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| **From:** | Adam Plain |
| **To:** | Rhonda Kelly |
| **Subject:** | FW: Comments regarding the Proposed Regulations on Dental Loss Ratio Reporting |
| **Date:** | Wednesday, January 22, 2025 8:54:03 AM |
| **Attachments:** | DDIC Comments for Proposed NV DLR Reporting Regulation_Final.pdf<br>NCOIL-DLR-Model-April-2024.pdf |

Rhonda-

Comments received on R134-24. Also, since they've referenced an NCOIL model, I've included that here as well for the record.

**Adam Plain** **CPCU, AIE, AIAF, AFSB, API, ARC, ARe**
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Carson City, NV 89706
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**Nevada Division of Insurance** | Twitter | Facebook
**Department of Business & Industry**



**From:** Sierra Feldmann <SFeldmann@delta.org>
**Sent:** Tuesday, January 21, 2025 4:17 PM
**To:** Adam Plain <aplain@doi.nv.gov>
**Cc:** James Mullen <JMullen@delta.org>; Helen Foley <helen@foleypublicaffairs.com>
**Subject:** Comments regarding the Proposed Regulations on Dental Loss Ratio Reporting



Hello Mr. Plain,

Attached please find Delta Dental's comments in response to the Division of Insurance's invitation for stakeholder comments on the proposed regulations on dental loss ratio reporting created by SB 393 (2023).

Thank you,
Sierra

**Sierra Feldmann (she/her)** | Lead Regional Legislative & Policy Advocate – Public &

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DELTA DENTAL

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January 21, 2025

Department of Business and Industry
Division of Insurance
1818 E. College Pkway., Ste. 103
Carson City, NV 89706

**Re: Comments on the Proposed Regulation, LCB File No. R134-24 ("Proposed Rule")**

Dear Mr. Plain,

I am writing on behalf of Delta Dental Insurance Company and its affiliates in 15 states ("Delta Dental") in response to the Division of Insurance's ("DOI") invitation for stakeholder comments based on the proposed regulations on dental loss ratio reporting created by SB 393 (2023), which required DLR reporting for all dental market segments beginning May 1, 2025 and sets a 75% loss ratio for individual and large group dental plans beginning in 2026.

In 2024, the National Council of Insurance Legislators (NCOIL) adopted the Medical Loss Ratios for Dental (DLR) Health Care Service Plans Model Act. The Model Act passed by NCOIL was the result of input from dentists and the dental plan industry. Delta Dental recommends that the DOI revise the Proposed Rule to more closely align with the NCOIL Model Act.

**Definitions**
Dental loss ratio is calculated by dividing the numerator by the denominator. Per the terms outlined in the Proposed Rule, this would be dividing the loss by the premium. The Proposed Rule defines "loss" as a direct claim incurred. Delta Dental strongly recommends that the Division amend the definition of "loss" to mirror NCOI's definition of "numerator" – the sum of the amount incurred for clinical dental services provided to enrollees, the amount incurred on activities that improve dental care quality, and other incurred claims as defined at 45 CFR 158.140(a).

Delta Dental recommends that activities that improve dental care quality be defined as including activities conducted by a carrier offering dental coverage plans to improve quality that meet the following requirements:

1. Improve oral and overall health and advance oral health quality, including increasing the likelihood of desired outcomes compared to a baseline; reducing dental disparities among specified populations; and improving patient safety, reducing medical errors, or lowering infection in ways that are capable of being objectively measured and of producing verifiable results and achievements;
2. Directed toward individual enrollees or incurred for the benefit of specified segments of enrollees or provide oral health improvements to the population beyond those enrolled in

coverage as long as no credit is taken for additional costs incurred due to the non-enrollees; and

3. Grounded in the implementation, development, or improvement of evidence-based medicine, widely accepted best clinical practice, or criteria issued by recognized professional dental associations, accreditation bodies, government agencies or other nationally recognized dental care quality organizations.

