

## Clinton Health Care Program Includes Fraud and Abuse Control Program

Editorial Staff

President Clinton's Health Security Act proposes many changes to the nation's health care, some of which will most certainly affect the chiropractic profession. While passage of a health care reform package is still a considerable distance down the legislative road, DCs should be familiar with one particular program proposed by the bill: the "All-payer Health Care Fraud and Abuse Control Program."

Whether you applaud or resent this type of legislation, it appears to be a major focus of the overall reform of the health care system.

The following are paraphrased excerpts from Subtitle E (Fraud and Abuse) of the Health Security Act.

No later than January 1, 1996, the secretary of Health and Human Services (acting through the office of the inspector general of the Department of Health and Human Services and the attorney general) shall establish a program with respect to the prevention, detection, and control of health care fraud and abuse.

Investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States will be conducted to enforcement statutes applicable to health care fraud and abuse.

The sharing of data and resources between federal, state, and local law enforcement agencies, state medicaid fraud units, and state agencies responsible for the licensing and certification of health care providers will be initiated. This data will also be shared with representatives of health alliances and health plans.

The attorney general, the secretary, and the inspector general are authorized to conduct, supervise, and coordinate audits, civil and criminal investigations, inspections, and evaluations relating to the program. They will have access (including on-line access as requested and available) to all records available to health alliances and health plans that relate to ongoing investigations.

### Application of Fraud and Abuse Authorities under the Social Security Act to All Payers

#### Mandatory Exclusion

The secretary will have the power to exclude an individual or entity from participation in any applicable health plan if convicted of health care related crimes or patient abuse. Minimum periods of exclusion will range from 3-5 years unless the secretary determines that a longer period is necessary because of aggravating circumstances. Monetary penalties may also result if the secretary determines an individual has committed actions subject to penalty under Medicare,

Medicaid, and other social security health programs.

#### Discriminating on Basis of Medical Condition

Action subject to penalty also includes engagement in any practice that would reasonably be expected to have the effect of denying or discouraging the initial or continued enrollment in a health plan by individuals whose medical condition or history indicates a need for substantial future medical services.

#### Inducing Enrollment on False Pretenses

The program interdicts engaging in any practice to induce enrollment in an applicable health plan, including remuneration to enroll.

#### Civil Penalties

Penalties for termination of enrollment, discrimination on basis of medical condition, enrollment on false pretenses, and providing incentives to enroll are subject to a civil monetary penalty not to exceed \$50,000 for each such determination.

Those who execute, or attempt to execute, a scheme to defraud any health alliance, health plan, or other person, in connection with the delivery of or payment for health care benefits, items, or services, may be fined or imprisoned (not more than 10 years), or both.

#### Forfeitures for Violations of Fraud Statutes

If the court determines that a federal health care offense posed a serious threat to the health of any person or had a significant detrimental impact on the health care system, the court may order that person to forfeit property, real or personal, that was used in the commission of the offense, or constitutes or was derived from proceeds traceable to the commission of the offense, or is of a value proportionate to the seriousness of the offense.

#### False Statements Relating to Health Care Matters

Whoever, in any matter involving a health alliance or health plan, knowingly and willfully falsifies, conceals, or covers up a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any fictitious, or fraudulent statement or entry, shall be fined or imprisoned not more than five years, or both.

There are additional sections of the program dealing with bribery, theft, and embezzlement, but we think you get the idea. The Clinton administration is serious about national health care reform and has taken a strong stand on health care fraud.

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