

No-Fault Q & A

Q. I do not accept No-Fault cases in my practice. My patient for more than 20 years was injured in an automobile accident. She is willing to pay my usual fees. Can I treat her?

A. If you treat her, Insurance Law Section 5108(a) limits the fees that you may charge to New York's No-Fault fees for her care (unless an insurer or arbitrator determines that unusual procedures or unique circumstances justify a higher payment). That statutory limitation applies to services incurred as a result of the motor vehicle injury, irrespective of whether these fees are part of, or in excess of, her policy limit.

Q. The NYS No-Fault fee for my patient's treatment is less than my usual fees. Can I charge the patient the balance between my fee and the No-Fault fee?

A. No. If you accept a No-Fault patient, you must charge the fees as indicated in the No-Fault dental fee schedule.

Q. Is the No-Fault dental fee schedule the same as the Workers' Compensation dental fee schedule?

A. Yes. The NYS Department of Financial Services has adopted the Workers' Compensation dental fee schedule as its fees for all dental treatment provided to victims of motor vehicle accidents through its No-Fault program.

Q. Must a request for prior authorization be made to the patient's No-Fault insurance carrier before treatment is performed?

A. No. However, when the course of treatment is expected to involve covered expenses of \$250 or more for a non-emergency situation, a submission can be made by a dentist of a proposal for a course of treatment and charges. An insurer would review such proposal and notify the dentist as to whether or not payment will be made in accordance with the proposal.

Q. Can I require No-Fault patients to pay up front for dental work before the work is performed, or bill a No-Fault patient for services rendered?

A. Yes, the dentist may be paid by the patient but only in the following circumstances:

- a. The dentist has not obtained an assignment of benefits from the patient (except in rare instances where the assignment would be voidable by the dentist due to the patient lacking insurance coverage in the first place or the patient violating a condition precedent to such coverage being available).
- b. The dentist has not obtained an authorization from the patient to be paid directly by the insurer and the insurer has not issued a denial of benefits (if the insurer has issued a denial of benefits, then the dentist can look to the patient to be paid under an authorization situation). Note, there is a major difference between an assignment (where the dentist agrees to stand

directly in the shoes of the patient) and an authorization (where the patient simply directs the insurer to pay the dentist).

- c. The dentist can never charge fees in excess of those allowed by the No-Fault dental fee schedule.

Q. *In addition to restorative treatment necessitated by the patient's automobile accident, the patient needs full mouth periodontal treatment and additional root canal and restorative treatment. Do I submit a claim for all the necessary dental treatment to the No-Fault carrier?*

- A. No. The No-Fault carrier is liable only for reimbursement for treatment necessitated by the automobile accident.

Q. *Can a No-Fault claim be denied?*

- A. Yes. The patient's insurance carrier can dispute the necessity for dental treatment or that the injuries were not related to an automobile accident.

Q. *What do I do if my patient's No-Fault claim is denied?*

If you have obtained an assignment of benefits from the patient, then:

Option 1. You may file a complaint with the Insurance Department either on its website at www.dfs.ny.gov or you may write to the Consumer Services Bureau, New York State Department of Financial Services, at: One State Street, New York, NY 10004; One Commerce Plaza, Albany, NY 12257; 163 Mineola Boulevard, Mineola, NY 11501; 333 E. Washington Street, Syracuse, NY 13202; or Walter J. Mahoney Office Building, 65 Court Street, Buffalo, NY 14202.

Although the Department will attempt to resolve the disputed claim, it cannot order or require an insurer to pay it. If you wish to file a written complaint, send one copy of the No-Fault Denial of Claim Form with copies of other pertinent documents with a letter fully explaining your complaint to the Department of Financial Services at one of the above addresses.

If you choose this option, you may at a later date still submit the dispute to arbitration or bring a lawsuit.

Option 2. You may submit the dispute to arbitration in accordance with the instructions on the back page of the No-Fault Denial of Claim Form.

Option 3. You may contest the dispute by bringing a lawsuit.

Q. *How do dental providers charge for procedures not listed on the dental fee schedule?*

- A. CDT code D9999 "Unlisted Adjunctive Procedure By Report" should be utilized and the provider should establish a fee consistent in relativity with the other fees listed in the dental fee schedule. All bills submitted using CDT code D9999

should be accompanied by a report providing the reasons why such procedure is necessary.

Q. *How can a copy of the No-Fault fee schedule be obtained?*

A. You may obtain a copy of the dental fee schedule by contacting Jacquie Donnelly at NYSDA via email at jdonnelly@nysdental.org, or by phone, 800-255-2100 ext. 250.

Q. *Who do I contact if I have a question regarding the dental No-Fault fee schedule?*

A. You should contact the New York State Department of Financial Services, Insurance Division, at 800-342-3736.