



STATE OF ARIZONA
DEPARTMENT OF INSURANCE

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CHARLES R. COHEN
Director of Insurance

REGULATORY BULLETIN 2001-5

To: Prepaid Dental Plan Organizations, Hospital, Medical, Dental and Optometric Service Organizations, Health Care Service Organizations, Dental Provider Organizations and Interested Parties

From: Charles R. Cohen
Director of Insurance

Date: June 15, 2001

Re: **Transition of Regulatory Authority over Prepaid Dental Plan Organizations**

Introduction

The regulatory scheme governing prepaid dental plan organizations (PDPOs) was enacted in the 1970s. Since then the regulatory responsibility has been bifurcated between the Department of Insurance (the Department) and the Department of Health Services (DHS). In 2000, the Arizona legislature enacted Senate Bill 1172, which altered the scheme by transferring all DHS responsibilities to the Department, effective July 1, 2001. For a summary of SB 1172, please see Circular Letter 2000-6.

This Regulatory Bulletin (i) outlines the projected rule making process for the Department's new authority, (ii) explains how the Department is integrating prepaid dental oversight with related new responsibilities, and (iii) describes the relevant agency structure in place at the Department as of July 1, 2001.

Rule Making Process

The Department began preparing for its regulatory authority over PDPOs well before July 1, 2001. Among other things, in October 2000, it began work on proposed rules for PDPO regulation. The DHS staff administering the existing DHS prepaid dental oversight program participated extensively in the Department rule development process. The Department also convened an informal advisory work group to assist the Department in developing these rules. The work group was made up of representatives of a wide spectrum of stakeholders interested in prepaid dental rules, including dentists, prepaid dental plans and employers. The work group members had an opportunity to review and comment on two drafts of the proposed rules. The Department considered each of those comments in drafting the proposed rules.

The proposed rules establish definitions, as well as requirements for application for certificate of authority, quality improvement, access, network adequacy, geographic areas served, program of compliance, dental care plans, the chief executive officer, the dental director, maintenance of dental records, and other requirements necessary for regulation of prepaid dental plans. The

proposed rules incorporate many requirements from the then-existing DHS rules at A.A.C. § R9-23-401, et. seq.

The Department filed the proposed rules with the Secretary of State on May 4, 2001. These were published in the Arizona Administrative Register on May 25, 2001. A copy of the proposed rules is attached as Exhibit I to this Regulatory Bulletin. The Department plans to have the rules effective by approximately October 1, 2001. Please see Exhibit II for a proposed schedule of steps remaining in the rule making process.

Commencing July 1, 2001 and continuing until the date the Department's permanent rules for PDPO regulation become effective, whether or not consistent with Exhibit II, the Department will treat the proposed rules, attached hereto, as its statement of substantive policy with regard to effectuation of its statutory authority and responsibility to regulate PDPOs. In other words, compliance is expected commencing July 1, 2001, and the Department will enforce those standards pursuant to its more general statutory authority until the rules are formally promulgated.

Integration of Prepaid Dental Plan Program with Other Regulatory Activity.

Oversight of HMOs

As with PDPO regulation, the regulation of health care service organizations (HCSOs or HMOs) has been bifurcated between the Department and DHS for many years. In 2000, the Arizona legislature enacted Senate Bill 1330, which altered the regulatory oversight of HMOs by transferring all DHS responsibilities for HMO oversight to the Department, effective July 1, 2001.

The Department will establish the prepaid dental oversight program in its Life & Health Division and will integrate this regulatory authority with the parallel development of its HMO oversight program. This will allow the Department to gain efficiencies from the similar statutory requirements for operation and regulation of HMOs and PDPOs. In addition, SB 1172 transferred two FTEs to the Department from the Office of Oral Health at DHS. One position will be filled with the person managing the prepaid dental oversight program in place at DHS until July 1, 2001. The other position will be vacant upon transfer, to be filled by the Department. That transfer of FTEs will allow the new HMO oversight program to benefit from the lessons learned by those involved in the prepaid dental oversight program developed at DHS.

