Dynamic Chiropractic

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California's "Pure No Fault" Initiative

RADICAL PROPOSAL SHOULD ALARM DCS

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The chiropractic community is alarmed about the radical "Pure No Fault" initiative which will be on the California ballot in March 1996.

There are several different features in the initiative that are obviously anti-chiropractic, which will be discussed later. But even if the initiative didn't specifically hurt chiropractors, would it still serve a useful social end? Unfortunately, the experience of no fault throughout the U.S. presents a persistent theme of failure, deception, higher rates, and fewer benefits for consumers.

No Fault: A 1970's Idea

Insurance companies, to control costs and generate greater profits, muscled their influence in state legislatures to create a system which would provide them with greater leverage over consumers with automobile accident claims. A consistent promise made by the insurance carrier was that no fault would provide more benefits for consumers at lower premiums. Neither promise has come true. Moreover, not a single new state has adopted no fault in the last 15 years. At least three states have repealed their no fault statutes. Pennsylvania, Nevada and Georgia each experimented with no fault and found through hard experience that its promise of lower premiums and improved benefits were not met.

No Fault: Where It Hurts Most

In 1973 no fault came to Michigan. To maintain a viable court claim, the victim has to prove, to the satisfaction of the jury, injury to a "serious" important bodily function, such as fractures, scaring or herniated discs. Otherwise the victim receives nothing except that medical bills are paid (where not disputed), and some loss of earnings.

Under Michigan's medical pay, insurance companies usually order a quick IME to justify stopping care. There is no appeal in Michigan when the insurance company stops payment for medical pay benefits. The only option the chiropractor has is to file suit. There is no bad faith sanctions against the insurance company for intentional disregard of the patient's well being. According to John Vos, a chiropractic attorney in Michigan, insurance companies simply invite chiropractors to sue them. Most chiropractors are unable to afford the fees and the lengthy delays to get their bills paid. Consequently, the chiropractic services are difficult to get or maintain for chiropractic patients.

New York's no fault is worse. With the power of big insurance, New York was imposed with no fault in the early '70s and revised again in 1974. Attorney James Hogan, a New York chiropractic attorney, states that all chiropractic fees are controlled by the workers' compensation board. For example, the x-rays that chiropractors provide generally get paid 50 percent less than if the x-rays were taken by a medical radiologist. The chiropractic fee schedule currently offers between $16 to $21.90 for an office visit under the fee schedule imposed by no fault. Again, because patients are at the mercy of the insurance company, chiropractic care is often discouraged by the no fault system.

No fault is not popular anywhere. In 1990 and again in 1994, the conservative state of Arizona

voted twice in public referendums to reject no fault. In California, big insurance tried to foist no fault by initiative in 1988. Voters rejected that initiative 2-1.

California's Radical No Fault Proposal

No fault has not delivered on its promises. It ahs not reduced premiums, nor has it improved benefits for consumers. It has been generally injurious to chiropractors and their patients. Consumers have almost never benefitted.

The California "Pure No Fault Initiative" is the most radical proposal anywhere in the U.S. In its mission statement we see:

"(4) limit the fees paid to health care providers..."

It would immediately reduce all chiropractic fees to the workers' compensation fee schedule. That in itself is obnoxious, but it would also provide the power to reduce fees through a political appointee, namely the director of the workers' compensation appeal board. In addition, it employs a punitive peer review which could significantly delay chiropractic benefits for over 150 days. The act requires that any peer review organization be a designated HCFA organization. Unfortunately, there is not a single chiropractic review organization which is affiliated with HCFA. Obviously, the peer review would be medically dominated and biased against chiropractic doctors and their patients.

It is vitally important that the chiropractic community educate, communicate and mobilize against this initiative as never before. Chiropractic personal injury patients are a vital part of any healthy practice. If insurance companies are permitted unfair leverage over personal injuries cases, significant numbers of patients will be denied care and chiropractic participation will be greatly reduced in personal injury cases.

California chiropractors have been burdened for years with the growth of managed care, the decline of major medical insurance and reductions of other forms of insurance. Chiropractors can organize and work with the California Chiropractic Assoc. to defeat the Pure No Fault Initiative. California chiropractors can reactivate its political muscle to help ensure that the public not get fooled into denying wholesome chiropractic care of personal injury cases.

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