

2009 SENATE HUMAN SERVICES

SB 2207

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2207

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 01/19/09

Recorder Job Number: 7222, 7235

Committee Clerk Signature

Mary K. Mowson

Minutes:

Senator J. Lee opened the hearing on SB 2207

Joseph Cichy introduced SB 2207. I represent the ND Dental Association and stand in support of this bill. Last September the Dental Association passed a resolution to seek legislation to allow dental insurance subscribers to sign their rights to dental insurance benefits to their provider. Dr. Brad King is here and will discuss the need and purpose of the bill. We did meet briefly before the hearing with the insurance commissioner personnel and found that there may be a couple of minor amendments that may need to be made. One minor one is to take the word hospital out of line 8 of the bill. The other would be to include chapter 26.117 which has to do with non-profit dental plans. That was not included initially because in that chapter there is a provision that every subscriber must have free choice of their provider and we think that the inability to sign benefits is limiting to their free choice of provider. Dr. King will address that.

Dr. Bradley King Senior partner at Prairie Rose Family Dentist. Spoke in support of SB 2207.

See attachment #1.

Senator J. Lee I don't have dental insurance and my family did it one time briefly after both kids had braces. You say that dentists set their fees, is that a fancy way of saying that I am paying more and others are paying less?

King Who are you saying is paying more?

Senator J. Lee Me, as a private pay person

King We are required by the insurance companies to charge the same whether you have insurance or not. There is no difference.

Senator J. Lee Well then I am not quite understanding what you are saying when you say that dentists set their fees so that the half of their clients that do not have insurance can afford your services.

King Because when I walk into an office and quote them that crown costs this much, I have to look them in the eye. If they can't afford it, they will go elsewhere. There is competition among dentists. People do shop around for dental care. You can do that for dentistry, not medicine. People do have choice with dentistry.

Senator J. Lee There is dentists that work out payment plans so that somebody that does not have insurance can make it work. I am just trying to understand what the rates are I want to understand if there is anything else affecting rates.

King One of the things our office does is have an agreement with Wells Fargo to allow patients a year to pay back their debt with no interest. We, the dentists, pay the interest.

Senator Dever Are we talking strictly about insurance policies and you go through your dentist or are we also talking about membership plans where dentists are a part of that program, eligible providers, not necessarily HMO's but legal services?

King In dentistry that is a capitation program, as far as I know there are no capitation programs in ND.

Rid St. Aubyn Representing Blue Cross Blue Shield ND. Spoke in opposition to SB 2207. See attachment #2. Explained the examples that he gave. The member may end up paying the provider discount and their responsibility. This could lead to providers refusing to be a part of the process because there is no benefit to the. Also made the point that if there are no providers participating, there will be no set amount that dentists must charge, they will not have insurance setting the standards so can charge what they want. About 50% of their members are self funded. This bill would not affect them.

Senator J. Lee Anyone neutral? Closed the hearing on SB 2207.

Recorder #7235

Senator J. Lee Reopened the discussion on SB 2207.

-211,000 people are on the DSC plan in ND, about half of them are self funded so the bill would not affect them. I understand why they would rather get the check from the blues instead of me but I think this bill goes beyond being reasonable because they can charge the amount they want. The dentist could go after the patient for the bill amount and the discount because they wouldn't have to accept the discounted rate.

-The more I read it makes no sense for the dentist to be part of this process

-Would this bill turn us into a collection agency for the non participants?

-What are the incentives to be a provider in this program? Why would a dentist set lower rates?

-The dentist in this position is like the lien holder on a mortgage. I can't imagine this is consumer friendly.

-Maybe there needs to be a penalty for providers who don't participate.

Called Rod St. Aubyn

-This bill is not very consumer friendly or potentially dentist friendly.

Senator Dever Move to Do Not Pass

Senator Erbele Second

Discussion-Rod St. Aubyn returns to room

-Delta Dental Insurance-big provider nationally. Do not know if they are big in ND. Most employers who carry health plans offer dental as an option.

-Dentists can recognize/accept many providers?

-That is correct. There are some dental plans that do not offer much in terms of benefits. Some dentists do not want to carry certain plans because they are limited by fee schedules.

-There is no Delta Dental in Jamestown and Bismarck because dentists choose not to carry them?

-That is correct.

-Is there any way we can find out information about Delta? Maybe find out about it online.

