileCenter takes seriously its obligations to report accurate information on its tax returns, but this situation appears consistent with honest errors having slight overall financial impact.

SmileCenter also disputes the accuracy of Audit Summary. At least one treatment (fluoride given to RP-679 on August 26, 2009) is listed twice (conflicts number 49 and 59). SmileCenter knows such treatment was provided because it is logged on the billing ledger for August 26, 2009.

The most likely explanation for the submission of procedures listed in the case notes but not the billing ledger is simple human error. SmileCenter's billing coordinator will sometimes check the case notes to enter codes on masshealth-dental.net on busy days when the dentist and hygienist have fallen behind in billing. It appears that the billing ledger was simply never completed.

While not all the procedures identified on Audit Summary ... can be documented in case notes, SmileCenter asserts that they were performed, and the notes, X-Rays and photographs described above provide strong evidence that SmileCenter performed even the undocumented treatments. While SmileCenter concedes that it needs to improve its

recordkeeping, it is clear there is no "fraudulent" activity and no valid concern "that SmileCenter is submitting claims for dental procedures that it does not perform." No further investigation is warranted.

Auditor's Reply

Contrary to what SmileCenter asserts in its response, the conflicts between SmileCenter's case notes and billing records, in our opinion, represent a systemic deficiency within SmileCenter's billing process and possibly a more serious (potentially fraudulent) situation. Had we identified just a few isolated recordkeeping problems, it may have been reasonable to attribute the errors to human error. However, to find 95 recordkeeping problems within just 30 member files strongly suggests more than an isolated problem and one that we believe warrants further investigation.

In its response, SmileCenter states that many of the "questionable" procedures were, in fact, performed. While SmileCenter provided some examples of records to support this assertion, the evidence provided does not collectively address all the discrepancies we identified in this area and therefore does not dispel our concerns regarding the numerous conflicts we identified between SmileCenter's case notes and its billing records. Of particular concern is SmileCenter's contention that the services provided on March 18 and March 19, 2008 to the member in question were actually documented in this member's case notes. As stated in our report, SmileCenter's case notes for this member did not include any documentation that this member received treatments on March 18 and 19, 2008. This fact was substantiated by SmileCenter's proprietor during our audit, when he signed each set of case notes he provided to us indicating that they were the complete set of hardcopy original case notes. Consequently, we question how these case notes could now contain information relative to these services when it was not included in the original set of case notes provided, and therefore we cannot accept this information as valid and relevant to this audit issue.

Regarding our second representative sample, SmileCenter does not dispute that its billing ledgers do not reflect its claim for services or the payment it received from MassHealth. Rather, SmileCenter tries to diminish the significance of this issue by stating, "the Draft Audit uncovered only about \$1,400 in payments not "posted in billing ledgers" over three years." However, as noted above, the number of conflicts we identified (95 conflicts identified within only 30 member files) indicates a significant problem beyond simple human error. Moreover, in

order to identify the full extent of the problem, a file-by-file review of all of SmileCenter's records would be necessary, which was outside the scope of our audit.

Ultimately, SmileCenter is required to maintain accurate and complete records of the services it provides to members. The case notes and billing ledgers should reflect precisely the same information. Our audit found that SmileCenter's records do not reconcile and, as such, create the appearance of impropriety. We appreciate SmileCenter's recent efforts to improve its recordkeeping.

7. SMILECENTER RECEIVED OVERPAYMENTS FOR DENTAL SERVICES TOTALING \$2,510

Our examination of 30 member files revealed 35 instances totaling \$2,510 in which SmileCenter was paid twice for the same dental procedure. In each instance, two payments were found in MassHealth's payment records for the same dental procedure on the same member within a few days' time. However, MassHealth's dental claims processing system failed to identify and correct these overpayments.

