

It's Not About Scope of Practice, but the Right to Practice

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As I travel around the country talking about the lawsuit ACA filed against HCFA, I find that while most understand the issue, some seem to believe this is a scope-of-practice issue. There has always been and continues to be concern about the narrow scope in which chiropractic care is included in Medicare. We are covered for manual manipulation of the spine to correct a subluxation as seen on x-rays. That's it.

This is an issue that we have addressed time and again, and we continue to do so. Just two weeks ago, Congressman Watkins (R-OK) introduced legislation that would expand Medicare chiropractic services to what the states allow. That is not the issue of the suit. To win that battle will not be easy, and we do not have the luxury of time to wait and see the outcome of the legislation.

The current law is that the only service Medicare will pay chiropractors for is manual manipulation of the spine to correct a subluxation as seen on x-rays. Those are the cards we were dealt and the ones we must play with to address the Medicare issue today. The importance of that language is that when Congress passed the legislation over 20 years ago, it was clear that their intent was for all Medicare patients to have the right to seek chiropractic care from a chiropractor. Under the new Medicare Part C, HCFA has, with the stroke of a pen, made chiropractic service generic by saying any health care provider can render manual manipulation of the spine to correct a subluxation as seen on x-rays. Here are some important facts:

- When HCFA made what we believe was an illegal change, it made it possible for HMOs to eliminate chiropractic care rendered by chiropractors. That is now happening. Blue Cross of California sent out a notice late last year that they were eliminating chiropractic care from their HMO plan. ACA wrote HCFA to get their opinion if this was legal. A letter dated January 1999 from HCFA said Blue Cross could do that as long as some health care provider rendered manual manipulation of the spine to correct a subluxation as seen on x-rays.
- Medicare patients on a fee-for-service plan can go to whatever doctor they choose, including a doctor of chiropractic. But those that are in a Medicare HMO plan can have the ability to see a chiropractor greatly reduced or eliminated altogether. With the new Medicare Part C going into effect, the devastation to our profession will be much greater if we don't win.
- Medicare Part C has a goal to expand the Medicare HMO patient base from the current 16 percent (40 million each year) to 50 percent.
- 84 percent of Medicare patients use the fee-for-service plans. Congress wants to reduce that number to at least 50 percent, with the other half moved into Medicare HMOs. That is a huge number of patients going from fee-for-service to HMOs. It should be clear to everyone that the impact on our profession is directly related to how chiropractic coverage is included in the HMOs.
- In 1990 and again in 1993, Congress mandated HCFA to do a study to determine how chiropractic was being used in HMOs. They never did the study until nine years later after ACA filed its lawsuit in November 1998. They then came out with a preliminary report that

reveals dramatic data supporting our contention that chiropractic care was being denied Medicare patients in HMOs.

The survey showed:

- 4.25 percent of Medicare patients received chiropractic care via fee-for-service. That may not seem like a large percent, but it equals somewhere between 200 and 300 million dollars a year to our profession.
- When Medicare patients went into HMOs, the percent dropped from 4.25% to 1.25%. That's almost a two-thirds drop in chiropractic utilization. I hope you're beginning to see the devastating impact this can have on a profession that is already being squeezed by managed care. It gets worse.
- Now when a medical gatekeeper is involved, chiropractic services drop to 0.05%! That's right, 0.05%. During the "heydays" of the AMA's attempt to "contain and eliminate" the chiropractic profession, they frequently talked about how their actions would cause chiropractic to wither on the vine and die. I would say that 0.05% in a profession with growing numbers of DCs graduating from our colleges, and the government pushing to take Medicare's 16% fee-for-service to 50% in HMOs as withering on the vine and dying.
- Add to that the likely impact private insurance companies that follow Medicare's lead, as they frequently do, will have on our profession, and you can begin to see the seriousness of the problem.
- To not challenge HCFA's action does nothing to affect the chiropractic scope of practice issue, but it does cause our profession to lose market share, especially as more Medicare patients are enrolled in HMOs per the government's plan.

Your financial support is needed. Send your checks or pledges to:

Legal Fund/HCFA Lawsuit
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