Administration of HB 2600, Including the Timely Pay and Grievance Law

In 2000, the Arizona Legislature enacted House Bill 2600, or the Managed Care Accountability Act, which took effect January 1, 2001. Section 34 of the Act, known as the timely pay and grievance law established time limits and procedures for health insurers to pay providers and resolve provider grievances. The timely pay and grievance law applies to all health insurers, including PDPOs. For a more detailed summary of HB 2600, please see Circular Letter 2000-6.

The Department has established its timely pay and grievance enforcement program in the Life & Health Division and will integrate this regulatory authority, its prepaid dental oversight and HMO oversight. Timely pay and grievance issues are highly related to PDPO network stability and financial condition.

Agency Structure for the Prepaid Dental Oversight Program

Staffing

The Department's prepaid dental oversight program will be part of its Life & Health Division. The following two positions will exist in the Department on July 1, 2001:

Title	Name	Phone	Responsibilities
Dental Plan QI Manager	Linda A. Beguin, DDS	602-912-8464	Supervisory oversight of prepaid dental oversight program; Lead role in developing and enforcing regulatory standards and developing examination process.
Dental Plan QI Analyst	Vacant as of 7/1/01	602-912-8464	Assisting with administration of prepaid dental oversight program; Support role in developing and enforcing regulatory standards.

Examination Function

Currently the Department conducts financial and market conduct examinations of all types of insurers. To some extent, these existing examination functions support the prepaid dental oversight program. For example, findings relating to financial liquidity in the financial examination of a PDPO may support the Department's network adequacy enforcement activities with the same PDPO. At the same time, PDPO quality improvement may be critical in shaping the scope of a market conduct examination of the same PDPO. The Department intends, however, to develop an examination function with expertise specific to (i) prepaid dental oversight, including quality improvement, access, network adequacy and other subjects of the rulemaking process described above, and (ii) administration of the timely pay and grievance law. This will require careful delineation and coordination of the Department's examination programs to ensure useful synergies and to avoid duplication and inefficiencies.

Over the coming months, the Department will work with the Department of Administration Procurement Office to prepare a Request for Proposals from independent contractors who are qualified to conduct examinations relating to the oversight of prepaid dental plans as well as the timely pay and grievance law. In the meantime, the Department will continue to use existing examination functions to carry out its new responsibilities. For example, we expect to use the established market conduct examination functions to support prepaid dental enforcement in the areas of quality improvement, access, and network adequacy as well as timely pay and grievances. The process for compliance analysis developed at DHS will help to determine which PDPOs are targeted and the scopes of any examinations.

The prepaid dental oversight program can be contacted at:

Arizona Department of Insurance
Life & Health Division
2910 North 44th Street, Second Floor
Phoenix, AZ 85282

Telephone: 602-912-8460
Fax: 602-912-8453
E-mail address: providerinfo@id.state.az.us

This Regulatory Bulletin and any Regulatory Bulletins or Circular Letters referred to above, as well as a pamphlet summarizing the timely pay and grievance law referred to above, are available on the Department's website at www.state.az.us/id. Timely pay and grievance law information is also available by telephone on the Department's Provider Information Line at 602-912-8468.

Any person who has questions regarding this Regulatory Bulletin may contact Alexandra Shafer, Assistant Director of the Department's Life & Health Division, at 602-912-8464.

**Regulatory Bulletin 2001-5
Exhibit I**

Proposed Prepaid Dental Plan Organization Rules Filed May 4, 2001.

NOTICE OF PROPOSED RULEMAKING
TITLE 20. COMMERCE, BANKING AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE

PREAMBLE

1.

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R20-6-1801	New Section
R20-6-1802	New Section
R20-6-1803	New Section
R20-6-1804	New Section
R20-6-1805	New Section
R20-6-1806	New Section
R20-6-1807	New Section
R20-6-1808	New Section
R20-6-1809	New Section
R20-6-1810	New Section
R20-6-1811	New Section
R20-6-1812	New Section
R20-6-1813	New Section
R20-6-1814	New Section
R20-6-1815	New Section
R20-6-1816	New Section

2.

The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 20-1001 through 20-1004, 20-1008, 20-1009, 20-1015(A).