130 CMR 450.235 defines overpayments for dental services as follows:

Overpayments include, but are not limited to, payments to a provider (A) for services that were not actually provided . . . (E) for services for which a provider has failed to make, maintain, or produce such records, prescriptions or other documentary evidence as required . . . (G) for services billed that result in a duplicate payment. . . .

Our review of SmileCenter's case notes and billing ledgers related to these 35 cases indicated that SmileCenter only billed once for the services in question. However, MassHealth's payment records indicate that SmileCenter received two payments in each instance. For example, based upon SmileCenter's dental records, it performed an X-ray on a MassHealth member on December 4, 2008. Although SmileCenter's records show that this procedure was only performed once, MassHealth's payment records indicate that the X-ray was paid for twice. Consequently, in these 35 instances, MassHealth overpaid SmileCenter for the services it provided.

Recommendation

In order for MassHealth to avoid making overpayments as described in 130 CMR 450.235, we recommend that DentaQuest and MassHealth collaborate to ensure that MassHealth's dental claims processing system contains edits that effectively identify and correct overpayments.

Further, MassHealth should investigate the differences between its payment records and those of SmileCenter and recover any overpayments identified.

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

The OSA's finding that in 35 instances, MassHealth paid twice for the same procedure, calls into question MassHealth's records and practices, just as much as SmileCenter's.

While the Draft Audit speaks of "35 instances" of duplicate payments, it is worth noting ... that because multiple procedures are conducted in an office visit, these 35 instances were spread across only about a dozen office visits. For at least four of these visits (on December 5, 2009, March 17, 2010, December 5, 2008 and May 5, 2009) ... SmileCenter apparently submitted requests to void payments—meaning that SmileCenter likely discovered and reported the error, but MassHealth nevertheless ignored the request to void payment. Both SmileCenter's billing system and MassHealth's payment system are managed by human beings; in any such process there will inevitably be errors. That only 35 procedures, from a dozen or so visits, were incorrectly paid over three years, from among the thousands of procedures and visits reviewed by the OSA, speaks to a system that seems generally to function smoothly.

Auditor's Reply

We agree with SmileCenter that this issue calls into question MassHealth's records and practices, just as much as SmileCenter's. However, although SmileCenter agrees that it received duplicate payments for certain member services, it attempts to minimize the implication of this problem by stating the following: "only 35 procedures, from a dozen or so visits, were incorrectly paid over three years, from among the thousands of procedures and visits reviewed by the OSA, speaks to a system that seems generally to function smoothly." However, an effective claims billing and payment system should have controls in place to identify and deny any duplicate payments. The duplicate payments found at SmileCenter indicate a potentially serious deficiency within MassHealth's claims processing system. Specifically, our audit identified 35 duplicate payments within 30 member files tested, an extremely high error rate and in our opinion, indicative of a serious problem within SmileCenter's and possibly MassHealth's claims billing and payment systems that should be reviewed.

8. UNALLOWABLE PAYMENTS FOR ORAL/FACIAL PHOTOGRAPHIC IMAGES TOTALING \$3,619

MassHealth regulations prohibit payment for oral/facial photographic images taken on a member as a separate procedure when a dentist is providing orthodontic services to the member.

However, contrary to these regulations, SmileCenter was paid \$3,619 for oral/facial photographic images during the audit period. Specifically, SmileCenter submitted 77 claims for photographic images taken on members prior to and during orthodontic treatment. These claims should have been denied by DentaQuest because they violated MassHealth regulations.

130 CMR 420.423(E)(2), promulgated by MassHealth, states, in part:

Payment for digital or photographic prints is included in the payment for orthodontic services. The MassHealth agency does not pay for digital or photographic prints as a separate procedure.

DentaQuest did not identify SmileCenter's claims for photographic images as nonreimbursable program costs because 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, SmileCenter received unallowable payments totaling \$3,619 for photographic images during the audit period, as detailed in the following table:

Fiscal Year	Paid Claims	Amount
2009	20	\$ 940
2010	<u>57</u>	<u>2,679</u>
Totals ⁴	<u>77</u>	<u>\$3,619</u>

Prior to our audit of SmileCenter, we identified other orthodontists who had received payments for oral/facial photographic images contrary to state regulations. 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.

