Dental Health Services

FILED

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28 via email

Hearings Unit, OIC
Patricia D. Petersen
Chief Hearing Officer

August 28, 2013

Honorable Mike Kreidler
Insurance Commissioner
Washington State Office of the Insurance Commissioner
c/o Hearings Unit
5000 Capitol Blvd.
Tumwater, Washington 98502

RE: Request for Hearing – Dental Health Services

Dear Commissioner Kreidler:

Pursuant to RCW 48.04.010(1)(b), Dental Health Services ("DHS") requests a hearing contesting the Office of Insurance Commissioner's disapproval of our filings for the Washington Health Benefit Exchange (WA HBE) individual market product, First Smile EarlyCare ("EarlyCare").

The OIC's disapproval aggrieves DHS. By disapproving DHS's filings, the OIC has unfairly and without reasonable cause or sufficient rationale prevented DHS obtaining Qualified Dental Plan ("QDP") certification and from offering Washington consumers Early Care in the individual Exchange market. DHS finds that the OIC's reasons for disapproving these filings are confusing and do not provide sufficient justification for this disposition.

The grounds to be relied upon by DHS are as follows: DHS's individual Exchange filings substantially comply with applicable, properly implemented federal and state requirements and/or could have been readily amended or remedied to satisfy all such requirements had DHS received timely notice of intent to disapprove. Additionally, the OIC has failed to adequately explain or justify its decision. DHS notes that over the course of review of these filings, DHS has responded robustly and timely to all OIC objection letters relating to the three components that comprise the filings at issue. We note further that on Friday, July 31, 2013, the OIC- imposed deadline, the OIC for the first time cited issues that it had failed to mention previously when the same information had been filed in compliance with OIC guidelines. It appears that OIC failed to provide fair and reasonable review of Early Care filings.

DHS promptly addressed each new concern with compliant Rate and Form filings dated August 11. These were rejected by the OIC on August 13. Our corresponding dental Binder, delayed by SERFF/CMS tech support issues, was submitted on August 15, only to be rejected by the OIC on August 16. In all of these instances, there was no apparent review of the content, only a rejection based on being submitted after the July 31 deadline.

OIC does not appear to have treated all filings the same. For example, we understand that that the OIC extended the time frame for SHOP QHP certification until after the July 31, 2013 deadline while not doing the same for all health plans that sought a QHP certification in the individual market. We also understand that the OIC extended the time frame for outside individual plan certification until August 6, 2013, while refusing to extend the same opportunity to dental health plans, such as DHS, that sought a QHP certification in the Individual market. It appears that OIC has determined "winners and losers" by

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Dental Health Services

arbitrarily applying different standards, procedures and agency resources to individual market filings necessary for QHP certification. DHS believes that the OIC's disapproval of our filings aggrieves not only our organization, but the consumers the OIC is charged with protecting.

DHS believes OIC's actions and failures to act that are referenced in this letter will have a significant and negative impact on Washington consumers, who will be denied access to the fullest and most robust possible healthcare marketplace. Similarly, OIC's referenced actions and failures to act harm DHS by preventing it from offering EarlyCare through the Exchange, placing DHS at an unfair competitive advantage and falsely implying that DHS is not in compliance with applicable laws and regulations.

In fact, DHS has been proactive in preparing for the Affordable Care Act since its inception in 2009. Accordingly, our filings complied with all applicable federal and state requirements and/or could have been easily amended or remedied to satisfy any such requirements had OIC made such requirements known prior to the deadline it imposed. Despite our demonstrated responsiveness to OIC concerns, and unlike other insurers, DHS was not given the opportunity to respond to objections while filings remained in "Active Suspense".

The review process applied by OIC was defective and denied Dental Health Services a fair opportunity to have its filings approved. For example, a combination of ambiguous guidance with filing feedback that was not timely or properly communicated has made it impossible to know in advance precisely what OIC considered an acceptable filing. We are requesting that the OIC immediately review our Rate, Form and Binder filings from mid-August, and certify and approve our products for offer in the Washington Health Benefit Exchange.

