

CHAPTER 148

AN ACT concerning dental service corporations and amending P.L.1968, c.305.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1968, c.305 (C.17:48C-2) is amended to read as follows:

C.17:48C-2 Definitions.

2. As used in this act the following words and phrases shall have the stated meanings unless a different meaning clearly appears from the context:

(a) The term "dental service corporation" or "the corporation" shall mean a corporation which is (1) organized, without capital stock, and not for profit, for the purpose of establishing, maintaining and operating a nonprofit dental service plan, whereby the expense of dental services to subscribers and other covered dependents is paid in whole or in part by the corporation to participating dentists and to others as provided herein in return for premiums or other valuable considerations, and which (2) holds a certificate of authority issued under this act;

(b) The term "subscriber" shall mean a person to whom a subscription certificate is issued by the corporation and which sets forth the kinds and extent of the dental services for which the corporation is liable to make and which constitutes the contract between the subscriber and the corporation;

(c) The term "covered dependent" shall mean the spouse, civil union partner, or domestic partner, former spouse, former civil union partner, or former domestic partner for whom the subscriber is legally liable to provide dental coverage, an adult dependent or a child of the subscriber who is named in the subscription certificate issued to the subscriber and with respect to whom appropriate premium is specified in the certificate;

(d) The term "participating dentist" shall mean any dentist authorized to practice dentistry under the laws of this State and who agrees in writing with the corporation to provide the dental services specified in the subscription certificates issued by the corporation and at such rates of compensation as shall be determined by its board of trustees and who agrees to abide by the by-laws, rules and regulations of the corporation applicable to participating dentists, which rules and regulations may exclude a dentist: (1) who is suspended, debarred, or otherwise ineligible to participate in or provide services to persons covered by or receive payment from a government health care program, or (2) whose participation violates one or more standards established in accordance with State or federal laws or regulations;

(e) The term "dental service" shall mean any and all general and special dental services ordinarily provided by such licensed dentists in accordance with accepted practices in the community at the time the service is rendered;

(f) The term "commissioner" shall mean the Commissioner of Banking and Insurance.

2. Section 5 of P.L.1968, c.305 (C.17:48C-5) is amended to read as follows:

C.17:48C-5 Standards in reviewing application.

5. In reviewing any application for authority to operate under this act, the commissioner shall be guided by the following standards:

(a) It shall be shown that the initial working funds are adequate. No certificate of authority shall be issued to any applicant therefor except on receipt of evidence by the commissioner that such applicant is in possession of unencumbered funds of not less than \$25,000.00 and that such amount is held in cash or in bank to its credit. From and after the

issuance of a certificate of authority to an applicant, the corporation shall maintain such amount as a general surplus over and above its reserves, liabilities, and special contingent surplus.

(b) It shall be shown that the applicant has enlisted a sufficient number of participating dentists, with skills in appropriate fields and accessible to subscribers, to indicate ability to render the intended dental service. In carrying out the intent of this section the commissioner shall determine that at least 100 dentists have agreed to participate.

(c) It shall be shown that the applicant will accept as a participating dentist any dentist who is authorized to practice dentistry in the jurisdiction where his services are to be rendered, and is ready, available and willing to render dental service to be provided under a contract or contracts; provided, however, that any dentist who is suspended, debarred, or otherwise ineligible to participate in or provide services to persons covered by or receive payment from a governmental health care program, and any dentist whose participation would violate one or more standards established in accordance with State or federal laws or regulations need not be accepted as a participating dentist.

3. Section 6 of P.L.1968, c.305 (C.17:48C-6) is amended to read as follows:

C.17:48C-6 Board of trustees; membership; chairman.