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, identified that DentaQuest's claims processing system did not include edits to detect and deny claims for oral/facial photographic images.

⁴ During our audit period, the number of photographic image payments was actually 78, and the related payments totaled \$3,666. However, the numbers presented have been reduced to omit any duplication of questioned amounts presented in other sections of this report.

Recommendation

Based on its written comments, MassHealth has implemented an edit within the claims processing system to address our concerns relative to oral/facial photographic images. In addition, MassHealth should recover the \$3,619 that SmileCenter was paid for oral/facial photographic images contrary to state regulations. This amount is also included in the \$201,509 in unallowable orthodontic service claims that MassHealth indicated it is considering recovering from this provider (see Audit Result No. 1).

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

SmileCenter submitted bills for oral/facial photographic images (using code D0350) pursuant to the explicit instructions of DentaQuest's MassHealth contract director. SmileCenter's Proprietor had a number of conversations with DentaQuest personnel concerning orthodontic billing procedure, which included discussions of whether or not MassHealth would pay for stone models of patients' mouths, and whether it would pay for photos.... DentaQuest employee[s] specifically told SmileCenter to submit both stone models (or their digital measurements) and photos. Both Mr. Major and at least one other DentaQuest employee then specifically told SmileCenter that while MassHealth would not pay for the stone models, it would pay for photos, and SmileCenter should bill images to code D0350, even for orthodontic cases.

Moreover, these conversations are proven by a bulletin from DentaQuest in early 2011 informing providers of a "change," wherein "the D0350 code is no longer covered" for orthodontics. See Major, "What's New With MassHealth," MDS Connection, at 8, ~ 4. If the D0350 is "no longer" covered for orthodontics as of early 2011, then by extension, it was previously covered.

Lastly, throughout the relevant time period, MassHealth has always had the authority to deny claims which do not meet its standards. If it concluded that SmileCenter submitted claims that did not meet its standards, it should have denied the claims.

Auditor's Reply

We agree with SmileCenter that MassHealth should deny claims that conflict with its Dental Program regulations. In this regard, 130 CMR 420.423(E)(2) specifies that MassHealth does not pay for digital or photographic prints as a separate procedure. However, as detailed in this report, MassHealth's claims processing system lacked edits to identify and deny such claims until January 25, 2011. Moreover, because of this system deficiency, providers may have been submitting numerous claims for oral/facial photographic images that should have been denied, but were improperly paid by MassHealth, including those submitted by SmileCenter.

SmileCenter's improper payments totaled \$3,619 during the audit period, which the Commonwealth should now recover.

In its response, SmileCenter states that several DentaQuest employees told SmileCenter that MassHealth would pay for the photos in question and SmileCenter should bill images to code D0350, even for orthodontic cases. However, such informal advice, if it was given, has no legitimate bearing on this issue. SmileCenter is obligated to adhere to all applicable Dental Program regulations, and any payments it receives contrary to those regulations represent unallowable costs to the Commonwealth.

In its response, SmileCenter references a Massachusetts Dental Society (MDS) bulletin wherein the MassHealth Contract Director (DentaQuest Employee) advises dental providers that D0350 code is no longer covered for orthodontics. In addition, SmileCenter contends that if the D0350 code is no longer covered for orthodontics as of early 2011, then by extension, it was previously covered. However, SmileCenter does not fully disclose the MassHealth Contract Director's comments on this matter. In fact, within the same MDS bulletin, the MassHealth Contract Director states, "MassHealth's most recent changes, were not changes to the regulations, but in fact were changes to the administration of benefits already in place." Thus, regarding oral/facial photographic images, the changes discussed were directly related to MassHealth establishing an edit to ensure compliance with 130 CMR 423(E)(2), and in no way represented a change in member benefits as suggested by SmileCenter.