We are requesting an expedited hearing in order to accommodate the U.S. Department of Health and Human Services' new deadline of September 5, 2013 which it has granted the Washington Exchange to submit information offered through the Exchange for 2014.

The relief sought in the hearing will be approval of the referenced filings and/or the opportunity to address and remedy any legally required alleged deficiencies or omissions.

Sincerely,

Josh Nace

Josh Nace
Executive Vice President

Cc: Mike Kreidler, Insurance Commissioner
Gary Pernell, Chief Executive Officer
Dr. Godfrey Pernell, Board Chair
Jeffrey L. Gingold, Gingold Law Firm PLLC

Disposition for DHSV-WA14-125003516

[Close]

Binder Name: First Smile EarlyCare	Plan Year: 2014	Market Type: Individual	Authors: LaNell Suntch
SERFF Tracking Num: DHSV-WA14-125003516	State: Washington	State Tracking Num: 257612	Reviewers: Katie Goring(primary)
Binder Type: Dental Only		Company: Dental Health Services	Company Tracking Num:

Date Submitted: 07/31/2013 11:00 AM

Comments: Binder, form and rate filings for the First Smile Early Care Plan are disapproved and closed per RCW 48.44.020(2)(a) for failing to provide consistent and explicit contract provisions in the form, rate and binder filings, and per RCW 48.44.020(2)(f) for failing to conform to minimum provisions or standards required by regulation. The rate, form and binder filings are disapproved for the following reasons:
Inconsistent and ambiguous benefit designs are filed in binder, form and rate filings.

In the binder filing (State Tracking #257612) , the Cost Share Variances in the Plan and Benefits Template include four categories of benefits and copayments: Dental Check-Up with $5 Copay, Basic Dental Care with $40 Copay, Major Dental Care with $215 Copay, and Orthocontia with $2,200 Copay.

In the form filing (State Tracking #256160) and in the rate filings (State Tracking #256158 for public rate filing and State Tracking #256159 for proprietary rate filing), the benefit structures and cost share variances are categorized by various services and Diagnostic Services Codes (DSCs).

The form and rate filings did not reflect the same cost share requirements and categories of covered services as those listed in the binder filing. For example, for $215 copayment dental services, the form and rate filings list many DSCs in various categories including Resin-based Composite Restorations, Crowns Single Restoration Only, Endodontic Therapy (root canal therapy), Dentures, Other Services, and Medical Services. Those DSCs and categories of services are not listed in the binder filing. Furthermore, the required copay for the orthodontic service filed in the form and rate filings is $1,100 per year for two years, which is inconsistent with the $2,200 copay filed in the binder filing.

You must reconcile the benefit structure in the rate and form filings with the benefit level listed in the Plan and Benefits Template.

In addition to the above issue, the following items are specific to the rate filing, form filing, and binder filing:

Rate Filing:
• You did not submit the required information under WAC 284-43-945.
• You did not submit the complete documentation and justification for the rate development. For example, you listed $5.43 per member per month as the cost for orthodontics service. No supporting documentation or detailed calculations are provided for this cost.

Form Filing.
• The policy is inconsistent and misleading, in conflict with RCW 48.44.020(2)(a). The policy does not include all required provisions including identification of the plan service area. Additionally, failure to include this information within the policy conflicts with requirements to identify the service

area information reported in the Service Area Template in the binder.
• The policy is inconsistent and misleading, in conflict with RCW 48.44.020(2)(a). Any policy that requires an enrollee to utilize a network of providers must clearly identify in-network providers versus out-of-network providers. Additionally, failure to include this information in the policy conflicts with requirements to identify the network information reported in the Network Template in the binder. Finally, the information retained in the Network Template does not match the network information reported to this office in the Provider Network Form A report. It is unclear what network Dental Health Services requires enrollees to utilize and if that network is adequate based upon this conflicting information.

