California Bans Certain Restrictions for Insured Dental Plans

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California has enacted a state insurance law that prohibits fully insured dental plans in California from imposing:

- a *dental waiting period provision* for certain services in a large group dental plan that is fully insured, or
- a *pre-existing condition exclusion provision* in any dental plan that is fully insured.

The new state insurance law, which does not apply to self-funded dental plans, is effective for insurance policies and health maintenance organization ("HMO") dental contracts in California that are issued or renewed on or after January 1, 2025.

Background:

Individuals who have postponed needed dental treatment are considered more likely to purchase dental insurance than healthier individuals with fewer treatment needs. To address this potential for adverse selection, some insurance carriers and HMOs impose waiting periods or pre-existing condition exclusions on the more costly dental services for newly enrolled individuals. Examples of these restrictions include the following:

- A waiting period of 3 to 12 months before the dental plan will pay for fillings, extractions, root canals, and other basic restorative care.
- A waiting period of 3 to 12 months before the dental plan will pay for crowns, dentures, implants, and other major restorative services.
- A pre-existing condition exclusion for teeth that are missing on the first day of coverage.
- A pre-existing condition exclusion for dentures, if the individual received dentures from a different dental plan within a specified time frame.

In some cases, a dental plan may waive the specific services waiting period or pre-existing condition exclusion if the enrolled individual provides proof of continuous dental insurance coverage with a different dental plan immediately prior to coverage with the current dental plan.

New California Dental Insurance Law

On and after January 1, 2025, an insurance carrier or HMO may not issue, amend, renew or offer a dental insurance policy or HMO contract that imposes the following types of restrictions that address adverse selection:

- **A *dental waiting period provision* is prohibited in a large group dental insurance policy or HMO contract.** The term "*dental waiting period provision*" means a provision in the policy or contract that limits coverage for certain services for a specified period following the individual's effective date of coverage. The prohibition applies only to a large group dental plan, which is defined by California as any group plan that is not a small group plan.

- **A *pre-existing condition provision* is prohibited in any dental insurance policy or HMO contract.** The term "*pre-existing condition provision*" means a provision in the policy or contract that excludes or limits coverage for services, charges, or expenses incurred following an individual's effective date of coverage, for a condition for which dental services, diagnosis, care, or treatment was recommended or received before the effective date of coverage. The prohibition applies to both large group and small group dental plans.

Application of New California Insurance Law to Dental Plans

The new California insurance law generally applies to:

- Group dental insurance policies issued or delivered (i.e., situsted) in California;

- Dental HMOs in California;

- Group dental insurance policies issued or delivered (i.e., situsted) outside of California, to the extent that the policy covers California residents, except when:

    - the employer's principal place of business is located outside of California, and

    - a majority of employees are located outside of California.

The new California insurance law does not apply to any dental plan that is self-funded.

Employer Action

As this is an insurance mandate, carriers and HMOs are responsible for compliance. It is likely that dental premiums in the fully insured market will increase.

Employers that want to address adverse selection by continuing to include a *dental waiting period provision* for certain services or a *pre-existing condition provision* in their dental plan may consider replacing their fully insured plan with a plan that is self-funded.