Implementing statutes: A.R.S. §§ 20-142, 20-143, 20-106 and 20-1001 through 20-1019.

3.

List all previous notices appearing in the register addressing the proposed rules:

6 A.A.R. 4512 December 1, 2000 Notice of Docket Opening

Vol.# page # Issue date

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Margaret L. McClelland
Address: Arizona Department of Insurance
2910 North 44th Street, Second Floor
Phoenix, AZ 85018
Telephone Number: (602)912-8456
Fax Number: (602)912-8452

5. An explanation of the rule, including the agency's reasons for initiating the rule:

Prepaid dental plan organizations (Organizations) in Arizona have traditionally been subject to dual regulation by the Arizona Department of Health Services (ADHS) and the Arizona Department of Insurance (Department). The Department is the licensing authority and oversees financial condition, certain aspects of market conduct, policy forms and advertising, and disciplinary matters. ADHS oversees the health services aspect of the Organizations. During the 2000 Session, the Arizona Legislature passed SB 1172 which, effective July 1, 2001, places all regulatory authority over Organizations with the director of the Department (director) and removes ADHS as a regulator of Organizations. The proposed rules provide the framework for regulation of Organizations by the Department.

The Department convened an informal advisory work group to assist the Department in developing these rules. The work group is made up of representatives of a wide spectrum of stakeholders interested in prepaid dental rules, including dentists, prepaid dental plans and employers. The work group members had an opportunity to review and make comments on two drafts of the proposed rules. The Department considered each of those comments in drafting the proposed rules.

The proposed rules will establish definitions, as well as requirements for application for certificate of authority, monitoring, program of compliance, dental care plans, geographic areas served, the chief executive officer, the dental director, maintenance of dental records, quality improvement, and other requirements necessary for regulation of prepaid dental plans. The proposed rules incorporate many requirements that currently exist in the ADHS rules under 9 A.A.C. 23, Article 4.

B. Specific Section-By-Section Explanation of This Proposal

R20-6-1801 contains definitions for Article 18.

R20-6-1802 establishes requirements for application for the Certificate of Authority.

R20-6-1803 establishes requirements for the chief executive officer.

R20-6-1804 establishes qualifications and functions of the dental director.

R20-6-1805 establishes the requirements for reporting changes in the written program of compliance, and the information that must be submitted to the Department quarterly or annually.

R20-6-1806 establishes basic dental services.

R20-6-1807 establishes the requirements for a system for delivery of service.

R20-6-1808 establishes the requirements for designating the geographic areas that will be served by the Organization's prepaid dental plan will serve.

R20-6-1809 establishes the requirements for the Organization's contracts with providers.

R20-6-1810 establishes the requirements for maintenance of member dental records and certain business records.

R20-6-1811 establishes the standards for quality improvement.

R20-6-1812 establishes the requirements for confidentiality of records.

R20-6-1813 establishes the requirements for assignment of members to providers.

R20-6-1814 establishes the requirements for disclosure of information.

R20-6-1815 establishes the requirements for filing an annual statement with the director.

R20-6-1816 establishes the requirements, application, examination and licensing of agents.

6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:** N/A

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

N/A

8. **The preliminary summary of the economic, small business and consumer impact:**

The Department believes that the benefits of these rules will outweigh the costs.

There is an existing regulatory scheme at the Arizona Department of Health Services (ADHS) and the Department with which Organizations already generally comply. When the regulatory authority currently exercised by ADHS passes to the Department on July 1, 2001, The Department will absorb economic impacts currently absorbed by ADHS, as prescribed in the controlling legislation. The Department will transfer 2 FTEs from ADHS to carry out the program duties at the Department. The Department will also incur the costs of administering the program. It is anticipated that there will be a minimal economic impact on the Secretary of State and the Governor's Regulatory Review Council associated with the rulemaking process. The proposed rules will impose no burden on consumers and will provide some intangible benefit to consumers who can get "one-stop shopping" at the Department, rather than having to address complaints and concerns to 2 regulatory agencies. Similarly, the proposed rules may also benefit the Organizations because they will have all regulatory compliance issues addressed by a single agency.