Binder Filing:
• The coinsurance figures in the Plan and Benefits Template need to represent the insured's portion.

Plan Name	Standard Component ID	Plan Availability	Plan Disposition Status	Plan State Status
First Smile - EarlyCare	92586WA0020001	On Exchange	Complete	Disapproved

Attachments:

Close

Disposition for DHSV-129060559

SERFF Tracking Number:	DHSV-129060559	**State:**	Washington
Filing Company:	Dental Health Services	**State Tracking Number:**	256158
Company Tracking Number:	01.14WA193FSEC		
TOI:	H10I Individual Health - Dental	**Sub-TOI:**	H10I.000 Health Dental
Product Name:	Exchange Market First Smile EarlyCare Public Rate		
Project Name:	First Smile EarlyCare Public Rate		

Disposition Date: 07/30/2013

Implementation Date:

Status: Disapproved

Comments:

The binder, form and rate filings for the First Smile Early Care Plan are disapproved and closed per RCW 48.44.020(2)(a) for failing to provide consistent and explicit contract provisions in the form, rate and binder filings, and per RCW 48.44.020(2)(f) for failing to conform to minimum provisions or standards required by regulation.

The rate, form and binder filings are disapproved for the following reasons:

Inconsistent and ambiguous benefit designs are filed in binder, form and rate filings.

In the binder filing (State Tracking #257612) , the Cost Share Variances in the Plan and Benefits Template include four categories of benefits and copayments: Dental Check-Up with $5 Copay, Basic Dental Care with $40 Copay, Major Dental Care with $215 Copay, and Orthodontia with $2,200 Copay.

In the form filing (State Tracking #256160) and in the rate filings (State Tracking #256158 for public rate filing and State Tracking #256159 for proprietary rate filing), the benefit structures and cost share variances are categorized by various services and Diagnostic Services Codes (DSCs).

The form and rate filings did not reflect the same cost share requirements and categories of covered services as those listed in the binder filing. For example, for $215 copayment dental services, the form and rate filings list many DSCs in various categories including Resin-based Composite Restorations, Crowns Single Restoration Only, Endodontic Therapy (root canal therapy), Dentures, Other Services, and Medical Services. Those DSCs and categories of services are not listed in the binder filing. Furthermore, the required copay for the orthodontic service filed in the form and rate filings is $1,100 per year for two years, which is inconsistent with the $2,200 copay filed in the binder filing.

You must reconcile the benefit structure in the rate and form filings with the benefit level listed in the Plan and Benefits Template.

In addition to the above issue, the following items are specific to the rate filing, form filing, and binder filing:

Rate Filing:

- You did not submit the required information under WAC 284-43-945.
- You did not submit the complete documentation and justification for the rate development. For example, you listed $5.43 per member per month as the cost for orthodontics service. No supporting documentation or detailed calculations are provided for this cost.

Form Filing:

- The policy is inconsistent and misleading, in conflict with RCW 48.44.020(2)(a). The policy does not include all required provisions including identification of the plan service area. Additionally, failure to include this information within the policy conflicts with requirements to identify the service area information reported in the Service Area Template in the binder.
- The policy is inconsistent and misleading, in conflict with RCW 48.44.020(2)(a). Any policy that requires an enrollee to utilize a network of providers must clearly identify in-network providers versus out-of-network providers. Additionally, failure to include this information in the policy conflicts with requirements to identify the network information reported in the Network Template in the binder. Finally, the information retained in the Network Template does not match the network information reported to this office in the Provider Network Form A report. It is unclear what network Dental Health Services requires enrollees to utilize and if that network is adequate based upon this conflicting information.

Binder Filing:

- The coinsurance figures in the Plan and Benefits Template need to represent the insured's portion.

