

Workers' Compensation, Our Golden Opportunity, Part II

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While most states are seeing increasing red ink in their workers' compensation system, a few are improving, at least on paper. The most improved in 1992 was Oregon,¹ resulting largely from serious reforms adopted in 1990. Some of the reforms were extremely hard on the chiropractic profession, limiting care to 12 visits before requiring referral to an MD for a recommendation for further care. Oregon also requires mediation of all workers' compensation disputes as a precondition to court appeals.

Oregon is an example of what can happen. The Oregon initiative will be closely watched; we will see statistical evidence of its merit in the future. Periodic mention of the Oregon program will help give the decisions made by the Oregon legislature greater credibility and create a wider constituency seeing similar legislation. Other states are watching.

Given the small percentage of workers' compensation cases Oregon chiropractors treat, it is clear that limiting chiropractic participation in the state system will have a minuscule effect on the problem of higher costs in the Oregon system. Other, more significant factors exist, but these are not mentioned. All we hear about are cheating claimants, crooked lawyers, and chiropractors who treat workers' compensation claimants forever.

These are political, emotional considerations that can take on power without being well-substantiated. Chiropractic can be made a scapegoat for expense caused by others. We must develop the data to refute any such attempt. Can anyone believe that "reforming" the five percent of cases that chiropractors treat will impact significantly on the other 95 percent of the system?

There is enormous frustration with workers' compensation across the country. Given the amount of money involved and the influence of the major players, it is certain that the pressure for initiatives to reduce benefits will increase over time. In more than a few instances, chiropractic benefits were singled out as an excessive cost. No doubt there are abusers. Every profession has them. They are a small minority that deserve serious and personal attention. Unfortunately, the system reacts to these few individuals by creating generic opinions and procedures which wrongly discriminate against everyone because of a few.

Fraud is a fact of life. To use isolated instances of abuse against one profession when it is found in all professions is unfair. Fraud cannot be countered with generic claims-management procedures. It requires intelligent claims management, nothing less. Of all the health professions treating workers' compensation patients, to single out and label chiropractic as a problem area by the poor behavior of a few is unfair. It is up to us alone to counter this negative propaganda.

Sharp annual increases in workers' compensation insurance premiums are fueling a volatile situation. In this desperate setting, it is not uncommon to see the largest players use their size and influence to accomplish their ends, no matter the consequences to others. This usually results in poorly thought-out "shotgun" reforms that settle one problem while it creates others.

For instance, both the National Conference of State Legislatures' Blue Ribbon Panel on Workers' Compensation and the Labor Management Discussion Group on Workers' Compensation convened by the president of the Liberty Mutual Insurance Company have mentioned the value of the Oregon guidelines as they applied to chiropractic. There are three reasons for this in my view. First, chiropractic does not have a large enough constituency among the American population or within the insurance industry. Second, there is widespread ignorance of our true contribution. Third, there are some abusers. These hurt us mightily and provide the propaganda for those who do not want chiropractic included.

The Labor Management Discussion Group on Workers' Compensation is made up of several organizations including the National Association of Manufacturers, Liberty Mutual Insurance Company, several AFL-CIO organizations, the National Council of Self-Insurers, and the AMA. This group argues for medical fee schedules, managed care (which implies the primary care physician concept), utilization review, and practice parameters or medical guidelines. The following is a quote of discussions printed in the 10-26-92 issue of BNA's Workers' Compensation Report, published by the Bureau of National Affairs, Inc., of Washington, D.C.

"Chiropractic treatment requires close scrutiny by states, the group said. There was considerable support for restricting chiropractic treatment for comp. injuries, including limits on total visits, and review of claims by medical specialists, according to the paper. A utilization review process for chiropractic should be developed, limiting the total number and frequency of treatments unless additional services are agreed to by the primary treating physician, the paper stated."

It would be foolish to believe that these discussions will not eventually lead to legislative initiatives across the nation. This is a think tank that is cooking up answers to the problems of the members of the group. There are no chiropractic representatives in the group. That means our chiropractic problems and concerns will not be addressed. Instead, chiropractic is viewed as a problem.