The Proposed Rule defines "premium" as a direct premium earned. Delta Dental recommends that the Division amend the definition of "premium" to mirror NCOIL's definition of "denominator" – the total amount of premium revenue, excluding federal and state taxes, licensing and regulatory fees paid, nonprofit community expenditures as defined at 45 CFR 158.162(c), and any other payments required by federal law.

**Timeframes**
It is unrealistic to submit a report on May 1 for losses during the previous calendar year and paid through March 31 of the year in which the report is filed. Delta Dental recommends the report include data from the previous calendar year, i.e., the 2025 report would only include data from 2024.

As proposed, the report is supposed to include premiums earned in the previous calendar year. It does not make sense that the timeframe for the data of the losses and the premiums are different. Delta Dental recommends the timeframes match up. A suggestion would be to compare premiums earned to claims incurred. Premiums earned represent the portion of premiums that recognized as revenue over the period during which the insurance coverage was provided and aligns with the period in which claims are incurred, providing a more accurate comparison of the revenue earned against the expenses (claims) incurred.

**Small Group Exclusion**
Since SB 393 (2023) focused on dental loss ratio for individual and large group, we recommend that the reporting requirements in the Proposed Regulation be limited to individual and large group at this time with small group reporting requirements being excluded.

Delta Dental appreciates this opportunity to provide comments on the proposed rule. Please contact me at (415) 972-8418 or jalbum@delta.org should you have any questions or concerns.

Sincerely,

Jeff Album
Vice-President, Public and Government Affairs

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**National Council of Insurance Legislators (NCOIL)**

# Medical Loss Ratios for Dental (DLR) Health Care Services Plans Model Act

***Sponsored by Del. Steve Westfall (WV)**
***Co-sponsored by Rep. Rita Mayfield (IL)**

***Adopted by the NCOIL Health Insurance & Long Term Care Issues Committee on January 26, 2024 and the NCOIL Executive Committee on April 14 2024.**

## Table of Contents



## Section 1. Title

This Act shall be known and cited as the "[State] Medical Loss Ratios for Dental (DLR) Health Care Services Plans Act."

## Section 2. Purpose

The purpose of this Act is to provide for transparency of the expenditure of dental health care plan premiums, and to require annual reports and remediation if the dental loss ratio falls below a certain percentage.

## Section 3. Definitions

(a) "Commissioner" means the Insurance Commissioner of this state.

(b) "Dental carrier" or "carrier" means a dental insurance company, dental service corporation, dental plan organization authorized to provide dental benefits, or a health benefits plan that includes coverage for dental services.

(c) "Dental health care service plan" or "plan" means any plan that provides coverage for dental health care services to enrollees in exchange for premiums, and does not include plans under Medicaid or CHIP.

(d) "Dental loss ratio" or "DLR" means percentage of premium dollars spent on patient care as calculated pursuant to subsection (i) in this section.

(i) The dental loss ratio is calculated by dividing the numerator by the denominator, where:

(A) The numerator is the sum of the amount incurred for clinical dental services provided to enrollees, the amount incurred on activities that improve dental care quality, and other incurred claims as defined at 45 CFR 158.140(a); and

(B) The denominator is the total amount of premium revenue, excluding federal and state taxes, licensing and regulatory fees paid, nonprofit community expenditures as defined at 45 CFR 158.162(c), and any other payments required by federal law.

(1)(a) The Commissioner shall define by rule:

(I) expenditures for clinical dental services;

(II) activities that improve dental care quality;

1. Activities conducted by an issuer intended to improve dental care quality shall not exceed five percent of net premium revenue

(III) overhead and administrative cost expenditures; and

(ii) The definitions promulgated by rule pursuant to this Section must be consistent with similar definitions that are used for the reporting of medical loss ratios by carriers offering health benefit plans in the state. Overhead and administrative costs must not be included in the numerator.