Add Rate Data? No

Schedule Items

Item Type	Item Name	Item Status	Public Access
Supporting Document	Rate Waiver Request		Yes
Supporting Document	*Rate Waiver Request*		*Yes*
Supporting Document	Benefit Components		Yes
Supporting Document	*Benefit Components*		*Yes*
Supporting Document	01.14WAFSECLX - First Smile Early Care Schedule of Covered Services and Copayments & Exclusions and Limitations		Yes
Supporting Document	*01.14WAFSECLX - First Smile Early Care Schedule of Covered Services and Copayments & Exclusions and Limitations*		*Yes*
Supporting Document	01.14WAFSECHX - First Smile EarlyCare Plus Schedule of Covered Services and Copayments & Exclusions and Limitations		Yes
Supporting Document	*01.14WAFSECHX - First Smile EarlyCare Plus Schedule of Covered Services and Copayments & Exclusions and Limitations*		*Yes*

Supporting Document	01.14WAFSECLX - Actuarial Certification	Yes
Supporting Document	*01.14WAFSECLX - Actuarial Certification*	*Yes*
Supporting Document	01.14WAFSECHX - Actuarial Certification	Yes
Supporting Document	*01.14WAFSECHX - Actuarial Certification*	*Yes*
Rate	First Smile EarlyCare Rate Schedule	Yes
Rate	*First Smile EarlyCare Rate Schedule*	*Yes*

Disposition for DHSV-129060558

SERFF Tracking Number:	DHSV-129060558	**State:**	Washington
Filing Company:	Dental Health Services	**State Tracking Number:**	256160
Company Tracking Number:	01.14WA193FSEC		
TOI:	H10I Individual Health - Dental	**Sub-TOI:**	H10I.000 Health Dental
Product Name:	Exchange Market First Smile EarlyCare		
Project Name:	First Smile EarlyCare		

Disposition Date: 07/31/2013

Implementation Date:

Status: - Disapproved

Comments:

The binder, form and rate filings for the First Smile Early Care Plan are disapproved and closed per RCW 48.44.020(2)(a) for failing to provide consistent and explicit contract provisions in the form, rate and binder filings, and per RCW 48.44.020(2)(f) for failing to conform to minimum provisions or standards required by regulation.

The rate, form and binder filings are disapproved for the following reasons:

Inconsistent and ambiguous benefit designs are filed in binder, form and rate filings.

In the binder filing (State Tracking #257612) , the Cost Share Variances in the Plan and Benefits Template include four categories of benefits and copayments: Dental Check-Up with $5 Copay, Basic Dental Care with $40 Copay, Major Dental Care with $215 Copay, and Orthodontia with $2,200 Copay.

In the form filing (State Tracking #256160) and in the rate filings (State Tracking #256158 for public rate filing and State Tracking #256159 for proprietary rate filing), the benefit structures and cost share variances are categorized by various services and Diagnostic Services Codes (DSCs).

The form and rate filings did not reflect the same cost share requirements and categories of covered services as those listed in the binder filing. For example, for $215 copayment dental services, the form and rate filings list many DSCs in various categories including Resin-based Composite Restorations, Crowns Single Restoration Only, Endodontic Therapy (root canal therapy), Dentures, Other Services, and Medical Services. Those DSCs and categories of services are not listed in the binder filing. Furthermore, the required copay for the orthodontic service filed in the form and rate filings is $1,100 per year for two years, which is inconsistent with the $2,200 copay filed in the binder filing.

You must reconcile the benefit structure in the rate and form filings with the benefit level listed in the Plan and Benefits Template.

In addition to the above issue, the following items are specific to the rate filing, form filing, and binder filing:

Rate Filing:

- You did not submit the required information under WAC 284-43-945.
- You did not submit the complete documentation and justification for the rate development. For example, you listed $5.43 per member per month as the cost for orthodontics service. No supporting documentation or detailed calculations are provided for this cost.

Form Filing:

- The policy is inconsistent and misleading, in conflict with RCW 48.44.020(2)(a). The policy does not include all required provisions including identification of the plan service area. Additionally, failure to include this information within the policy conflicts with requirements to identify the service area information reported in the Service Area Template in the binder.
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Binder Filing:

- The coinsurance figures in the Plan and Benefits Template need to represent the insured's portion.