We must give the activities of such discussion groups due respect. We must appreciate the potential they hold for setting the stage leading to profound and fundamental changes in the workers' compensation system in any state. No one knows when or where. Who could have predicted that Oregon of all the states would do what it did? The lesson is clear: there can be other Oregons.

Our work is cut out for us. Much needs to be done, but it is not difficult. It requires dedication. The first thing needed is for each of us to review our procedures and tighten up our reporting and case management. We will have quite a bit to say about these things in subsequent offerings.

For the time being, look at your present worker' compensation cases. If you are doing anything which might be viewed by a carrier as overutilization, take time now to write a letter and qualify it to the carrier. Carriers are not an automatic teller machine. They are run by intelligent people who must eventually be impressed by good work. Our job is to provide good service with bullet-proof documentation.

Shall we wait until other states are affected by the mentality that cuts chiropractic benefits, believing that such an initiative will solve their enormous problems? We know that the financial problems facing each state workers' compensation system is far, far greater than the amount they pay chiropractors. Given that chiropractors treat only five percent of workers' compensation claimants nationally, it is clear that even eliminating all chiropractic would do little to fix the problems that exist today. But the initiative to cut chiropractic looks progressive! It's a red herring plain and simple. Such initiatives give more time to continue current practices while they get rid of the chiropractic competition at the same time. For them, it's a win-win situation. These folks are

thinking.

Clearly, we must do all we can to gather the data needed to make a strong argument supporting our presence in the current system. This requires strong political commitment from our state and national associations. It is not something that can wait. The activities of the "discussion groups" mentioned earlier is clear challenge to our very presence in the workers' compensation system. We must gear up now. This challenge is sure to come. We cannot afford to be embarrassed in this vital area by a few abusers or unfounded propaganda. We must anticipate the challenge and focus our resources now. Later is always too late.

In some states the patient has full choice of doctors. In others, the doctor must have permission from the employer to treat the claimant. Employers have a legitimate concern that their employees are adequately treated for work injuries. However, leaving the choice of who does the treating strictly to the employer leads to the selection of the cheapest provider, not necessarily the best. It also controls, often to a fault, the claimant's access to care. This argument has its pros and cons. The enormous influence of perceptions in this issue are obvious. We must therefore be clearly understood (and documented) to be both effective and essential.

Evidence of the AMA's campaign of disinformation over the years is fairly obvious in most state workers' compensation programs. Even in this enlightened period, with no shortage of qualified chiropractic experts, chiropractic opinions are not routinely sought as the final answer in chiropractic cases. Carriers still prefer to believe medical authority in cases treated by chiropractors.

This creates serious problems in effective chiropractic case management, but also offers the chiropractic profession an enormous opportunity to make our presence felt. The argument from the field for more reasonable and realistic chiropractic insurance consulting is much too dim and totally unorganized. There are a number of excellent chiropractic insurance consultants, but there are more that are less than excellent. The poor quality of the work produced by such chiropractors serving as consultants for insurance carriers should be attacked head on. The fact that it isn't almost guarantees continuation of current practices. Such poor consulting creates ill-founded but nonetheless impressive statistics that can be thrown in our face at a later date.

The argument can be made that chiropractic consultants doing poor work are acting as unwitting pawns of the insurance industry. This is an evil practice that must stop.

Good credentialed chiropractic experts exist. There are some 800 diplomates of the American Board of Chiropractic Orthopedics across America. How many of these individuals do we see performing consultations for insurance carriers? These doctors are legitimate higher authorities in chiropractic case management. They deserve to be used.

There should be pressure everywhere to create company chiropractors. We have a number of trained industrial consultants as a result of excellent programs such as that created by Dr. Sweere at Northwestern College of Chiropractic.

So where are we going with our discussions? A great deal of work lies ahead. Our task is to attempt to define the issues, then offer workable approaches to address them. So far we have offered general discussion of chiropractic in workers' compensation. More will follow in the next few columns. We will then move to the examination, reporting, and treatment of workers' compensation claimants. This general discussion is essential to framing the issues.

References

Kenney RE, director of actuarial studies, Alliance of American Insurers: Workers' Compensation State Funds: Disappearing Capital (no date).

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