6. The activities and operations of a dental service corporation shall be conducted by a board of trustees composed initially of an even number of persons, not less than 10 in all, as may be specified in the certificate of incorporation or an amendment thereto, 1/2 of whom shall be persons who are licensed to practice dentistry in this State and who are holders of active registration certificates in good standing. The initial members of the board shall elect one additional person to serve as chairman of the board to preside at all meetings of the board, and who shall be a member of the board and participate in its work and functions, except that he shall cast no vote on any matter coming before the board except in case of a tie in the votes cast by the other members of the board. The offering and operation of contracts and agreements under the authority of this act shall not constitute the practice of dentistry.

4. Section 7 of P.L.1968, c.305 (C.17:48C-7) is amended to read as follows:

C.17:48C-7 Contracts; provisions.

7. Every contract made by any dental service corporation to provide payment for dental service shall provide for the payment for dental service for a period of 12 months or less, and no contract shall be made providing for the inception of such services at a date later than one year after the actual date of the making of such contract. Any such contract may provide that it shall be automatically renewed from year to year unless there shall have been 90 days' prior written notice of termination by either the subscriber or the corporation. No contract between the corporation and a subscriber shall provide for payment for dental services for more than one person, except that a family contract may provide that payment will be made for dental services rendered to a subscriber, or covered dependents, or both.

5. Section 15 of P.L.1968, c.305 (C.17:48C-15) is amended to read as follows:

C.17:48C-15 Agreements with dentists; approval of payments; corporate records.

15. No dental service corporation shall enter into any contract with a subscriber unless and until it shall have filed with the commissioner a copy of the agreement proposed to be

entered into by the corporation and the participating dentists. Every such agreement shall provide for the payment of dental services to subscribers and covered dependents to the end of the subscription certificate year; that 30 days' written notice of termination of such agreement may be given to the corporation at any time by any participating dentist but shall not apply to any subscription certificate in force at the time of such notice until the first date thereafter when such subscription certificate may properly be terminated by the corporation, and that the agreement of the dentist to render such service to the end of any certificate year shall not be affected by cessation of the transaction of business by reason of appropriate resolution of the board of trustees, or directors of such corporation, injunction issued by a court of competent authority, legislative act or by any other exercise of judicial, administrative or legislative authority; provided, that this requirement shall not apply to any subscription certificate which is not maintained in force by the payment of premiums required thereby. There shall be included in the minutes of the board of trustees of every dental service corporation a record of the approval of payments to be made to participating dentists. The corporation shall maintain in its office complete records of all the dental services rendered to subscribers and covered dependents in such form as will indicate the kind of services rendered, the amounts claimed for such services by the participating dentists, and the amounts paid by the corporation during the preceding seven-year period. No payment to any participating dentists shall be authorized by the board of trustees except in accordance with a plan of payments adopted by the board and recorded in the minutes of a meeting. Every dental service corporation shall furnish a copy of the plan of payments to the commissioner at the commissioner's request. If the commissioner at any time shall notify the corporation of his disapproval of any rate of payment included in the plan of payments as being excessive or inadequate in itself or in relation to other rates of payment, payment shall not thereafter be made at the rate. In making his determination the commissioner shall give consideration to prevailing rates of payment by insurers and hospital, medical and dental service corporations of this and other States for similar services under similar conditions, the fair relationships of the values of the different kinds of services covered in the plan of payments and any other relevant facts. Upon request of the commissioner, the corporation shall furnish to the commissioner such information as the commissioner shall specify to facilitate review of any plan of payments.

6. Section 16 of P.L.1968, c.305 (C.17:48C-16) is amended to read as follows:

C.17:48C-16 Group contract; benefits; "employees" defined.

16. A dental service corporation may also issue to a policyholder a group contract, covering at least one employee other than a proprietor, a partner in a partnership or a shareholder that owns more than two percent of the shares of a Subchapter S corporation, or at least 10 members of any other eligible group, as well as immediate family members of those individuals at the date of issue, if it conforms to the following description:

(a) A contract issued to an employer or to the trustees of a fund established by one or more employers, or issued to a labor union, or issued to an association formed for purposes other than obtaining such contract, or issued to the trustees of a fund established by one or more labor unions or by one or more employers and one or more labor unions, covering employees and members of associations or labor unions.

