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National Association
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April 4, 2002

Dr. Simon P. Cohn

Chairman, Subcommittee on Standards and Security
National Committee on Vital and Health Statistics
6525 Belcrest Road, Room 1100
Hyattsville, Maryland 20782-2003

RE: American Dental Association (“ADA”) Code Set Revision Committee

Dear Dr. Cohn:

On behalf of the National Association of Dental Plans (“NADP”), we would like to thank you for the opportunity to share our comments and thoughts with the Subcommittee. We are writing in response to the March 13, 2002 letter to the Subcommittee from the ADA.

NADP would like to take this opportunity to publicly recognize the ADA for the careful and detailed review of the concerns voiced by NADP at the February 6, 2002 hearing of the Subcommittee. In their letter, the ADA agrees with several of the issues raised by those testifying on behalf of the third-party payer community.

In fact, the ADA agrees to:

- Consider possible standards or mileposts to insure the Code Revision Committee (“CRC”) is open and inclusive;
- Review all change requests submitted to the CRC regardless of the appearance of duplication;
- Improve the notification and process for meetings and proceedings of the CRC; and
- Modify language within the current ADA Code licensure agreements.

Each of these actions alone are commendable and the undertaking of such a broad slate of reforms and revisions shows that the ADA is willing to review, consider and implement changes from interested parties in the dental benefits industry.

“the representative and recognized resource of the dental benefits industry”

Dr. Simon Cohn
April 4, 2002
Page Two

In fact, Edward Murphy, the NADP Chairman of the Board who testified at the February 6 hearing, and I have been asked to meet with Dr. James B. Bransom, ADA Executive Director, at the ADA headquarters on April 23rd. This meeting is the first ever in the history of NADP and comes after requests to previous ADA administrations for such a meeting were disregarded. We are encouraged by the collegial and professional attitude that the ADA has shown in addressing our critiques and comments.

There are, however, a few comments that we must share relating to the ADA's March 13 letter to the Subcommittee.

Settlement of Litigation between Delta Dental Plans Association (“DDPA”) and the ADA:

In their testimony before the Subcommittee and correspondence to NADP, the Subcommittee and DDPA, the ADA has referred to the settlement between the ADA and DDPA. While this settlement may resolve several issues between the two parties to a private lawsuit, we feel that this settlement should not be a constraint on the dental benefits industry who have not seen nor were parties to it.

We further question the efficacy of such a private settlement to have broad impact on parties that were not subject to the lawsuit and the settlement; in particular on a process that sets standards sanctioned by the federal government. This settlement was negotiated by the ADA and DDPA without the advice, consent and participation of many other interested and affected parties in the dental benefits industry.

We feel that such a settlement cannot and should not hinder the participation and interactions of those private parties and associations that were not privy to the negotiations and the settlement with regard to the CRC. While it may be reasonable for DDPA to assure itself a seat at the table with the settlement, it is not reasonable for the settlement to preclude the participation of other dental benefits trade associations.

We do note that the ADA states in their response to the Subcommittee that they are willing to consider the addition of NADP to the CRC process. In their letter, the ADA states, “Should there be a call to modify the settlement agreement to accommodate NADP membership, the ADA as well as the DDPA as signatories to the agreement would have to jointly consider such a change.”

We have attached a copy of the February 27, 2002 letter from DDPA in which the DDPA President & CEO, Ms. Kim E. Volk, clearly states that DDPA has no objections to modifying the settlement to include NADP in the CRC and has, in fact, already instructed her legal counsel to explore possibilities relating to the inclusion of NADP on the CRC. NADP is hopeful that the upcoming meeting between NADP and the ADA will provide an open forum for us to discuss the ADA's agreement to our addition to the CRC.

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Access Costs

We appreciate the ADA's acknowledgement that the access costs associated with the ADA Code licensing agreement are "admittedly a recent development." We do take strong exemption to the ADA's assertions that the issue of these costs was only added to our testimony to bring attention to the comments. While Chairman Murphy stated in his comments that the licensing fee was not of significant consequence to his company, many of NADP's members believe the fee is consequential.

NADP's membership includes many large national carriers such as Aetna, CIGNA, Dental Benefits Providers and MetLife to name a few. Our membership also includes many small to medium size companies that operate in only a few states and some plans that only operate in one state. The licensing fees would have a direct impact on these companies and, for that reason, continue to be of concern to NADP. Since these fees, as the ADA agrees, are relatively new to the industry, we would be open to discussing a licensing fee schedule that more appropriately reflects the size and operating costs of the various types of dental benefits plans across the country.