There may be a some economic impact on Organizations and providers of dental services (providers) that are small businesses. Most Organizations currently comply with many

requirements of this rulemaking. However, Organizations may incur costs as a result of new requirements that the dental director be physically present daily within the Arizona service area, and from an increase in the required number of required quality improvement meetings. An Organization could incur costs for having to refer a member out of network. Additional impacts may result from the requirement for an assignment process that restricts the number of unassigned members, and from the requirement for a continuous provider recredentialing process that updates information obtained in the initial credentialing process

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Margaret L. McClelland
Address: Arizona Department of Insurance
2910 North 44th Street, 2nd Floor
Phoenix, AZ 85018
Telephone Number: (602)912-8456
Fax Number: (602)912-8452

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department will hold oral proceedings to receive public comments in accordance with A.R.S. § 41-1023. The times, places, and locations of the hearing are listed below:

Monday, June 25, 2001
10:00 a.m.
State Office Building
400 West Congress
Room 158
Tucson, AZ

Tuesday, June 26, 2001

9:00 a.m.

Industrial Commission of Arizona

800 West Washington

Auditorium – First Floor

Phoenix, AZ

The comment period will end and the record will close at 5:00 p.m. on June 29, 2001. The Department will accept oral or written comments that are received by 5:00 p.m. or which are postmarked by that date.

ADOI is committed to complying with the Americans with Disabilities Act. If any individual with a disability needs any type of accommodation, please contact ADOI at least 72 hours before the hearing.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

N/A

12. **Incorporations by reference and their location in the rules:**

None.

13. **The full text of the rules follows:**

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 18. PREPAID DENTAL PLAN ORGANIZATIONS

Section

- R20-6-1801. Definitions
- R20-6-1802. Application for Certificate of Authority
- R20-6-1803. Chief Executive Officer
- R20-6-1804. Dental Director
- R20-6-1805. Changes to the Program of Compliance
- R20-6-1806. Basic Dental Services
- R20-6-1807. System for Delivery of Services
- R20-6-1808. Geographic Areas
- R20-6-1809. Contract Requirements
- R20-6-1810. Records
- R20-6-1811. Quality Improvement
- R20-6-1812. Confidentiality of Records
- R20-6-1813. Assignment of Members
- R20-6-1814. Disclosure of Information
- R20-6-1815. Annual Report
- R20-6-1816. Application, Examination and Licensing of Producers

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 18. PREPAID DENTAL PLAN ORGANIZATIONS

R20-6-1801. Definitions

In this Chapter, the following definitions apply:

"Appointment" means a scheduled initial, non-emergent, diagnostic visit to the dentist.

"Board certified" means a dentist who is recognized by the appropriate specialty board of the Commission on Accreditation of Dental Education of the American Dental Association.

"Board eligible" means a dentist who has successfully completed an approved training program in a specialty field recognized by the American Dental Association.

"Chief executive officer" means the person who has the authority and responsibility for the operation of a prepaid dental plan Organization in accordance with applicable legal requirements and policies approved by the governing authority.

"Dental hygienist" means a person who is licensed to practice dental hygiene under A.R.S. § 32-1281 et seq.

"Dentist" means a person who is licensed to practice dentistry under A.R.S. § 32-1201 et seq.

"Department" means the Arizona Department of Insurance.

"Diagnostic services" means dental services intended to identify dental abnormalities and includes radiographs and clinical exams.

"Director" means the director of the Arizona Department of Insurance.

"Emergency dental services" means dental services intended to evaluate and stabilize dental conditions of recent onset, control bleeding, and relieve pain, and includes provision of local anesthesia, and elimination of acute infection, but does not mean medications that may be prescribed by the dentist, but must be obtained through a pharmacy.

"General dentist" means a dentist whose practice is not limited to a specific area and who is not board certified.

"Governing authority" means the persons, including a board of trustees or board of directors, who have the ultimate authority and responsibility for the direction of a prepaid dental plan Organization.

"Organization" means a prepaid dental plan organization as defined in A.R.S. § 20-1001.

"Patient" means a person who is being attended by a dentist or dental hygienist to receive an examination, diagnosis, or dental treatment, or a combination of an examination, diagnosis, and dental treatment.