(b) A contract issued to cover any other group which the commissioner determines may be covered in accordance with sound underwriting principles.

Benefits may be provided for one or more members of the families or one or more dependents of persons who may be covered under a group contract referred to in (a) or (b) above.

The contract may provide that the term "employees" shall include as employees of a single employer the employees of one or more subsidiary corporations and the employees, individual proprietors and partners of affiliated corporations, proprietorships and partnerships if the business of the employer and such corporations, proprietorships or partnerships is under common control through stock ownership, contract or otherwise. The contract may provide that the term "employees" shall include the individual proprietor or partners of an individual proprietorship or a partnership. The contract may provide that the term "employees" shall include retired employees. A contract issued to trustees may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. A contract issued to the trustees of a fund established by the members of an association of employers may provide that the term "employees" shall include the employees of the association.

7. Section 18 of P.L.1968, c.305 (C.17:48C-18) is amended to read as follows:

C.17:48C-18 Written group contracts; statements.

18. Every group contract entered into by a dental service corporation with any policyholder shall be in writing and a contract form stating the terms and conditions thereof shall be furnished to the policyholder to be kept by him. No group contract form shall be used unless it contains the following provisions:

(a) A statement of the contract rate payable to the dental service corporation for the original period of coverage, the time or times at which, the manner in which, the contract rate due is to be paid, and the basis, if any, on which the rate may subsequently be adjusted;

(b) A provision that all contract rates due under the contract shall be paid to the dental service corporation on or before the due date thereof or within such period of grace as may be specified therein;

(c) A statement of the nature of the dental services to be paid for and the period during which such payments will be made, and if there are any services to be excepted, a detailed statement of such exceptions;

(d) A provision that the contract, any endorsements or riders thereto, the application of the policyholder in whose name the contract is issued, a copy of which shall be attached to the contract, and the individual applications, if any, of the employees or members shall constitute the entire contract between the parties and that all statements contained in any such application for coverage shall be deemed representations and not warranties;

(e) A provision that there shall be issued to the policyholder, for delivery to the employee or member, a certificate or other document which sets forth or summarizes the essential features of the coverage including the time, place and method for making claims for benefits;

(f) A provision that all new employees or new members, as the case may be, in the groups or classes eligible for the coverage must be added to the eligible groups or classes;

(g) A statement of the terms and conditions, if any, upon which the contract may be terminated or amended. Any notice to the policyholder shall be effective if sent by mail to the policyholder's address as shown at the time on the corporation's records. The notice to the policyholder as herein required shall be sent at least 30 days before the termination or amendment of the contract takes effect.

Any such group contract may contain a provision that all dental services paid for by a dental service corporation shall be in accordance with the accepted dental practices in the community at the time, but the corporation shall not be liable for injuries resulting from negligence, misfeasance, malfeasance, nonfeasance or malpractice on the part of any officer or employee or on the part of any dentist or others engaged by him in the course of rendering dental services to persons covered.

Any dental service corporation may classify persons covered whereby under specified circumstances a covered person may pay a participating dentist for dental services an amount in addition to that payable by the corporation for dental services and the group contract shall contain the provisions thereof and specify such circumstances.

8. Section 21 of P.L.1968, c.305 (C.17:48C-21) is amended to read as follows:

C.17:48C-21 Experience rates, commissioner's determination.

21. No dental service corporation shall issue group contracts which are not experience rated pursuant to section 20 of this act, if the commissioner has determined that those rates are excessive, inadequate or unfairly discriminatory. A dental service corporation shall furnish any schedule of rates to the commissioner upon request. It shall be unlawful for any corporation to effect any such group contract according to rates which have been disapproved by the commissioner.

9. This act shall take effect immediately, and apply to dental service corporation contracts entered into or renewed after the date of enactment.

Approved November 9, 2015.