Open Process

We have already noted the ADA's agreement to consider modifying the settlement between the ADA and DDPA to include NADP on the CRC. The ADA noted in their discussion of this consideration that NADP's participation suggests a duplication of representation on the CRC as our membership includes companies that are also members of the Blue Cross Blue Shield Association ("BCBSA"), DDPA and the Health Insurance Association of America ("HIAA"). This assertion illustrates a lack of correct knowledge regarding our various associations that can be improved with better communication. Thus, we strongly disagree for these reasons.

While NADP's members do include companies that are also members of the associations that are currently on the CRC, we represent a significantly broader portion of the industry that are specifically not represented by these parties. NADP's membership only includes 5 BCBSA members and 4 DDPA members of the 37 Delta Plans nationwide.

With regards to HIAA, several large dental benefits companies, such as Aetna, CIGNA and MetLife, are not currently members of HIAA. These three dental benefits providers alone represent more than 25% of the entire dental benefits industry and are not represented on the current CRC. The majority of NADP's members are small to medium regional or single state carriers who are similarly not included in BCBSA, DDPA or HIAA.

Thus the inclusion of NADP on the CRC would not represent a significant duplication of representation and would, in fact, bring greater representation of the entire dental benefits industry to the process.

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Concerns with ‘Payer’ Representative

NADP continues to feel that this representative on the CRC is not required. It should be noted that each of the candidates brought to the ADA by the members of the CRC have been disapproved by the ADA. The inclusion of an employer representative on the CRC does not appear to meet the charge given to the CRC by HIPAA and we must respectfully disagree with the ADA that this representative is necessary in the process.

Failure to Delete ‘Duplicate’ Codes

The ADA agreed in their March 13 letter that the voting structure would allow for the possibility of duplicate codes. The ADA stated, “During the Chair’s opening remarks at the January 2002 CRC the ADA asked that all voting members strive to ensure that such close-duplication would not occur.”

Obviously, the possible duplication is of concern to the ADA. Duplication of codes is of concern to NADP and the current members of the CRC. Thus, we must continue to question a process that would even allow the possibility of such duplication when the removal of the super-majority process to delete a code would eliminate such a possibility in its entirety.

January 1, 2002 Effective Date

NADP understands the ADA’s statement that updating a code is done by simply updating the directory or table that software programs reference. On its face, this seems like an entirely simple process that should take no time at all. Unfortunately, by it’s statement, the ADA does not appear to have direct familiarity with the current situation with software vendors and computer systems as all parties in the entire health care process are preparing, implementing and testing systems for compliance with the Electronic Transaction Rules that were originally set to be in place by October of this year.

NADP acknowledges and applauds the legislation passed in December of last year that will grant plans a one-year extension of the compliance date; i.e. October of 2003. We feel that this one-year extension will assist plans in meeting a January 2003 effective date of the new ADA Code, but will not entirely negate the issue as we prepare for a new era in efficient electronic commerce relating to claims and payment for health care.

Conclusion

While NADP may respectfully disagree with some details of the ADA’s correspondence and Code process, we are heartened by ADA’s recent comments indicating a willingness to address the key process issues raised in our testimony. NADP is willing and ready to assist the ADA as a member of the CRC and to work collegially toward the improvement of the efficiency and efficacy of the ADA Code revision process.

Dr. Simon Cohn
April 4, 2002
Page Five

We look forward to our upcoming meeting with the ADA and our continued involvement with the Subcommittee. If you or members of the Subcommittee have any questions regarding our comments, please contact me via e-mail at eireland@nadp.org or by phone at (972) 458-6998 x 101.

We thank the Subcommittee for your time and consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Eireland". The signature is written in a cursive style with a long, sweeping underline.

Evelyn F. Ireland, CAE
Executive Director

Cc: Dr. James B. Bramson, ADA
Ms. Claudia Bonnell, BCBSA
Ms. Kim E. Volk, DDPA
Mr. Tom Musco, HIAA

Delta Dental Plans
Association
1515 West 22nd Street
Suite 1200
Oak Brook, Illinois 60523
Telephone 630-574-6001
Facsimile 630-574-6999

February 27, 2002

Ms. Evelyn F. Ireland, CAE
Executive Director
National Association of Dental Plans
8111 LBJ Freeway, Suite 935
Dallas, Texas 75251-1313

Dear Evelyn:

I received your February 18th letter regarding NADP and the ADA Code Revision Process and have discussed it with our legal counsel.

In response to your first question, the Settlement Agreement precludes NADP's participation in the Code Revision Committee. In response to your second question, DDPA has no objection to NADP's representation on the Committee. In fact, our attorney has sent a letter to ADA's general counsel indicating that the concept of a national group purchaser representative is proving difficult to execute and suggesting that we explore other possibilities. However, an amendment to the Committee structure will require the consent and cooperation of the ADA.

Sincerely,



Kim E. Volk
President & CEO

Cc: Walt VanBrunt
George Levicki, DDS
Cliff Maesaka, DDS
Phil O'Brien