**Section 4. Transparency of Patient Premium Expenditures**

(a) A carrier that issues, sells, renews, or offers a specialized dental health care service plan contract shall file a Dental Loss Ratio (DLR) annual report with the Commissioner that is organized by market and product type and contains the same information required in the 2013 federal Medical Loss Ratio (MLR) Annual Reporting Form (CMS-10418). The filing must also report additional data that includes the number of enrollees, the plan cost-sharing and deductible amounts, the annual maximum coverage limit, and the number of enrollees who meet or exceed the annual coverage limit.

(b) The DLR reporting year shall be for the fiscal year during which dental coverage is provided by the plan. All terms used in the DLR annual report shall have the same meaning as used in the federal Public Health Service Act (42 U.S.C. Sec. 300gg-18), Part 158 (commencing with 158.101) of Title 45 of the Code of Federal Regulations, and Section 1367.003.

(c) If data verification of the carrier's representations in the DLR annual report is deemed necessary, the commissioner shall provide the carrier with a notification 30 days to submit any information required by the Commissioner.

(d) By January 1 of the year after the Commissioner receives the dental loss ratio information collected pursuant to subsection (a) of this Section, the Commissioner shall make the information, including the aggregate dental loss ratio and other data reported pursuant to this Section, available to the public in a searchable format on a public website that allows members of the public to compare dental loss ratios among carriers by plan type by:

(i) Posting the information on the division's website; or

(ii) Providing the information to the administrator of an all-payer health claims database. If the Commissioner provides the information to the administrator, the administrator shall make the information available to the public in a format determined by the Commissioner.

(e) The Commissioner shall report the data in this Section to the Legislature.

**Section 5. Excess Revenue and Rebate**

(a) The Commissioner shall aggregate dental loss ratios for each carrier by year pursuant to Section 4 for each market segment in which the carrier operates. The commissioner shall calculate an average dental loss ratio for each market segment using aggregate data for a 3-year period including data for the most recent dental loss ratio reporting year and the data for the two prior dental loss ratio reporting years.

(1) Newer experience shall be subject to reporting standards at 45 CFR 158.121

(b) The Commissioner shall calculate an average dental loss ratio for each market segment using the data pursuant to subsection 5(a), identify as outliers dental plans that fall outside 1 standard deviations of the average dental loss ratio, and report those plans to the legislature consistent with the manner set forth in subsections 4(e) and 4(d) above.

(1) A carrier shall not be considered an outlier if its DLR in a market segment is within 3 percentage points of the average dental loss ratio. A higher threshold may be set in unique circumstances as determined reasonable by the commissioner.

(c) The Commissioner shall investigate those carriers that report a DLR lower than 1 standard deviations from the mathematical average, and may take remediation or enforcement actions against them, including ordering such carriers to rebate, in a manner consistent with 45 C.F.R. Part 158(B) of the ACA all premiums paid above such amounts that would have caused said carrier to have achieved the mathematical average of the data submitted in a given year for a given market segment.

(d) The report in subsection (b) shall be organized to show year-over-year changes in a carrier's outlier status relative to meeting the 1 standard deviation outlier standard at subsection (b). If the DLR for a carrier in a market segment does not increase and remains an outlier as defined in subsection (b) after 2 consecutive years, barring unique circumstances as determined reasonable by the commissioner, the carrier shall be subject to a minimum DLR percentage by market segment. The commissioner shall promulgate rules establishing the DLR percentage based on, at minimum, the average of existing carrier loss ratios by market segment in the state to be effective no sooner than 42 months after a carrier is determined to be an outlier as defined in this section.

(e) A carrier subject to remediation in subsections (c) and (d) shall provide any rebate owing to a policyholder no later than xxxxx of the fiscal year following the year for which the ratio described in subsection (a) of this section was calculated. The Commissioner may establish alternatives to direct rebates to include premium reductions in the following benefit year.

(f) The Commissioner may promulgate rules that create a process to identify carriers that increase rates in excess of the percentage increase of the latest dental services Consumer Price Index as reported through the US Bureau of Labor Statistics.

**Section 6. Rules**

The Commissioner shall adopt rules as necessary to effectuate the provisions of this Act.

**Section 7. Effective Date**

This Act shall take effect xxxxxxx.