Dynamic Chiropractic

Senate Resolution Gives Chiropractic a Boost

ACA AMENDS COMPLAINT AGAINST GOVERNMENT

Editorial Staff

When you have a lawsuit against the federal government, you need all the support you can muster. Such is the case with the American Chiropractic Association's lawsuit against the U.S. Health Care Financing Administration (HCFA) within the U.S. Department of Health and Human Services (HHS). The lawsuit, filed last November, takes the HCFA to task for the new Medicare managed care program (Medicare+Choice) that allows manual manipulation done by MDs, osteopaths and PTs to be substituted for what chiropractors have been doing for over a hundred years. Further, the ACA fears that the Medicare managed care will become a model for managed care across the country, effectively shutting chiropractors out of managed care.

On May 17, Senator Kent Conrad (D-ND) introduced a resolution (Concurrent Resolution 32) that states the Medicare managed care program should guarantee the same access to chiropractic services as the Medicare fee-for-service program. Cosponsoring the resolution were Senators Tom Harkin (D-Iowa), Orrin Hatch (R-Utah) and Charles Grassley (R-Iowa). The companion to the resolution was introduced in the House (Concurrent Resolution 62) by Representative Barbara Cubin (R-WY).

The Senate resolution was referred to the finance committee.

A concurrent resolution is not a piece of legislation. It is not sent to the president to act upon, nor does it become law. It is a presenting of facts, opinions and direction. For instance, each year concurrent resolutions are made to target spending for the coming fiscal year. The resolutions can and do have impact on other legislation. If a concurrent resolution is approved by both the Senate and House, it is published under a section of the statutes-at-large.

In the case of the HCFA lawsuit, it is a show of support by the three senators. We can only wait to see if the support grows. As John Dryden (1631-1700) observed: "... mighty things from small beginnings grow."

To support the resolution, you can call the Capitol switchboard at (202) 224-3121, or leave a message for your representatives at www.senate/gov or www.house.gov .

Amendment to the Lawsuit

On May 18, 1999, the ACA amended its lawsuit, charging that HHS and HCFA have failed to execute the laws of the land, including:

• a requirement that each Medicare HMO have a chiropractor in its employ as a panel member, staff member or gatekeeper;

• a requirement that HCFA employ a chiropractor acceptable to the ACA and the court to be involved in all decisions involving the mandated chiropractic service -- manual manipulation of the spine to correct a subluxation;

• the announcement of new regulations by HCFA making it clear that only chiropractors are qualified to diagnose and deliver the mandated chiropractic service, and that the service must be realistically available at reasonable usage rates;

• the clear revocation of any issued HCFA rules or regulations that have misled Medicare HMOs into believing they can substitute other providers for chiropractors in delivering the chiropractic service;

• an accounting for all tax dollars that should have been allocated to senior citizens for the chiropractic service by Medicare HMOs and the establishment of a fund to reimburse those who have been illegally denied the service.

The ACA amended complain is based on two studies, one by HHS and one by the Office of Inspector General. While the reports are conflicting, they give, according the ACA, "overwhelming evidence that the chiropractic service of manual manipulation of the spine to correct a subluxation has all but disappeared from Medicare HMOs and the Medicare+Choice programs." (Note: the HHS report was submitted six years after the deadline set by Congress.)

Dr. Edward Maurer, ACA chairman of the board, called the late HHS report an "ill-disguised effort to conceal from Congress the obvious fact that HCFA had failed woefully over the years to enforce the law requiring Medicare HMOs to provide meaningful levels of chiropractic services to our nation's senior citizens."

The ACA's amended complaint was filed with the U.S. District Court for the District of Columbia, naming HHS Secretary Donna Shalala as the defendant. HHS has 60 days to respond to the ACA's amended complaint.

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