

"HHS Colluded with AMA" to Boycott Chiropractic, Contends ACA

HHS "MISDIRECTED POSSIBLY HUNDREDS OF MILLIONS OF TAXPAYER
DOLLARS AWAY FROM CHIROPRACTIC"

Editorial Staff

In response to a Sept. 2, 1999 motion by the Department of Health and Human Services (HHS) to dismiss the American Chiropractic Association's lawsuit against the Health Care Financing Administration (HCFA), the ACA filed a briefing memo on Nov. 8, 1999 in the U.S. District Court, Washington, D.C.

In the briefing memo, the ACA made these main points:

- HCFA's failure to carry out the will of Congress and ensure the availability of chiropractic care to millions of Medicare beneficiaries is a remnant of the illegal boycott of the chiropractic profession begun by the AMA decades ago.
- HHS' contradictory statements about physical therapists' ability to do spinal manipulation to correct subluxation under Medicare is "stonewalling" and "bureaucratic gibberish."
- The collusion between HHS and the AMA took the form of a "direct challenge to the authority of Congress."

The ACA's briefing memo is the latest motion in its lawsuit filed last year against HCFA's Medicare Part C regulations. Part C is Medicare's managed care plan that allows MDs and PTs (in lieu of chiropractors) to perform spinal manipulations to correct subluxations.

The ACA's briefing memo outlines the historical connections between the AMA boycott of chiropractic and the actions of HCFA. The ACA believes that the results of a study in the early 1990s on chiropractic use by Medicare HMOs were intentionally suppressed by HHS. Congress had mandated that report, but it was never completed. That missing report is a critical component of the ACA's lawsuit.

The ACA contends that when HHS saw the data collected in 1991-1992, it realized that Medicare MCOs had "deprived senior citizens of chiropractic services and had misdirected millions (possibly hundreds of millions) of taxpayer dollars away from the chiropractic profession and its patients." The ACA's position is that HHS "determined to suppress this information and not submit the require report to Congress. ... the failure to submit the report was not an oversight but was the direct result of HHS' collusion with the AMA's illegal boycott."

The crux of the ACA briefing memo is that "there is no allowed substitute or legal alternative for chiropractic service. If Congress had wanted one, it would have provided for one."

HHS must file a reply to the ACA response by Jan. 3, 2000. (Editor's note: This issue went to press on Dec. 21, 1999.) If the court agrees with HHS' motion to dismiss the ACA's lawsuit, the association indicates it would immediately appeal the decision. If the court rules in favor of the

ACA, it will go into "full litigation" mode, i.e., discovery and deposing of witnesses.

JANUARY 2000

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