"Preventive services" means dental care intended to maintain dental health and prevent dental disease, including any combination of oral hygiene education, routine prophylaxis and application of fluorides.

"Prophylaxis" means cleaning the teeth of patients with healthy tissue using mild abrasives and dental instruments to remove plaque, calculus and stains above the gum line.

"Provider" means a dentist who provides dental services to a member under a prepaid dental plan.

"Provider directory" means an Organization's published listing of all contracted network dentists.

"Radiograph" means a picture produced on a sensitive surface by a form of radiation other than light, including x-ray photographs.

"Restorative services" means the use of metal or composite fillings and crowns.

"Specialist" means a dentist whose practice is limited to one of the 9 specialty categories recognized by the American Dental Association: endodontics, oral and maxillofacial surgery, oral and maxillofacial radiology, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral pathology, or dental public health.

"Treatment plan" means a statement of the services to be performed to eliminate or alleviate the patient's symptoms or disease, based on the dentist's assessment of the patient's dental history, the clinical examination, and the dentist's diagnosis.

"Unqualified agent" means a person directly or indirectly representing or acting for an Organization who is not licensed as a producer.

R20-6-1802. Application for Certificate of Authority

- A.** A person who wishes to operate a prepaid dental plan in Arizona shall file an application for certificate of authority under A.R.S. § 20-1003 for review and approval by the director under A.R.S. § 20-1004. The application shall contain all the information required in A.R.S. § 20-1003 and R20-6-1802, and shall be in the form prescribed by the director.
- B.** The fidelity bond required under A.R.S. § 20-1004(A)(4) shall be issued by an insurer authorized to transact business in Arizona.
- C.** An Organization shall not commence operation of, or service under, a prepaid dental plan without approval of the director under A.R.S. § 20-1004.
- D.** The application shall not be considered filed with the director until the director receives it. The applicant shall include fees under A.R.S. § 20-167 with the application.
- E.** An applicant not domiciled in this state shall file a power of attorney as required by A.R.S. § 20-1003(A)(11) on a Department prescribed form, with the application.
- F.** Within 180 days after the director issues a certificate of authority to an Organization, the Organization shall notify the director in writing of each duly licensed dentist and member appointed to the board of directors for the Organization under A.R.S. § 20-1003(A)(4).
- G.** The Organization shall submit a written program of compliance with supporting documents that specify how the Organization will comply with the provisions of this Article. The written program of compliance shall contain the following:

 - 1. The responsibilities and qualifications of the following positions:

 - a. The Organization's chief executive officer, and
 - b. The Organization's dental director.
 - 2. A plan for provision of basic dental services required under R20-6-1806(A), and a copy of the schedule of benefits required under R28-6-1806(B).

3. A description of the system for delivery of services under R20-6-1807.
 4. A description of the geographic area designated under R20-6-1808.
 5. A plan for compliance with contract requirements under R20-6-1809 and a copy of a contract with a general dentist and a specialist.
 6. A plan for compliance with records requirements under R20-6-1810.
 7. The Organization's quality improvement plan under R20-6-1811.
- H.** The application shall include the following information:
1. The proposed number of members;
 2. A copy of a letter from each network dentist that documents dentist's intent to contract with the Organization to provide services to patients under the Organization's prepaid dental plan; and
 3. For each general dentist covered in subsection(H) (2), a list of the clinical support staff by classification.

R20-6-1803. Chief Executive Officer

- A.** The governing authority shall appoint a chief executive officer (CEO) who has the education and experience to manage the Organization.
- C.** The CEO shall:
1. Have overall responsibility for the geographic area in Arizona that the Organization serves;
 2. Maintain and be available at an office within the Organization's geographic area in Arizona;
 3. Implement the policies of the governing authority;
 4. Serve as a liaison between the governing authority, providers of dental care, and providers of other services for the Organization; and
 5. Designate someone with similar education, experience and knowledge of the Organization's processes to act in the absence of the CEO.
- C.** The governing authority shall notify the Department within ten days after the effective date of a change in the appointment of the CEO.