Clerk called the roll on the motion to **Do Not Pass. Yes, 6; No, 0, Absent: 0.**

Carried by Senator Dever.

Date: 1-19-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2207

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Rerefer to Appropriations
 Adopt Amendment Reconsider

Motion Made By Sen. Dever Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Dever

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 19, 2009 4:06 p.m.

Module No: SR-10-0524
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2207: Human Services Committee (Sen. J. Lee, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2207 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

SB 2207

Testimony of Dr. Bradley King

Senate Bill No. 2207

Human Services Committee and Chairman Judy Lee

January 19, 2009, 11:15 a.m.

Senator Lee and members of the Committee;

My name is Dr. Bradley King. I appear here in support of SB 2207. I have been a dentist for 27 years and am senior partner at Prairie Rose Family Dentists in Bismarck. For six years I was a board member of the Dental Service Corporation (commonly thought of as Blue Cross of North Dakota Dental Insurance).

An individual with a dental plan should get to say:

Don't pay me... pay him. Don't pay him any differently than you would pay me, but pay him. That is the essence of this Bill.

This is a very simple bill relating to assignment of dental benefits, ONLY as it relates to dentists and oral surgeons. Assignment of benefits is when a patient directs an insurance company to make payment directly to the health care provider instead of having the payments made to the patient. I have included a dental claim form, developed by the Insurance industry along with the American Dental Association showing where the patient signs to direct this to take place. While most insurers abide by the patient's wishes, there are some that will only pay directly to the dentist if that dentist is a member of their provider network. This leaves the patient with the difficulty of having to pay for their dental treatment completely out of their pocket and to wait for their insurer to reimburse them. There are some areas of the state where insurers do not have any dentists or specialists in their provider network leaving patients the financial problem of having to pay fully for their treatment or to travel long distances for their treatment. An example is Delta Dental Insurance which has no dentists in Jamestown or Valley City and no orthodontists in Bismarck. This means families with Delta Dental policies living in those areas must travel some distance in order to avoid being financially penalized by their insurer. The landscape of dental insurance has changed since I began practicing. While the employer picks the insurer, now many times it is the patient paying all or part of the premium for their

dental insurance not the employer. We feel that the patient should have the right to choose their dentists without being financially penalized by their insurer. Patients should have the right to see a dentist that they trust and lives in their community. A parent should not have to drive their child from Bismarck to Fargo, once a month for two years, for braces, to avoid having to initially come up with \$1000 for their child's treatment. Someone living in Hettinger or Mott, where there are wonderful dentists, should not have to drive to Dickinson for their dental treatment.

Please understand there is a large difference between medical insurance and dental insurance. Dental insurance provides financial assistance to pay just a portion of the dental treatment. It does not pay most of the bill as most types of insurance do. To quote the Delta Dental Administrative Manual dental plans are different from medical plans especially since "dental services are less costly and more predictable than medical care". This bill will in no way increase the cost of dental insurance. Nothing in this bill mandates that insurers pay a penny more in benefits than they are now. The opponents of this bill may argue that the insurance companies help to control what dentists charge. The truth is that only half of our patients have dental insurance and if you add together deductibles, co-pays, exclusions, and yearly maximums, dental insurance pays only a little over half the costs of treatment for those with insurance. Dentists set their fees so that the half of their patients without dental insurance can afford their services. That and not the insurers is what drives us to control our costs.

Thirteen other states have seen fit to enact laws directing assignment of benefits. I have listed them at the bottom of my written testimony. The goal of this bill is to provide more convenience and freedom of choice to our patients.

If you have dental benefits you should be able to say:

Don't pay me... pay him. Don't pay him any differently than you would pay me, but pay him.

Thank you

States where insurers must directly reimburse the dental provider if the patient assigns the right to payment: Alaska, Arkansas, Colorado, Connecticut, Georgia, Idaho, Maine, Nevada, Oklahoma, Rhode Island, Tennessee, Texas, Virginia

Testimony on SB 2207
Senate Human Services Committee
January 19, 2009

Madam Chair and Committee Members, for the record I am Rod St. Aubyn representing Blue Cross Blue Shield of North Dakota (BCBSND). I appear before you today strongly opposing SB 2207. If passed, this bill will have a significant impact on the insurance industry. It 1) Creates confusion for members and dental providers, 2) Increases costs to consumers, 3) Threatens the viability of provider networks, and 4) Potentially increases the cost of all health care.