Add Rate Data? No

Schedule Items

Item Type	Item Name	Item Status	Public Access
Supporting Document	Expense Product Outline of Coverage - L&D		Yes
Supporting Document	Filing Instructions		Yes
Supporting Document	Individual Fixed Payment Insurance Disclosure Notice - L&D		Yes
Supporting Document	Individual Form Filing Requirements - L&D, HCSC		Yes
Supporting Document	Inside the Exchange Stand Alone Dental Analyst Worksheet		Yes
Supporting Document	Population Access Report		Yes
Form	01.14WA193FSEC, Certificate, First Smile EarlyCare Evidence of Coverage	Disapproved	Yes
Form	01.14WAFSECLX, Other, First Smile EarlyCare Low Option Copays and exclusions & limitations	Disapproved	Yes
Form	*01.14WAFSECLX, Other, First Smile EarlyCare Low Option Copays and exclusions & limitations*	*Withdrawn*	*Yes*
Form	01.14WAFSECHX, Other, First Smile EarlyCare Plus High Option Copays and exclusions & limitations	Withdrawn	Yes

Disposition for DHSV-129060600

SERFF Tracking Number:	DHSV-129060600	**State:**	Washington
Filing Company:	Dental Health Services	**State Tracking Number:**	256159
Company Tracking Number:	01.14WA193FSEC		
TOI:	H10I Individual Health - Dental	**Sub-TOI:**	H10I.000 Health Dental
Product Name:	Exchange Market First Smile EarlyCare Proprietary Rates		
Project Name:	First Smile EarlyCare Proprietary Rate Filings		

Disposition Date: 07/30/2013

Implementation Date:

Status: Disapproved

Comments:

The binder, form and rate filings for the First Smile Early Care Plan are disapproved and closed per RCW 48.44.020(2)(a) for failing to provide consistent and explicit contract provisions in the form, rate and binder filings, and per RCW 48.44.020(2)(f) for failing to conform to minimum provisions or standards required by regulation.

The rate, form and binder filings are disapproved for the following reasons:

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In the binder filing (State Tracking #257612) , the Cost Share Variances in the Plan and Benefits Template include four categories of benefits and copayments: Dental Check-Up with $5 Copay, Basic Dental Care with $40 Copay, Major Dental Care with $215 Copay, and Orthodontia with $2,200 Copay.

In the form filing (State Tracking #256160) and in the rate filings (State Tracking #256158 for public rate filing and State Tracking #256159 for proprietary rate filing), the benefit structures and cost share variances are categorized by various services and Diagnostic Services Codes (DSCs).

The form and rate filings did not reflect the same cost share requirements and categories of covered services as those listed in the binder filing. For example, for $215 copayment dental services, the form and rate filings list many DSCs in various categories including Resin-based Composite Restorations, Crowns Single Restoration Only, Endodontic Therapy (root canal therapy), Dentures, Other Services, and Medical Services. Those DSCs and categories of services are not listed in the binder filing. Furthermore, the required copay for the orthodontic service filed in the form and rate filings is $1,100 per year for two years, which is inconsistent with the $2,200 copay filed in the binder filing.

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- You did not submit the complete documentation and justification for the rate development. For example, you listed $5.43 per member per month as the cost for orthodontics service. No supporting documentation or detailed calculations are provided for this cost.

Form Filing:

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Binder Filing:

- The coinsurance figures in the Plan and Benefits Template need to represent the insured's portion.