R20-6-1804. Dental Director

- A. The governing authority, or CEO, shall appoint a dentist licensed to practice dentistry in any state or territory of the United States or the District of Columbia, as dental director. If a dental director, or any other person, makes any direct denial of prior authorization of a service requested by a health care provider on the basis of medical necessity, the Organization shall comply with the requirements of A.R.S. § 20-2510(B) and (C). The dental director may also serve as the chief executive officer of the Organization.
- B. The dental director shall oversee clinical quality and continuity of care, provider relations, facility and dental record reviews, provider credentialing and recredentialing, and participate in all other quality improvement.
- C. The dental director shall be physically present within the Arizona geographic area during normal business hours and be involved daily in the operations and decision making of the Organization.
- D. The governing authority shall notify the Department within ten days after the effective date of a change in the appointment of the dental director.

R20-6-1805. Changes to the Program of Compliance

- A. An Organization shall submit in writing to the Department for review any proposed change to the program of compliance. The Department shall notify the Organization in writing of approval or disapproval of the change within 90 days from receipt of the proposed change.
- B. The Organization shall provide the following information about the prepaid dental plan to the Department quarterly:
 - 1. The total number of members and the number of members assigned to each general dentist's office;

2. An electronic database that lists the name, address, telephone number and whether the provider is accepting new members. The database for general dentists and specialists shall be submitted separately;
 3. A list of all contracted network general dentists and specialists that notes those who have been added or deleted since the previous quarterly report;
 4. Verification that each specialist added to the network since the last quarterly report is board eligible or board certified;
 5. Documentation of the Organization's quality improvement activities, including the number of providers who have been credentialed or re-credentialed since the last quarterly report, the number of facility reviews, and the number of chart reviews.
 6. The average wait time measured in weeks for an appointment for each network dentistry office;
 7. A copy of the current provider directory; and
 8. A complaint log with a summary of responses by complaint category.
- C.** The Organization shall submit the following information to the Department at least annually:
1. Member satisfaction survey results and supporting data; and
 2. A recall system survey of network general dentistry offices and supporting data.

R20-6-1806. Basic Dental Services

- A.** An prepaid dental plan shall provide basic dental services, listed below:
1. Emergency dental services on a 24-hour-per-day basis;
 2. Diagnostic services;
 3. Preventive services; and
 4. Restorative services.
- B.** An Organization shall publish a schedule of benefits that includes all the basic dental services and other dental services available through the Organization, with any associated charges.

R20-6-1807. System for Delivery of Services

- A.** Each Organization shall have a system for delivery of services that includes:
1. An adequate network of general dentists. To determine network adequacy, the Department shall consider the following:
 - a. Geographic distribution of network general dentists' offices;
 - b. The number of dental offices accepting new members;
 - c. The percentage of all network members who are able to schedule an appointment within 9 weeks;
 - d. The availability of trained clinical support staff in the market place;
 - e. The ratio of population growth to the increase or decrease in the number of dentists in the market place;
 - f. Current availability for appointments in all general dentist practices in Arizona;
 2. Provisions for using specialists for dental services that cannot be provided by the Organization's network of contracted specialists; and
 3. A referral process to assure continuity of care to members who need specialty services.
- B.** If a network dental office that is open to new members has wait times for appointments of more than 9 weeks, for 3 consecutive calendar quarters, the director may require that the Organization close the office to new members until the wait time is below 9 weeks.
- C.** The Organization shall ensure that at least 15% of its network offices that are open to new members have wait times that are not longer than 9 weeks after an appointment. If more than 15% of the network offices that are open to new members have wait times longer than 9 weeks, the Organization shall submit a plan to the Department under which the Organization will, within 90 days, reduce the wait times to less than 9 weeks. If the Organization does not reduce the wait times to less than 90 days, within the 90 day period, the Organization shall refer the members who are waiting for an appointment to a network general dentist, or a non-network general dentist, who can schedule the member for an appointment in less than 9 weeks. The member may choose to continue dental

care under the prepaid dental plan with the referred dentist for the remainder of the member's enrollment period. The Organization shall provide the services to the referred member at a cost that is no greater than if the services were obtained from the member's assigned network dentist.

