

Orthodontics and ACA Rule 1557

As oral health care providers we must commit to Opt-in, Opt-out or “do nothing” in our relationship with Medicare. To further complicate this, Delta Dental of Michigan, Ohio and Indiana, amended its Provider Agreement earlier this year such that after January 1st 2017, if you decide to formally Opt-out of Medicare, they may remove you from their Delta Participating Provider Network. However, according to Delta Dental representatives, they also advise that if you “Do Nothing” and do not formally Opt-out, your Participation as a Network Provider will be safe...for now.

“Doing nothing” is not recommended by the Chief of the CMS - Center for Medicare and Medicaid Services. His understanding is that you must Opt-in, in one of the 2 ways, to receive Medicare or Medicaid payments for services or testing, or to refer Medicare patients to other providers. ADA believes the same, but, Delta Dental has said that if you do nothing you can still bill Medicare Advantage. Indian Health Services is not impacted by this regulation.

There are 2 ways to Opt-in: you can Opt-in as either a "Provider of Services" (use CMS Form 855o) or as an "Ordering, Referring and Prescribing Provider" (CMS Form 855i).

Upon Opting-in you must comply with ACA (Obamacare) Rule 1557 requirements of notification of your patients that you provide free translation services for the 15 most common languages in your region and have a statement of non-discrimination in 5 languages on all your literature and Web page. The ADA does provide templates for you to use at no charge to ADA members. Your office must also comply with annual, on-line “Fraud and Abuse Prevention” training. This training is available on CMS and Delta’s web site. Delta representatives state that their providers need only have a member of their office team complete the program for that practice to be compliant with their participating provider agreement.

If you formally Opt-out you: (i) may lose your “Participating Provider” status with Delta Dental, (ii) you cannot refer a patient to a doctor that has Opted-in, nor (iii) can you write Part-D prescriptions for Medicare patients. If you did refer your patient to an Opt-in providing doctor, the patient will lose their eligibility for reimbursement when they arrive at the Opting-in doctor. You can only send them back to a primary care provider for a different referral.

Your Option status becomes frozen for 2 years when you complete the form. CMS will automatically renew you in that “Opt-in” or “Opt-out” status at the 2 year anniversary. You can only make a change at the 24 month point and they will **NOT** send you a reminder. **YOU MUST REMEMBER THE DATE** and then make a change 30-60 days before the deadline. It will be another 2 years before you have another chance to change your status.

As an orthodontist, we have to consider how many patients we see annually or in a career that have a Medicare, Medicare Advantage or Medicaid orthodontic benefit or other future federally funded benefit. The answer is probably very few but there may be a case where you may have a disabled young person that is Medicare eligible and needs orthodontic care. Another scenario may be a 65+ y/o patient that needs a sleep study or sleep apnea appliance. The magazine, "Trends in Health Care" reports that the ACA is so heavily ingrained in the medical community that it will likely not be totally undone by the new Administration in Washington but simply modified. Current Cabinet nominations may not agree.

According to CMS, the deadline for a decision has been changed from January 1st 2017 to Jan 1st 2019 and may go out even farther. Unfortunately, Delta Dental has not changed their deadline of January 1st 2017 for dentists to either Opt-in or Opt-out or "Do Nothing". They say that if you Opt-out, per the terms of their Provider Agreement, you may be expelled from the Delta Provider Network.

The waters are still quite muddy with changes happening frequently and no one making definitive statements except Delta.

The relevant questions to ask are: How important is it to your practice to participate with Medicare, Medicare Advantage Plans, HealthyKids Dental, and Medicaid? How onerous and disruptive are the Rule 1557 and Medicare Opt-in requirements? And how important is it to be in Delta Dental's Provider Network? Whatever your decision, you have to go online and make a choice and follow the requirements. Guidance and resources are also available on the ADA Web site and check out the AAO message that was published in the October 17 eBulletin at:

<https://www.aaoinfo.org/news/2016/08/overview-section-1557-patient-protection-and-affordable-care-ac>

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* Please note: Dr. Monticello attended a conference in November, 2016 that was presented to clarify the confusion related to the Affordable Care Act Rule 1557 regulation. The above is his summary of the information that was provided.