

# Clinton Signs Health Reform Bill

## CHIROPRACTIC GETS SOME PROTECTION UNDER FRAUD PROVISIONS

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### Medical Savings Accounts Will Be Put to Test & ERISA Expansion Dropped

After months of debate and negotiations in Congress, and intense lobbying by health care provider organizations and insurance companies, Congress sent to President Clinton a health insurance bill (H.R. 3103) which he signed into law on August 21, 1996.

The bill, initiated by the bipartisan team of Ted Kennedy (D-MA) and Nancy Kassebaum (R-KS), guarantees workers access to health insurance if they lose or leave their jobs. Another key provision is a limit on an insurer's ability to deny or limit coverage based on pre-existing conditions.

### Anti-Fraud Provisions

Of great concern to lawmakers is the amount of health fraud occurring. Both the House and the Senate insisted on stiffening the civil and criminal penalties for health fraud.

In the section relating to Medicare (Section 231), Congress attempted to squelch overutilization. The bill imposes large fines for health care deemed "not medically necessary." This endangers chiropractors and other non-medical providers with the specter of being placed under a medical standard. The American Chiropractic Association (ACA) submitted language to protect chiropractors that ultimately became part of the final bill:

"The conferees do not intend that the language of [the bill] create any new standard for coverage of a claim ... The conferees recognize that under current law the reasonableness of a service provided by a non-medical practitioner, including a practitioner of alternative medicine, is judged by the application of principles particular to such non-medical health care professions. For example, the provision and reasonableness of chiropractic services under Medicare is judged by the application of chiropractic principles." (Congressional Record, July 31, 1996, p. H9537.)

The ACA also presented language that was added to the Private Health Care Section (Section 242) of the final bill. The original language was somewhat ambiguous and could have been misinterpreted with serious fraud consequences for non-medical providers. The ACA addition brings extensive clarification that protects chiropractic from potential anti-fraud abuses:

"The practice of complimentary, alternative, innovative, experimental or investigational medical or health care itself would not constitute fraud. The conferees intend that this proposal not be interpreted as a prohibition of the practice of these types of medical or health care. The Act is not intended to penalize a person who exercises a health care treatment choice or makes a medical or health care judgement in good faith simply because there is a difference of opinion regarding the form of diagnosis or treatment. Nor does this provision in general prohibit plans from covering specific types of treatment." (Congressional Record, July 31, 1996, p. H9538.)

## ERISA Expansion Dropped

When the bill left the House, there was much concern over a provision that would establish "multiple employer welfare arrangements (MEWAs)." These MEWAs, as originally designed, would have come under federal law and thus been exempt from state insurance equality laws. This potential problem was addressed in conference prior to the bills ultimate passage and is no longer a threat.

## MSA Demonstration

Medical Savings Accounts (MSAs) have the potential to provide substantial discretionary health care dollars that could be used by patients to purchase chiropractic services directly.<sup>1</sup> While this bill does not allow access to MSAs by all health care consumers, it does provide for a four-year test of MSAs for employees of firms of 50 or fewer and self-employeds, limited to 750,000 accounts. After the four year test is completed, Congress has the option to expand the program.

Again, the ACA submitted language to insure that chiropractic care was included in the MSA demonstration project. The included language provided for the MSA funds to be used "for services performed by a variety of health care professionals either licensed, certified or otherwise credentialed to provide health care services under state law ..."

The passage of this bill does not begin to address all of the issues facing the chiropractic profession, but it does give the profession a certain amount of protection under the new fraud provisions, and gives employees qualifying for MSAs more flexibility in health provider choices.

The fact that Congress heard and responded to some of the concerns of U.S. chiropractors is a reflection of the growing recognition of chiropractic and the efforts of national and state chiropractic associations.

## *Reference*

1. "Medical Savings Accounts Give Patients Direct Access too Chiropractors." Sue Blevins, RN, MPH. Dynamic Chiropractic, June 3, 1996.

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