- D. The Organization shall pay for emergency dental services provided to a member by a dentist licensed in the jurisdiction where the services are provided, subject to plan limitations disclosed in the dental care plan, regardless of the location of the facility where services are provided. This shall include an emergency that occurs within the area served by the member's designated provider, but the provider is unavailable, or when the emergency occurs outside of the member's designated service area.

R20-6-1808. Geographic Areas

- A. An Organization shall designate the geographic areas in Arizona in which the Organization intends to provide services that are reasonably convenient to the prospective members. The Organization shall provide a description of the geographic areas and locations of all facilities in which dental care will be provided under the prepaid dental plan. This information shall accompany or be included in any advertisements or sales materials provided to prospective employer groups and prospective members.
- B. Each Organization shall define its geographic areas by citing at least one of the following:
 - 1. Local government jurisdictions, such as cities or counties;
 - 2. Street boundaries; or
 - 3. Area within a specified radius of an intersection.

R20-6-1809. Contract Requirements

- A. The Organization shall have a written contract with each provider that documents the requirements for providing services under the prepaid dental plan and the agreements between the parties. The Organization shall ensure that the provider complies with all contract requirements.

- B.** In addition to the requirements in subsection (A), the contract shall also include the following:
1. The Organization shall have the authority to review the provider's records;
 2. The provider shall implement and maintain a process to inform members enrolled with that provider of the need to schedule periodic preventive dental services based on the member's oral health status; and
 3. Upon termination of the contract by either party or upon expiration of the contract, the provider shall complete any procedure undertaken upon a member.

R20-6-1810. Records

- A.** The Organization shall require that the dental provider to whom a member is assigned maintain, at the provider's office, dental records on each member. The dental record shall contain the full name of the dentist responsible for the treatment and documentation of care provided including the following:
1. A record of the symptoms presented and dates;
 2. Radiographs of diagnostic quality and quantity;
 3. Diagnosis consistent with the patient's medical and dental history and the clinical findings;
 4. Treatment plans;
 5. All treatment notes and dental charting; and
 6. Other information relating to patient care.
- B.** Dental records are the property of the provider and shall not be removed from the provider's premises, except:
1. With the patient's permission, including for routing records to dental or medical practitioners for consultation or evaluation; or
 2. When subpoenaed by a court.
- C.** The Organization shall maintain, at its principal office, a copy of each issued or delivered advertising matter or sales material, letter of solicitation, evidence of coverage, provider

directory, certificate, agreement or contract. The Organization shall note the date each advertising matter and sales material was filed with the Department and the date of distribution to any person. Such advertising matter and sales material shall be maintained for at least 3 years.

R20-6-1811. Quality Improvement

- A.** Each Organization shall have a governing authority.
- B.** The governing authority shall appoint a quality improvement committee, that shall meet at least quarterly, and consist of the chief executive officer or designee, the dental director, the person who manages the Organization's quality improvement process, and at least one dental health professional. The committee may include network allied health professionals and members of the plan.
- C.** The quality improvement committee shall review and evaluate dental services delivered by the Organization and establish procedures for record keeping and distribution of committee reports.
- D.** The Organization shall provide the director with a copy of the minutes of each quality improvement committee meeting within 30 days of the quality improvement committee meeting.
- E.** Each Organization shall maintain a written quality improvement plan that contains procedures for, at least, each of the following:
 - 1. Ensuring that a dentist licensed in any state or territory of the United States or District of Columbia reviews and evaluates dental care and services provided by each contracted general dentist at least once every 2 years.
 - 2. Monitoring of care provided to members by a licensed dentist to evaluate:
 - a. Timely initiation of treatment;
 - b. Timely completion of treatment;
 - c. The recall system;
 - d. Appropriateness of documentation of findings;