9. UNALLOWABLE PAYMENTS FOR ORAL EVALUATIONS VISITS TOTALING \$1,885

MassHealth has established limits on the number of claims that dental providers will be paid for comprehensive, periodic, and limited oral evaluations for members. However, during our audit period, SmileCenter submitted and was paid a total of \$1,885 for claims that exceeded the established limits for these services.

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.

In addition to the limits established by 130 CMR 420.422, MassHealth officials stated that comprehensive oral evaluations and periodic oral evaluations should not be paid for on the same date of service to the same provider, but it is possible that a limited oral evaluation is billed on the same date of service as a comprehensive oral evaluation or periodic oral evaluation.

However, our audit identified that SmileCenter submitted 47 claims totaling \$1,885 during the audit period contrary to these requirements. Specifically, SmileCenter submitted more than two claims for periodic and limited oral evaluations per member per year, more than one claim for an oral evaluation per member per day, and claims for periodic or limited oral evaluation on the same date of service as an emergency treatment visit. Provided below are three examples of these noted problems.

- SmileCenter submitted five claims for limited oral evaluations for one member during June 2008.
- SmileCenter submitted claims for a comprehensive oral evaluation and a periodic oral evaluation on March 31, 2010 for the same member.
- SmileCenter submitted claims for a periodic oral evaluation and an emergency treatment visit on February 16, 2010 for the same member.

Because DentaQuest's claims processing system did not include edits to detect and deny claims for oral evaluations or treatment of dental pain that violated the limits for these services as established by state regulations, the Commonwealth unnecessarily reimbursed SmileCenter a total of \$1,885 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 as established by these regulations. We further recommend that MassHealth recover

the \$1,885 that we identified as unallowable payments it made to SmileCenter for these services during the audit period.

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

130 CMR 420.422 limits the oral evaluations which "the MassHealth agency pays for." It does not prohibit a provider from heeding the instructions of the ADA and the AAPD to "code for what you do." Chapter 420.422 contains no reference to providers' submission of bills or claims.

Here, SmileCenter has endeavored to code for what it did. To the extent that MassHealth asserts it has made payments not in compliance with Chapter 420.422, MassHealth—not SmileCenter—acted in conflict with the regulation....

Insofar as SmileCenter submitted codes for emergency treatment and oral evaluations on the same day, or for more than two periodic and limited evaluations in the same year, it coded for what it did. Emergencies can happen at any time. Where SmileCenter submitted claims for emergencies and oral evaluations on the same day, MassHealth had the power to simply deny the \$247 in claims.

With respect to patients who had more than two periodic and limited oral evaluations in a calendar year, SmileCenter also coded for what it did, and MassHealth could have simply denied the claims. For patients on Audit Summary Exhibit G, some (e.g., patients 3 and 4) had periodic oral examinations in January and December and once in the summer—roughly consistent with a standard twice-a-year checkup schedule....

The claims for periodic oral evaluations on January 28 and 29 appear to be the result of an error by either SmileCenter or MassHealth. Any overpayment for such error could have been negated, however, by MassHealth denying payment for the October 1 claim.

Limited oral evaluations do not tend to happen on a fixed schedule, because (as the Code makes clear) they are for patients "with a specific problem and/or dental emergencies." See Code at 5. Regardless of what MassHealth pays for, such situations may arise more than twice a year, and SmileCenter codes for what it does.... Lastly, while SmileCenter will not normally bill two different oral evaluations on the same date of service, nothing in any MassHealth regulation contains such a restriction.... SmileCenter agrees that it is unusual to conduct two oral evaluations on a member in one day, but such situations can arise in certain cases. Additionally, even if such treatment did violate some rule, the OSA cites no reason why MassHealth could not simply have denied the claims at the time they were made.