I would like to take a few minutes to explain how the system works and how this bill will result in additional costs to insurance members and will result in higher overall medical costs. Dental Services Corp. is an affiliate of Nordin Mutual Insurance Company, but is independently governed by its own Board of Directors. There are 9 directors who are participating providers of the DSC plan and 2 consumer Board members. Its plan design is developed by the Board. All claims are processed and administered by BCBSND.

Most insurers contract with medical providers to become what is called "participating providers." What this means is that the "contracted entity" agrees to the prescribed allowed charges established for the plan. By being a participating provider, this provider agrees to accept a discounted fee schedule and not "balance bill" the patient the difference between the provider's usual billed charge and the insurer's allowed charge. In return for contracting with the insurer, the insurer agrees to process the insurer's share of the allowed charge directly to the participating provider. This significantly reduces the provider's accounts receivable and ultimately reduces the amount of bad debt for the provider. By becoming a participating provider, it brings more of the insured customers to that provider, since he/she participates with the patient's insurer.

In many situations, insured members are permitted to go to nonparticipating providers. However, since there is not a contractual arrangement between the insurer and the provider, the reimbursement for the medical service is mailed directly to the member.

Creates confusion for members and dental providers

Currently there are two ways in which health plans offering dental benefits are funded by employers in North Dakota.

Senate Bill Number 2207 will lead to confusion and uncertainty in the administration of health care services at many levels because it will create confusion related to dental plans that are sponsored and paid for by the employer group, and with current contracts already in place.

There are currently two ways in which health plans offering dental benefits to employees are funded by employers in North Dakota. The employer can purchase insured coverage from an insurance company offering dental coverage, or the employer can sponsor its own self-funded health plan with dental services included.

A self-funded health plan has enhanced protection under federal law that exempts them from having to follow the requirements of state laws, such as that created by this bill. The effect of this exemption will create two different reimbursement systems in North Dakota based on the type of health plan the patient received services under. If the patient received dental services under a self-funded employer sponsored health plan, the assignment statute will not apply and the patient will not be permitted to assign any benefits to a dentist or oral surgeon. The insurer will reimburse the member, just as occurs today.

However, with a patient receiving dental services under an insurance plan, the statute may apply and require an insurer, such as DSC, to reimburse the dentist or oral surgeon.

This will result in frustration and confusion for not only dentists and oral surgeons caused by not understanding whether or not they can require an assignment, but also for patients who will receive different treatment based on the type of dental service plan covering their benefits.

There are currently participating agreements in place with numerous dentists and oral surgeons in North Dakota that restrict their ability to request assignment of benefits from their patients under the terms of these existing contracts. Any law enacted that contradicts this restriction could not be imposed to interfere with the contracts currently in place with these dentist and oral surgeons.

The terms of current DSC insurance contracts extending dental benefits to patients restrict the ability of the patient to assign these benefits. These current contracts will not be affected by the statute but any new agreements may, causing even greater confusion.

Increases costs to consumers

SB 2207 requires insurers to give nonparticipating providers (dentist and oral surgeons in this case) all the benefits of being a participating provider, without offering our members the discounted rates provided by all participating providers. In effect, the insurer is required to make a direct reimbursement of claims to a nonparticipating provider, with whom we have no contractual relationship. In addition this nonparticipating provider is allowed to bill the patient (our member) their billed charge instead of accepting our allowed charge as payment in full. I will use the following example to illustrate the point.

In this example, we are going to say the normal or customary charge for a service is \$120.

The allowed charge for our members is \$100 for this service.

The plan is a simple 80%/20% cost share.

A patient goes to a participating provider. The cost share arrangement would be as follows:

Billed charge - \$120

Discount allowed by the participating provider - \$20

Allowed Charge - \$100

DSC would pay \$80

Member would pay \$20

DSC sends the \$80 directly to the provider and the provider collects the member's cost share (\$20) directly from the member.

A second patient goes to a nonparticipating provider. The cost share arrangement would be as follows:

Billed charge - \$120

Discount allowed by the nonparticipating provider - \$0

Allowed Charge \$100

DSC would pay \$80

Member would pay \$40

DSC would send the \$80 to the member, since it has not contractual arrangement with the provider.

