Dynamic Chiropractic

Washington State Court Upholds Alternative-Provider Law

Editorial Staff

In 1995, the Washington state legislature passed a bill (HB 1046) to give health care consumers access to all types of state licensed or certified providers: chiropractors; naturopaths; physician assistants; RNs; podiatrists, acupuncturists; and massage therapists.

But days before the Jan. 1, 1996 enactment of the bill, a dozen of the state's largest health insurers challenged the law in the courts. The outcome of the legal maneuvering was that in the spring of 1997, a federal judge in Tacoma declared that the bill conflicted with federal (ERISA) law that barred state regulation of employer benefit plans.

On June 18, 1998, a three-judge panel of the 9th U.S. Circuit Federal Court of Appeals in San Francisco reinstated the Washington state legislation. Circuit Judge Tashima wrote: "The mere fact that many ERISA plans choose to buy health insurance for their plan members does not cause a regulation of health insurance automatically to 'relate to' an employee benefit plan, just as a plan's decision to buy an apple a day for every employee, or to offer employees a gym membership, does not cause all state regulation of apples and gyms to 'relate to' employee benefit plans."

The insurance industry had also argued that the state law improperly regulated the contractual relationship between carriers and doctors. But the court said the true beneficiary of the expanded choice was the individual consumer; that the law met the traditional tests for insurance matters, and therefore properly fell within the state's jurisdiction. "The act does not require employers to provide any particular benefit to employees, and it does not impose any burden on the plan in administering any benefits it chooses to provide," noted the court.

"This is a decision of national significance," said Deborah Senn, the Washington state insurance commissioner. "It validates Washington state's long tradition on the cutting edge of health-care reform."

The case now will be returned to the District Courts in Western Washington, which will enter the judgment in favor of the state.

Not So Fast

Reinstatement of the law will most certainly be delayed, as the insurance companies may choose to appeal the ruling to a full appellate court, or to the U.S. Supreme Court. Also, the insurance industry is challenging the bill in a case in Thurston County Superior Court. That case was put on hold until a ruling on the federal (ERISA) matters was made. Now that the Federal Court of Appeals has declared the insurance industry's contention of the case must play out. In that case, the main question is if the law applies to all health insurance plans, or only to MCOs.

Commission Senn hopes the insurance companies will end their legal blockade: "They have fought this law in the courts and they have tried to repeal it in the legislature ... The simple fact is that the people want this law."

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