Auditor's Reply

We agree with SmileCenter that it is not inappropriate for MassHealth dental providers to submit claims for all services they provide for members. MassHealth, for its part, should have edits in place to detect and deny any claims that exceed member benefit limits established by state regulations. As detailed in the audit report, MassHealth has established regulations that

limit the frequency and circumstances under which it will pay claims for member oral evaluations and emergency treatment visits. However, MassHealth did not have the necessary edits in place to properly administer these regulations during the audit period. Consequently, SmileCenter was improperly paid \$1,885 for certain member's oral evaluations, which the Commonwealth should now recover.

In its response, SmileCenter indicates that two of the members involved in this issue received periodic oral examinations in January, December, and during the summer of the same year. Further, SmileCenter asserts that it considers this schedule "roughly consistent with a standard twice-a-year checkup schedule." However, these comments clearly confirm our finding that in each case, SmileCenter was paid for three oral examinations within the same year, contrary to state regulations. In addition, SmileCenter implies that being roughly consistent with state regulations is an acceptable practice for payment purposes. However, in order for dental providers to receive payment for member services, the services must be medically necessary and also meet applicable member benefit levels specified by state regulations.

10. OTHER QUESTIONABLE CLAIMS TOTALING \$452

Our review of 30 member files identified three other issues warranting further review by MassHealth. As previously described in this report, SmileCenter maintains case notes that detail such information as each member's diagnoses, dates of service, treatments, planned services, and member concerns. Our review of the sampled members' case notes identified that SmileCenter (a) misrepresented a cosmetic appliance as a mouth guard, (b) billed for member-refused fluoride treatments, and (c) billed for a pre-orthodontic consultation even though the member was undergoing complete orthodontic treatment from a different dental provider. These three situations are described in detail below.

a. Cosmetic Appliance Billed As a Mouth Guard

Based upon MassHealth's payment records, SmileCenter received \$85 for a custom-fitted mouth guard for a sampled member. However, SmileCenter's case notes indicate that the appliance was actually a take-home dental whitening tray for this member. Cosmetic services such as dental whitening are not reimbursable under MassHealth's Dental Program regulations. Specifically, 130 CMR 420.421(B) states, in part, the following:

(B) Noncovered Services. The MassHealth agency does not pay for the following services for any member except when medically necessary for members with prior authorization.

(1) cosmetic services.

b. Member-Refused Fluoride Treatments

One sampled member specifically requested that SmileCenter not provide her fluoride treatments because of certain side effects she experiences to such treatments. SmileCenter documented the request within the member's case notes for December 3, 2008, as follows:

Patient requests no fluoride due to feeling ill when applied.

The member's case notes also indicate that SmileCenter abided by her wishes and did not apply fluoride to her teeth on the date in question. However, SmileCenter's related billing ledger indicates that it submitted a claim for providing this treatment on December 3, 2008. Additionally, after this date, SmileCenter submitted 13 more claims for fluoride treatments for this member totaling \$336. Moreover, for two of these claims, SmileCenter did not have adequate evidence within the member's case notes to substantiate the amounts billed.

c. SmileCenter Billed for a Pre-Orthodontic Consultation While the Member Was Receiving Complete Orthodontic Treatment at another Dental Provider Location

One sampled member's case notes indicated that she was receiving complete orthodontic treatment at another dental provider. Even though SmileCenter was aware of this fact, it submitted a claim to MassHealth for this member for a pre-orthodontic consultation visit. 130 CMR 420.431(B) states, in part:

(B) Orthodontic Consultation. The MassHealth agency pays for an orthodontic consultation only for members under age 21 and only for the purpose of determining whether orthodontic treatment is necessary, and if so, when treatment should begin.

Accordingly, SmileCenter's claim of \$31 for this orthodontic consultation represents a violation of 130 CMR 420.431(B), since SmileCenter was aware that the member was undergoing orthodontic treatment elsewhere.