If SB 2207 were to pass, DSC would be obligated to send the member's check directly to the nonparticipating provider and the member would be "balance billed" \$40.

I have included some real life examples from my wife and I. All totals under the columns identified as "**Service Benefits Credits**" or "**Provider Discounts**" are the discounts secured by the health plan which would be passed on to member if our provider network would be affected by this bill. These totals would be added to the other charges as "**Subscriber Responsibility**" or "**Your responsibility to the provider**"

Threatens the viability of provider networks

Permitting a member to assign payment of reimbursement from an insurance company eliminates one of the incentives to providers to agree to participate with insurers and directly impacts the strength and viability of the network providers available from which patients may choose a dentist or oral surgeon. This aspect should be a matter of negotiation left to the parties to contract and for dentists and oral surgeons to determine whether or not to participate. Senate Bill Number 2207 merely serves to remove this from the free-market system, unilaterally allowing the legislature to enact a law that does nothing but serve to protect the health care providers while at the same time driving up the costs of dental services to consumers in North Dakota.

Potentially increases the cost of all health care

If SB 2207 were to pass, there will be no advantage for the provider to become a participating provider, since the nonparticipating provider will have the same benefits as the participating provider, but in addition will not have to adhere to the fee schedule and can balance bill their customers for the difference between the billed charge and the insurance company's allowed charge. In addition, I can guarantee you that all other medical providers will pursue similar legislation to provide them with the same rights. As a result, discounts offered through the health plans will no longer exist. The consumer will incur even higher cost share

In summary, SB 2207 interferes with existing contracts and severely limits insurers' ability to negotiate lower fees for its members. It will create confusion for the providers, threatens the viability of provider networks, will certainly increase the dental consumer's cost, and has the real potential to spread to all other providers resulting in higher health care cost for all North Dakota citizens. We urge you to give SB 2207 a Do Not Pass and defeat it in the full Senate.

Madam Chair, I would be willing to try to answer any questions the committee may have.



Dental Service Corporation
of North Dakota

EXPLANATION OF BENEFITS

DATE: 10 18 02

4510 - 13th Avenue S.W.
Fargo, North Dakota 58121-0001

ST AUBYN RODNEY L

BENEFIT PLAN NUMBER: [REDACTED]

PAGE NUMBER: 1

LOCAL: 701-277-2227
ND: 800-342-4718

SERVICE DATE MO DAY YR	** SERV CODE	SERVICE PROVIDED BY	CHARGE	BENEFITS ALLOWED	SERVICE BENEFITS CREDIT	NON COVERED		NON COVERED		SUBSCRIBER RESPONSIBILITY	PROCESSED DATE MO DAY YR
						AMOUNT	REASON	AMOUNT	REASON		
RODNEY		CLM # [REDACTED]									
10 07 02	1	[REDACTED]	45.00	45.00							10 18 02
10 07 02	2	[REDACTED]	30.00			30.00	1			30.00	
RODNEY L		CLM # [REDACTED]									
09 26 02	1	[REDACTED]	50.00	43.00	7.00						10 18 02
09 26 02	33	[REDACTED]	715.00	520.00	65.00	130.00	2			130.00	
09 26 02	92	[REDACTED]	35.00	14.40	17.00	3.60	2			3.60	
TOTALS			875.00	622.40	* 89.00	163.60				163.60	

If you have any questions about this Explanation of Benefits, please call or write our Member Services department at the telephone number or address on this form. For additional information regarding the process for reconsideration of your claim, please refer to your Benefit Plan.

* PARTICIPATING DENTISTS HAVE AGREED BY CONTRACT TO ACCEPT THE DSC BASIC BENEFITS AS PAYMENT IN FULL FOR COVERED SERVICES

EXPLANATION OF NONCOVERED CHARGES:

THIS IS NOT A BILL

- [REDACTED] Your contract covers 1 set of bitewing x-rays per calendar year. Allowance up to this maximum has been provided.
- [REDACTED] Benefits are provided for 80% of the 'Plan' allowance for this service. You are responsible for payment of the remaining 20% coinsurance.