- e. Appropriateness of diagnosis;
 - f. Appropriateness of treatment based on the diagnosis;
 - g. Appropriateness of the sequence of treatment; and
 - h. Appropriateness of referrals to specialists and other general dentists.
3. Allocation of resources to analysis of problems and deficiencies identified;
 4. Implementing corrective action plans and methods for monitoring improvements;
 5. Notifying members in writing of the member's responsibility to cooperate with those providing dental care services and of the member's rights to:
 - a. Voice concerns about the Organization or care provided;
 - b. Be provided with information about the Organization, its services, providers, and members rights and responsibilities;
 - c. Participate in decisions about the member's dental care; and
 - d. Be treated with respect and have the right to privacy recognized.
 6. Monitoring and improving membership satisfaction;
 7. Maintaining accurate provider directories that meet at least the following requirements:
 - a. The provider directory lists only credentialed providers who are currently scheduling members for diagnosis and treatment; and
 - b. There is a clear designation in the directory of providers who are not accepting new members.
4. Review by the dental director of the following for initial credentialing of network providers:
 - a. Query to the National Practitioner Data Bank;
 - b. Query to the Arizona Board of Dental Examiners;
 - c. Valid United States Drug Enforcement Administration certificate;
 - d. Evidence of current malpractice insurance; and
 - e. Documentation that each specialist is board eligible or board certified.
 9. Continuous recredentialing that updates information obtained in subsection (E)(8)(b) through (e) for review by the dental director.

R18-6-1812. Confidentiality of Records

Information obtained by an Organization pertaining to the diagnosis, treatment, or health of a member and any contract with providers submitted under this Article is confidential and shall not be disclosed to any person except:

1. To the extent necessary to carry out this Article;
2. Upon the express written consent of the member, applicant, provider, or Organization, as appropriate; or
3. Under statute or court order for the production or discovery of evidence or as part of a criminal investigation.

R20-6-1813. Assignment of Members

- A. The Organization shall ensure that a member is assigned to the provider the member has chosen within 30 days of enrollment. The Organization shall choose and assign a provider to a member within 30 days of any of the following:
1. Receipt of a member enrollment form that does not designate a provider, or receipt of a member enrollment form that designates a provider who is unavailable;
 2. The date of the notice that the member's assigned provider intends to cease providing services; or
 3. The date the member's assigned provider becomes unavailable, for any reason.
- B. When the Organization chooses and assigns the provider for a member, the Organization shall assign the member to a provider accepting new members that is closest to the member's home. The member shall have the option of selecting a network provider other than the provider assigned by the Organization.
- C. The Organization shall maintain a continuous assignment process in compliance with subsections (A) & (B) of this Section that allows no more than 4% of members to be unassigned at any time

R20-6-1814. Disclosure of Information

The director may require that the prepaid dental plan submit, under A.R.S. § 20-1003(A)(14), information that discloses biographical, employment and business financial history, criminal activity, fingerprints, or any information that relates to the ability to operate a prepaid dental plan for principals, principal officers, controlling persons, and agents of the applicant if necessary for the protection of residents of this State.

R20-6-1815. Annual Report

Each Organization shall file an annual statement as prescribed in A.R.S. § 20-1000 with the director by March 1 of each year. The statement shall be completed in accordance with the accounting practices and procedures and in the general form and context approved by the National Association of Insurance Commissioners for the kind of insurance to be reported upon, and as supplemented for additional information required by the director under A.R.S. § 20-223.

R20-6-1816. Application, Examination and Licensing of Producers

A producer who transacts business or solicits on behalf of an Organization is subject to the requirements of A.R.S. Title 20, Chapter 2, Article 3 governing producers.

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Exhibit II

Proposed Schedule for Completing PDPO Rule Making

- June 25, 2001 and June 26, 2001: Public hearings in Tucson and Phoenix, respectively.

Monday, June 25, 2001
10:00 a.m.
State Office Building
400 West Congress
Room 158
Tucson, AZ

Tuesday, June 26, 2001
9:00 a.m.
Industrial Commission of Arizona
800 West Washington
Auditorium – First Floor
Phoenix, AZ

- June 29, 2001: Department closes the record and ends the written comment period.
- July 30, 2001: Department files final proposed rules with the Governor's Regulatory Review Council (GRRC).
- September 11, 2001: GRRC reviews rules.
- September 25, 2001: Department files with GRRC with any required revisions.
- Rules become effective within one to two days after September 25 filing with GRRC.