Recommendation

MassHealth and DentaQuest should further review these issues to determine whether SmileCenter actually performed the services claimed.

Auditee's Response

In response, the attorney representing SmileCenter provided the following excerpted comments:

a. SmileCenter Did Not Bill a Cosmetic Appliance as a Mouth Guard.

Notwithstanding the Draft Audit's assertion that SmileCenter billed MassHealth \$85 for a custom-fitted mouth guard, but supplied the patient with a dental whitening tray, the facts are quite different. The patient needed the mouth guard for athletic use, as permitted by regulation. She asked SmileCenter staff if she might buy over-the-counter whitening material at the drug store and put it in the mouth guard to promote tooth whitening. The SmileCenter staff answered her questions. The device was, in fact, a mouth guard.

b. SmileCenter Did Not Improperly Bill For Fluoride Treatment For a Patient Who Refused Such Treatment.

The OSA takes issue with the use of fluoride on a member who supposedly refused it. While the case notes state that "patient requests no fluoride due to feeling ill when applied," SmileCenter's Proprietor recalls this case as well: the patient disagreed with a certain flavor of fluoride; she did not request a permanent reprieve from fluoride treatment.

As for the two undocumented fluoride treatments, SmileCenter has conceded that the Draft Audit revealed problems with record-keeping, yet it asserts that such treatment was, in fact, provided.

c. Patient Undergoing Orthodontic Treatment with Another Provider.

As stated, SmileCenter concedes that the Draft Audit has revealed problems with its record-keeping, which it is working to improve. With respect to the performance of a pre-orthodontic exam on a patient already undergoing orthodontic treatment with another provider, SmileCenter concedes that it erroneously billed \$31 due to a clerical error.

Auditor's Reply

Regarding the first issue, SmileCenter states that "the device was, in fact, a mouth guard." However, it provided no evidence to substantiate this assertion, in conflict with the actual evidence maintained in the member's dental records. 130 CMR 420.414(B) specifies "services for which payment is claimed must be substantiated by clear evidence of the nature, extent, and necessity of care provided to the member." In this case the dental records clearly state that SmileCenter's proprietor prepared "impressions for a take-home whitening." Yet, contrary to his own clinical notes, SmileCenter's provider submitted a claim for a custom-fitted mouth guard. If the impressions were intended for an athletic mouth guard, then SmileCenter should have noted this fact within the member's dental records.

Regarding the second issue, SmileCenter indicates that the member disagreed with a certain flavor of fluoride and did not request a permanent reprieve from fluoride treatments. Once again, SmileCenter's comments are not consistent with the information detailed within the applicable member's dental record. In this case, the record states, "*No fluoride* due to feeling ill when applied" (emphasis added). SmileCenter did not note anything about preferred or unwanted fluoride flavors in the member's record.

In its response, SmileCenter concedes that it submitted two claims for fluoride treatments that were not supported with adequate documentation in the member's file but asserts that it actually provided these treatments. However, 130 CMR 450.205(A) states, "[t]he Division will not pay a provider for services if the provider does not have adequate documentation to substantiate the provision of services payable under MassHealth." Because SmileCenter did not comply with this fundamental recordkeeping regulation, the payments it received in this case should be recovered by the Commonwealth.

AUDIT RECOMMENDATIONS

In addition to specific recommendations to findings found herein, the OSA makes the following overall recommendations:

- 1) MassHealth should conduct a comprehensive audit of all claims submitted by SmileCenter from at least 2007 to the present.
- 2) MassHealth should conduct a quality assurance review to determine that all system changes and edits that have been recommended to DentaQuest have been implemented and are performing as intended.
- 3) MassHealth should conduct a thorough review of its dental program regulations so that the rules relative to allowable types of reimbursement are easy to understand and consistent with other MassHealth and federal guidance.

This report is being forwarded to the Massachusetts Office of the Attorney General and federal Health and Human Services – Office of the Inspector General for further review.