** PAYMENT HAS BEEN MADE TO THE DENTAL PROVIDER

01-09DIAGNOSTIC 20-29RESTORATIVE 40-49PERIODONTIC 60-69PROSTHODONTIC 80-89ORTHODONTIC
10-19PREVENTIVE 30-39ENDODONTIC 50-59REMO PROSTHODONTIC 70-79ORAL SURGERY 90-99MISC

Administrative Services Furnished By Blue Cross Blue Shield of North Dakota



Dental Service Corporation
of North Dakota

EXPLANATION OF BENEFITS

DATE: 11 01 02

4510 - 13th Avenue S.W.
Fargo, North Dakota 58121-0001

ST AUBYN RODNEY L

BENEFIT PLAN NUMBER: [REDACTED]

PAGE NUMBER: 1

LOCAL: 701-277-2227
ND: 800-342-4718

SERVICE DATE MO DAY YR	** SERV CODE	SERVICE PROVIDED BY	CHARGE	BENEFITS ALLOWED	SERVICE BENEFITS CREDIT	NON COVERED		NON COVERED		SUBSCRIBER RESPONSIBILITY	PROCESSED DATE MO DAY YR
						AMOUNT	REASON	AMOUNT	REASON		
RODNEY L		CLM # [REDACTED]									
10 07 02	23	[REDACTED]	115.00	74.40	22.00	18.60	1			18.60	11 01 02
10 07 02	27	[REDACTED]	650.00	520.00		130.00	1			130.00	
TOTALS			765.00	594.40	* 22.00	148.60				148.60	

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EXPLANATION OF NONCOVERED CHARGES:

THIS IS NOT A BILL

1 [REDACTED] Benefits are provided for 80% of the 'Plan' allowance for this service. You are responsible for payment of the remaining 20% coinsurance.

BREAKDOWN OF CHARGES AND BENEFITS

Date: 03/18/08 SUSAN M ST AUBYN

Patient/Claim Number Provider/Type of Service	Processed Date	Charges Submitted	Covered Amounts:			Previously Processed	Non-covered and Cost Sharing Amounts		NOTE
			Provider Discount	Blue Cross Blue Shield	Non-covered Charges		Coinsurance	Co-payment	
SUSAN M / Claim Date of service : 01/31/08 [REDACTED] / Outpatient Hospital	03/18/08	72.00	37.39 A	31.15					
SUSAN M / Claim Date of service : 02/04/08 [REDACTED] / Outpatient Hospital		904.00	82.15 A	739.66			3.46 B		
TOTALS:		976.00	119.54	770.81			82.19 B	85.65	

*** YOUR RESPONSIBILITY TO THE PROVIDER: 85.65**

If you have any questions about this Explanation of Benefits, please call or write our Member Services department at the telephone number or address on this form. For additional information regarding the process for reconsideration of your claim, please refer to your Benefit Plan. Due to federal regulations and our continuing commitment to confidentiality, Explanation of Benefits will be addressed to the member who received services.

EXPLANATION OF NOTES:

- Your responsibility has been reduced by this amount as a result of a provider agreement with Blue Cross Blue Shield of North Dakota.
- This amount has been applied to your coinsurance.

BREAKDOWN OF CHARGES AND BENEFITS

Date: 03/11/08 SUSAN M ST AUBYN
 Benefit Plan Number: [REDACTED]

Patient/Claim Number Provider/Type of Service	Processed Date	Charges Submitted	Covered Amounts:			Uncovered and Cost Sharing Amounts			
			Provider Discount	Blue Cross Blue Shield	Previously Processed	Uncovered Charges	Deductible	Coinsurance	Copayment
SUSAN M / Claim [REDACTED] Date of service : 02/23/08 [REDACTED] / Outpatient Hospital	03/11/08	904.00	82.15 A	522.22			241.60 B	58.03 C	
SUSAN M / Claim [REDACTED] Date of service : 02/22/08 [REDACTED] / Outpatient Hospital	03/11/08	2165.75	131.25 D 1290.36 E	669.73				74.41 C	
TOTALS:		3069.75	1503.76	1191.95			241.60	132.44	

*** YOUR RESPONSIBILITY TO THE PROVIDER: 374.04**

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EXPLANATION OF NOTES:

- Your responsibility has been reduced by this amount as a result of a provider agreement with Blue Cross Blue Shield of North Dakota. (00-543-00)
- This amount has been applied to your deductible. (00-085-00)
- This amount has been applied to your coinsurance. (00-086-00)
- This charge exceeds the amount allowed for these services. This amount is not your responsibility. (00-526-00)