CHAPTER 254

AN ACT concerning certain dental provider networks, and supplementing chapter 30 of Title 17B of the New Jersey Statutes.

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

C.17B:30-60 Definitions relative to certain dental provider networks.

1. As used in this act:

"Contracting entity" means any person or entity that enters into direct contracts with providers for the delivery of dental services in the ordinary course of business, including a third party administrator as defined by section 1 of P.L.2001, c.267 (C.17B:27B-1) and a dental carrier.

"Covered person" means an individual who is covered under a dental benefits or health benefits plan for dental services.

"Dental benefits plan" means a benefits plan which pays or provides dental expense benefits for covered dental services and is delivered or issued for delivery in this State by or through a dental carrier on a stand-alone basis.

"Dental carrier" means a dental insurance company, dental service corporation, or dental plan organization authorized to provide a dental benefits plan in New Jersey or a health benefits plan in New Jersey that includes coverage for dental services.

"Dental services" means services for the diagnosis, prevention, treatment, or cure of a dental condition, illness, injury, or disease. Dental services shall not include those services delivered by a provider under a health benefits plan that are billed as medical services under that plan.

"Health benefits plan" means any hospital and medical expense incurred policy, health maintenance organization subscriber contract, or any other health care plan or arrangement that pays for or furnishes medical, dental, or health care services, whether by insurance or otherwise. Health benefits plan shall include a dental benefits plan. "Health benefits plan" shall not include one or more, or any combination of, the following: coverage only for accident, or disability income insurance; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and private passenger automobile insurance; workers' compensation or similar insurance; automobile medical payment insurance; credit-only insurance; coverage for on-site medical clinics; coverage similar to the foregoing as specified in federal regulations issued pursuant to the federal "Health Insurance Portability and Accountability Act of 1996," P.L.104-191, under which benefits for medical care are secondary or incidental to other insurance benefits; benefits for long-term care, nursing home care, home health care, or community-based care; specified disease or illness coverage, hospital indemnity or other fixed indemnity insurance, or such other similar, limited benefits as are specified in regulations; Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act (42 U.S.C. s.1395ss(g)(1)); coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code (10 U.S.C. s.1071 et seq.); or other similar limited benefit supplemental coverages.

"Provider" means an individual or entity which, acting within the scope of its licensure or certification, provides dental services or supplies defined by the health benefits or dental benefits plan. Provider includes, but is not limited to, a dentist, physician or other health care professionals licensed pursuant to Title 45 of the Revised Statutes acting within the scope of his or her licensure. "Provider" shall not include a physician organization or

physician hospital organization that leases or rents the physician organization’s or physician hospital organization’s network to a third party.

“Provider network contract” means a contract between a contracting entity and a provider specifying the rights and responsibilities of the contracting entity and providing for the delivery of and payment for dental services to covered persons.

“Third party” means a person or entity that enters into a contract with a contracting entity or with another third party to gain access to the dental services or contractual discounts of a provider network contract. “Third party” shall not include any employer or other group for whom the contracting entity or dental carrier provides administrative services, including at least the payment of claims.

C.17B:30-61 Requirements for granting third party access.

2. a. A contracting entity shall not grant to a third party access to a provider network contract, or a provider’s dental services or contractual discounts, or both, pursuant to a provider network contract, unless the contracting entity meets the requirements of subsections b. and c. of this section.

b. A dental carrier may grant access to its provider network contract to a third party if, at the time the contract is entered into, and at any time the contract is renewed, the dental carrier allows any provider which is part of the carrier’s provider network to choose not to participate in third party access to the contract. The third party access provision of any provider contract shall be clearly identified in the provider contract. A dental carrier shall not grant third party access to the contract of any provider that does not participate in third party access.

c. A contracting entity may grant a third party access to a provider network contract, or services or discounts pursuant to a provider network contract, if:

(1) The contract specifically states that the contracting entity may enter into an agreement with third parties allowing the third parties to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity, and when the contracting entity is a dental carrier, the provider chose to participate in third party access at the time the provider network contract was entered into or renewed;

(2) The third party accessing the contract agrees to comply with all of the contract’s terms;

(3) The contracting entity identifies, in writing or electronic form to the provider, all third parties in existence as of the date the contract is entered into or renewed;

(4) The contracting entity includes on its website a listing, updated no less frequently than every 90 days, identifying all third parties;

(5) The contracting entity requires each third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is taken , except this requirement shall not apply to electronic transactions mandated under the “Health Insurance Portability and Accountability Act of 1996,” Pub.L.104-191;

(6) The contracting entity notifies the third party of the termination of a provider network contract no later than 30 days from the termination date with the contracting entity;

(7) A third party ceases its right to a provider's discounted rate as of the date of termination of the provider's contract with the contracting entity; and

(8) The contracting entity delivers to participating providers a copy of the provider network contract relied on in the adjudication of a claim within 30 days after the date of a request from the provider.

d. No provider shall be bound by or required to perform dental treatment or services under a provider network contract that has been granted to a third party in violation of this act.

C.17B:30-62 Inapplicability.

3. This act shall not apply to:

a. a provider network contract for dental services provided to beneficiaries of the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), the Medicare program established pursuant to the federal Social Security Act, (42 U.S.C. s.1395 et seq.), the State Health Benefits Program, the School Employees' Health Benefits Program, or the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.); and

b. situations in which access to a provider network contract is granted to a contracting entity or dental carrier operating under the same brand licensee program as the contracting entity or to an entity that is an affiliate of the contracting entity. A listing of all affiliates of the contracting entity shall be made available to the provider, in writing or electronic form, prior to access being granted as provided in subsection b. of section 2 of this act.

C.17B:30-63 Rules, regulations.

4. The Commissioner of Banking and Insurance shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to effectuate the purpose of this act. The commissioner shall ensure the rules and regulations for this act include penalty provisions for contracting entities and dental carriers that violate the provisions of this act.

5. This act shall take effect on January 1, 2020 and shall apply to all provider network contracts that are delivered, issued, executed or renewed in this State on or after the effective date. The commissioner may take any anticipatory administrative action in advance of January 1, 2020 as shall be necessary for the implementation of this act.

Approved August 23, 2019.