STORAGE NAME: h0235.hcc.doc
DATE: April 19, 2001

HOUSE OF REPRESENTATIVES

COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS

BILL #: HB 235

RELATING TO: Dental Service Claims/Appeals

SPONSOR(S): Representative Prieguez

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) HEALTH REGULATION YEAS 8 NAYS 0
(2) INSURANCE YEAS 12 NAYS 0
(3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 14 NAYS 0
(4)
(5)

I. SUMMARY:

This bill creates a special process for dental patients, and dentists acting on behalf of their patients, to appeal an adverse determination rendered regarding a claim for payment of a dentally necessary service when such services are covered by that group or individual insurer. The bill requires the insurer to respond to appeals within 15 business days.

In addition, the bill requires insurers to notify the treating dentist and the patient in writing within 2 days of rendering an adverse determination of the criteria or benefits provisions used to render the adverse determination, the identity of the dentist who rendered the adverse determination, and information about the appeals process. Such notification must be signed by an authorized representative of the insurer or the dentist who rendered the adverse determination.

The bill defines “adverse determination” and specifies who can render an adverse determination.

There are two amendments traveling with the bill. The strike-everything amendment adopted by the Council for Healthy Communities includes the issue contained in the strike-everything amendment adopted by the Committee on Health Regulation and conforms this bill to CS/SB 1788. Please see the Amendments section of this analysis for further details.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes [x]	No []	N/A []
4.	Personal Responsibility	Yes [x]	No []	N/A []
5.	Family Empowerment	Yes [x]	No []	N/A []

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The laws relating to insurance contracts are found in Chapter 627, Florida Statutes. Particularly relevant to this bill are parts II, VI, and VII of ch. 627, F.S., which provide the requirements of insurance contracts and health insurance policies.

The term "adverse determination" is defined in s. 641.47(1), F.S., in the context of health maintenance organizations and prepaid health clinics. It is a determination of whether a proposed treatment plan will be covered and is generally made prior to the service being rendered. The term is not generally used in the context of indemnity plans.

With regard to indemnity plans, the service is usually provided first, and then a claim for payment is made to the insurance company. A health claim form is submitted to the insurer, in accordance with the provisions of s. 627.647, F.S., and then a decision is made as to whether the claim is for a covered service and is medically necessary and appropriate. If the claim is denied as not being medically necessary, the patient (claimant) or the patient's practitioner (provider acting for the claimant) may appeal to an insurer's licensed physician responsible for medical necessity reviews. The appeal provided under this section may be made by telephone and requires the insurer's physician to respond within a reasonable time, not to exceed 15 business days.

There is no provision in statute specifying who can deny a claim. Thus, patient care decisions are not necessarily being made by dentists licensed to perform the same procedures that they are rendering expert opinions about relating to the appropriateness and dental necessity of such procedures. Additionally, there is no law requiring an insurer to notify the patient and the treating dentist of the reasons why a treatment plan is denied which could make it difficult for a decision to be appealed.

C. EFFECT OF PROPOSED CHANGES:

This bill would create a special process for dental patients, and dentists acting on behalf of their patients, to appeal an adverse determination rendered regarding a claim for payment of a dentally necessary service when such services are covered by that group or individual insurer. The bill would require the insurer to respond to appeals within 15 business days.

Insurers would be required to notify the treating dentist and the patient in writing within 2 days of rendering an adverse determination of the criteria or benefits provision used to render the adverse determination, the identity of the dentist who rendered the adverse determination, and information about the appeals process. Such notification must be signed by an authorized representative of the insurer or the dentist who rendered the adverse determination.

The bill would define "adverse determination" as being "a determination, made by an insurer which covers dental services, that an admission, availability of care, continued stay, or other health care service has been reviewed, and based upon the information provided, does not meet the insurer's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness, and coverage for the requested service is therefore denied, reduced, altered, or terminated."

An adverse determination could be rendered only by a dentist licensed in this state in accordance with the licensure provisions of ch. 466, F.S., or a dentist holding an active, unencumbered license in another state with similar licensing requirements.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 627.419(9), FS., to establish a process to appeal adverse determinations; specifies who can render an adverse determination; requires written notification of basis for adverse determination; and defines terminology.

Section 2. Establishes effective date of October 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not require an insurer to employ a licensed dentist, thereby allowing an insurer to contract with a dental consultant on an as-needed basis to conduct these expert reviews. Thus, there may not be a significant fiscal impact to the insurers covering dental services.

D. FISCAL COMMENTS:

The Department of Insurance and the Department of Health have indicated that this bill will have no fiscal impact on either agency.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None. A provision could be added directing the Board of Dentistry to define by rule what other states have "similar licensing requirements" as Florida.

C. OTHER COMMENTS:

The bill should be amended to correct terminology errors relating to dentist/physician, adverse determination/denial of claim, and dental/medical necessity.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 27, 2001, the Committee on Health Regulation adopted a "remove-everything" amendment. The "remove-everything" amendment provides an appeals process for claims that have been denied as not being medically or dentally necessary after the service has been provided to the patient. The amendment provides that the appeal must be available under the contract, the appeal shall be made to the insurer's licensed dentist who is responsible for medical necessity reviews or who is a member of the plan's peer review group, and the insurer's dentist must respond within a reasonable time, not to exceed 15 business days. The amendment is traveling with the bill.

On April 18, 2001, the Council for Healthy Communities adopted a different strike-everything amendment. This amendment included the issue contained in the first strike-everything amendment as well as added a provision relating to continuing education requirements for dentists. This strike-everything amendment conforms HB 235 to CS/SB 1788. The amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON HEALTH REGULATION:

Prepared by:	Staff Director:
Wendy Smith Hansen, Senior Attorney	Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON INSURANCE:

Prepared by:	Staff Director:
Stephen T. Hogge	Stephen T. Hogge

AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:	Council Director:
Wendy Smith Hansen, Senior Attorney	Mary Pat Moore