Add Rate Data? No

Schedule Items

Item Type	Item Name	Item Status	Public Access
Supporting Document	Rate Waiver Request		No
Supporting Document	*Rate Waiver Request*		*No*
Supporting Document	01.14WAFSECLX Benefit Components		No
Supporting Document	*01.14WAFSECLX, 01.14WAFSECHX Benefit Components*		*No*
Supporting Document	First Smile EarlyCare Plus Actuarial Certification		No
Supporting Document	*First Smile EarlyCare Plus 01.14WAFSECHX - Actuarial Certification*		*No*
Supporting Document	Justification for Confidential Rate Requests		No

Supporting Document	*Justification for Confidential Rate Requests*	*No*
Supporting Document	Rate Back up Data - Confidential	No
Supporting Document	*Rate Back up Data - Confidential*	*No*
Supporting Document	First Smile EarlyCare 01.14WAFSECLX (low option) Schedule of Covered Services and Copayments & Exclusions and Limitations	No
Supporting Document	*First Smile EarlyCare 01.14WAFSECLX (low option) Schedule of Covered Services and Copayments & Exclusions and Limitations*	*No*
Supporting Document	First Smile EarlyCare 01.14WAFSECLX - Actuarial Certification	No
Supporting Document	*First Smile EarlyCare 01.14WAFSECLX - Actuarial Certification*	*No*
Supporting Document	First Smile EarlyCare Plus 01.14WAFSECHX (high option) Schedule of Covered Services and Copayments & Exclusions and Limitations	No
Supporting Document	*First Smile EarlyCare Plus 01.14WAFSECHX (high option) Schedule of Covered Services and Copayments & Exclusions and Limitations*	*No*
Rate	First Smile EarlyCare Rate Schedule	No
Rate	*First Smile EarlyCare Rate Schedule*	*No*

Disposition for DHSV-129155186

SERFF Tracking Number:	DHSV-129155186	**State:**	Washington
Filing Company:	Dental Health Services	**State Tracking Number:**	258825
Company Tracking Number:	01.14WAFSECLX		
TOI:	H10I Individual Health - Dental	**Sub-TOI:**	H10I.000 Health Dental
Product Name:	Exchange Market First Smile EarlyCare Public Rate		
Project Name:	First Smile EarlyCare Public Rate		

Disposition Date: 08/13/2013

Implementation Date: 01/01/2014

Status: Disapproved

Comments:
As the company's forms have been disapproved, and since the company is not able to charge rates without approved forms, the rates submitted are also disapproved.

Add Rate Data? No

Schedule Items

Item Type	Item Name	Item Status	Public Access
Supporting Document	Rate Waiver Request		Yes
Supporting Document	Benefit Components		Yes
Supporting Document	01.14WAFSECLX - First Smile Early Care Schedule of Covered Services and Copayments & Exclusions and Limitations		Yes
Supporting Document	01.14WAFSECLX - Actuarial Certification		Yes
Supporting Document	Response to objections for FirstSmile EarlyCare 6.6.13 submission		Yes
Rate	First Smile EarlyCare Rate Schedule		Yes

Disposition for DHSV-129155186

SERFF Tracking Number:	DHSV-129155186	**State:**	Washington
Filing Company:	Dental Health Services	**State Tracking Number:**	258825
Company Tracking Number:	01.14WAFSECLX		
TOI:	H10I Individual Health - Dental	**Sub-TOI:**	H101.000 Health Dental
Product Name:	Exchange Market First Smile EarlyCare Public Rate		
Project Name:	First Smile EarlyCare Public Rate		

Disposition Date: 08/13/2013

Implementation Date: 01/01/2014

Status: Disapproved

Comments:
As the company's forms have been disapproved, and since the company is not able to charge rates without approved forms, the rates submitted are also disapproved.

Add Rate Data? No

Schedule Items

Item Type	Item Name	Item Status	Public Access
Supporting Document	Rate Waiver Request		Yes
Supporting Document	Benefit Components		Yes
Supporting Document	01.14WAFSECLX - First Smile Early Care Schedule of Covered Services and Copayments & Exclusions and Limitations		Yes
Supporting Document	01.14WAFSECLX - Actuarial Certification		Yes
Supporting Document	Response to objections for FirstSmile EarlyCare 6.6.13 submission		Yes
Rate	First Smile EarlyCare Rate Schedule		Yes