

# Medicaid Victory for West Virginia Chiropractic Society

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For the 20 years between 1972 and 1992, chiropractic coverage was optional in the West Virginia Medicaid program, limiting reimbursement to manipulation of the spine with a six-visit per year restriction, capped at \$5.75 per visit. But in 1993, change has come about for chiropractic -- for the better: Coverage in the West Virginia Medicaid program increased to a 40-visit limit per fiscal year, with \$16.80 for manipulation of the spine and x-ray reimbursement at the the Health Care Financing Administration (HCFA) mandated Medicare upper limit rate. West Virginia DCs have the West Virginia Chiropractic Society (WVCS) to thank for this victory.

The work paving the way to this achievement began in 1991. In West Virginia, like in many other states, funding Medicaid had become increasingly more difficult with the program's steadily rising budget. West Virginia was also having difficulties convincing health care providers to participate in Medicaid. With these problems in mind, the West Virginia legislature adopted a plan: a tax on Medicaid providers' reimbursement, which would "enhance" reimbursement rates to "reasonable and customary."

During discussion of this proposed legislation, WVCS was able to get member Michael Evans, DC, appointed to the General Medicaid Enhancement Board. The purpose of this board (and the four other advisory boards) was to make recommendations to the Office of Medical Services regarding the enhanced fee schedule for the new Medicaid program, which would go into effect January 1, 1992.

In early discussions of the proposed legislation, Dr. Evans dealt with the usual negative response chiropractic receives when attempting to expand coverage: West Virginia did not want to "go beyond HCFA guidelines and therefore put the state in jeopardy of losing federal matching funds." After considerable research, WVCS agreed that chiropractic must stay within the federal guidelines. The Society's argument to the Office of Medical Services was that although the guidelines did restrict chiropractors to spinal manipulation only, it did not forbid expansion of visits. WVCS also interpreted the clause "other lab and x-ray services" under Medicaid to mean that chiropractors could be reimbursed for x-rays because they are within the chiropractic scope of practice as defined by state law. The WVCS' interpretation of the clause was met with uncertainty by the state Medicaid director, who said that it would be necessary to check with the consultant in Washington, D.C.

WVCS did not wait for the state Medicaid director to look into the matter. Instead, the Society took the initiative and presented its interpretation to the director of Medicaid under the Bush administration, Ms. Christine Nye. Her response was certainly a positive one for chiropractic in West Virginia: "We agree with your interpretation ..."

Upon recommendation of the advisory board, and after approval by the state Medicaid director, chiropractic was set at 30 visits per year at \$24.00 per visit (\$18.48 after tax) and x-ray reimbursement. To provide funding, the West Virginia legislature instituted a 23 percent tax on

Medicaid reimbursements received by health care providers. These monies were used for the state's share so the it could receive the three to one matching funds from the federal government. Congress later ruled that West Virginia could no longer use this method of taxation, but instead needed to institute a "broad based" tax. The 23 percent tax on reimbursements was allowed to continue until June 30, 1993.

That meant that July of 1993 brought yet again a challenge to the West Virginia Chiropractic Society and the state legislature. After discussing several funding options for the Medicaid program, the legislature chose to implement a "broad based" health care provider tax on gross receipts, and a cut in the fee schedule across the board. Obviously, health care providers opposed this method of taxation for funding, but the chiropractic profession was forced to face some tough choices. Chiropractic is an optional program, and had the choice to exclude itself from Medicaid to escape taxation. In the short term, the decision to opt out may have been financially attractive, but the long-term consequences would have proved disastrous to the profession's future in the health care arena. The WVCS' position was that it had worked very hard for chiropractic equality and inclusion, and giving up those two things would not be worth escaping taxation. Through negotiation with the governor and through forceful legislative leadership, chiropractic achieved the lowest rate of gross receipts tax at 1.75 percent, compared to the MDs' tax at two percent.

The fact that chiropractic was at the bargaining table with all health care providers, and had as much political strength as any other group there, was a great achievement. The WVCS' winning strategy was to educate and communicate with the state legislature and administrative leaders and the Society credits this, and the leadership of then-President Dr. Joseph Martin, as the keys to their success.

"Our goal in the Society is to 'educate rather than litigate,'" said Dr. Evans. "Educating the legislators was the easy part. They were receptive to the current chiropractic research. Things got more difficult when we began to deal with the state agency overseeing Medicaid. Old prejudices and attitudes do die hard and it made getting through the red tape that much harder. The fact that we had to work within a limited budget didn't help either. But persistence paid off and we have made significant progress elevating chiropractic from the pre-enhancement levels. There is still more to be done and we are pursuing higher levels of coverage but current budget limitations are our biggest hurdle."

Currently, the WVCS is mailing various educational materials, such as the Manga Report, to legislators and the governor's staff. The Society has already contacted the medical directors and regional contracting directors of many managed care companies including Aetna and SIGNA to insure chiropractic inclusion in their networks. Looking ahead, West Virginia's 1994 Medicaid budget is estimated to be 10 percent below the anticipated revenues. The WVCS and the chiropractic profession will need to be ready once again when the legislature again asks, "What will we do?"

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