



1764 San Diego Avenue, Suite 200 San Diego, CA 92110

Phone 619-471-2637 Statewide Toll Free 888-804-3536 [HealthConsumer.org](http://HealthConsumer.org)

March 19, 2018

**Via Electronic Mail**

Chairman Pedro Nava  
Little Hoover Commission  
925 L Street, Suite 805  
Sacramento, CA 95814  
[Tamar.lazarus@lhc.ca.gov](mailto:Tamar.lazarus@lhc.ca.gov)

Re: Comments for March 22, 2018 public hearing on Dept. of Health Care Services' progress on addressing Denti-Cal problems

Dear Chairman Nava,

On behalf of the Health Consumer Alliance (HCA), we submit these comments for the Commission's March 22, 2018 public hearing that will examine the Department of Health Care Services' progress to address the Commission's 2016 "Fixing Denti-Cal" report.

The HCA is a statewide collaborative of consumer assistance programs operated by community-based legal services organizations, which includes: Bay Area Legal Aid, California Rural Legal Assistance, Central California Legal Services, Greater Bakersfield Legal Assistance, Legal Aid Society of Orange County, Legal Aid Society of San Diego, Legal Aid Society of San Mateo, Legal Services of Northern California, Neighborhood Legal Services of Los Angeles County, the Western Center on Law and Poverty, and the National Health Law Program. As advocates for families on or eligible for Denti-Cal, we read with dismay the Commission's November 20, 2017 letter to the Governor and legislative leaders regarding DHCS's lack of progress in addressing the significant and systemic problems with the Denti-Cal program as detailed in the Commission's 2016 report. The Commission's findings in the November 20 letter-- that DHCS has lowered the Legislature's 60 percent utilization target for children eligible for Denti-Cal, has not collected the data and information needed to evaluate their progress in addressing underutilization and other problems, and has not demonstrated effective streamlining or other improvements to the administration of Denti-Cal—are, sadly, consistent with what we see in our Denti-Cal cases.

Children enrolled in Denti-Cal are entitled to a broader standard of dental coverage under the Medi-Cal Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit. The following cases illustrate how DHCS's failure thus far to adequately address ongoing Denti-Cal access problems, including the restrictive Treatment Authorization Request (TAR) process and outdated and convoluted regulations, is severely harming children:

- A thirteen year old Medi-Cal beneficiary with autism and Type 2 diabetes tried for two years to get authorization for braces, but was denied by DHCS multiple times despite providing DHCS with documented evidence of emotional and psychological distress caused

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by the lack of braces. Ultimately, the child's parents appealed the denials and went to a state hearing, where the child was again denied on the basis of "insufficient medical necessity." Only after seeking legal aid assistance did the child's family learn that because the family had not asserted the appropriate EPSDT standard, their son was deprived of needed braces for years. In other words, DHCS made the child and family run a gauntlet only to deny coverage in the end because the family did not use the magic word "EPSDT." Ultimately, DHCS provided coverage under the proper standard, but only after legal aid got involved.

- A twelve year old Medi-Cal beneficiary needs braces to alleviate the extreme pain and discomfort she is having because her teeth are growing over one another. The dental growth abnormalities are severe enough that they are causing her lip to protrude. The child's dentist informed the mother that the child urgently needed braces, as further delay would require the child to undergo painful tooth extractions to accommodate braces. The dentist sought a TAR but DHCS denied it. Months later, the mother is still unable to learn from DHCS or the provider why her daughter's TAR for braces was denied despite federal and state regulation requiring DHCS to provide a denial notice (42 CFR §431.206 and 22 CCR § 51014.1). Meanwhile, the child continues to be bullied at school and is taunted by her classmates with "vampire teeth" and other hurtful names causing her extreme embarrassment and emotional distress.
- A sixteen year old Medi-Cal beneficiary has had a tooth growing out of the roof of her mouth for several years causing severe pain and bleeding. The child's dentist informed the child's mother that the child needed serious overall work for her teeth, including a tooth extraction and braces. The dentist advised the mother to find an orthodontist because of the level of work required. The child's orthodontist agreed the child urgently needed braces, but applied the "incorrect standard" when submitting the TAR to DHCS. The child's braces were denied as "two to three points shy of qualification" under the regular TAR "medical necessity" standard. But the EPSDT standard should have been used, of which the orthodontist was unaware. The orthodontist's only advice for the family was to abstain from removing the child's tooth, which had been causing unbearable pain, bleeding, and humiliation for the child for years, because such action will "reduce the likelihood that Medi-Cal will approve the braces." The mother went to state hearing to try to get approval for the extraction and braces, but lost. Since then, the mother has been at a complete loss as to how to help her child. Her child cries and complains of pain every day. And due to the child's visible need for major dental work, she has been continually bullied and humiliated by her peers.



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These are the facts from just some of the Denti-Cal cases that we have seen over recent months, not to mention those that HCA advocates have assisted or tried to assist with over the past years. In short, the current system is inhumane and must change.

We cannot emphasize enough how important it is for the Commission and state decision-makers to hold DHCS accountable to change its entire approach to Denti-Cal for these children and the millions of children and adults on or eligible for Denti-Cal across the state to ensure that needless hurdles, such as failing to provide coverage based on a family's or dentist's lack of knowledge of the proper standard or magic words, are identified and eliminated from the process. Specifically, we urge that the Commission do whatever it can to get DHCS to publicize or adopt changes in policy and procedure (or the steps that they are taking in that direction and the dates by which they will be completed) that will remove any such barriers from the TAR process. We further urge the Commission to help in the effort to get DHCS to develop a system for properly and consistently informing families and providers at the earliest stage in the process of what they need to do, specifically, to obtain treatment approval as well as proper and timely notification if a service is denied.

We appreciate the opportunity to submit these comments and applaud the Commission's efforts to make Denti-Cal the effective program it should be to Medi-Cal beneficiaries who are depending on it for their necessary dental and oral health care. Kindly contact Linda Nguy at [lnguy@wclp.org](mailto:lnguy@wclp.org) or (916) 282-5117 if you have any questions or would like additional information regarding these comments.

Sincerely,

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