

# New Jersey Supreme Court Upholds Legitimacy of Thermography as a Diagnostic Procedure

Editorial Staff

On August 8, 1991, the New Jersey Supreme Court handed down a ruling in *Thermographic Diagnostics, Inc. v. Allstate Insurance Company, et al.* that is worthy of note.

The case was a precedent setting class-action suit pitting some 300 auto-insurance policy holders involved in car accidents against several insurance companies (primarily Allstate and State Farm Insurance). The accident victims had all been referred by their doctors, many of whom were DCs, for thermograms.

The insurance companies, seeking not to compensate their insureds for the thermographic studies, argued that "thermography is an experimental procedure not generally accepted within the medical profession and hence not a necessary medical expense."

The court held that the insurance companies must cover the cost of the thermograms "if the treating physician orders a thermographic test based upon a sincere belief that the procedure will further the diagnosis and treatment of the patient."

Dr. George Forster, chairman of the International Chiropractors Association College on Thermography judged the court's decision as an important step for the advancement of thermography. Dr. Forster said the decision represents a "legal recognition of the validity and utility of thermography as a diagnostic tool, and it will help put an end to insurance industry attempts to avoid paying legitimate claims on the basis of an inaccurate characterization of thermographic science."

Ronald Hendrickson, executive director of the International Chiropractors Association, characterized the court's decision as a landmark case and noted: "Thermography is rapidly gaining acceptance and recognition as a useful diagnostic tool that provides a valid documentary record of a patient's condition."

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## Reason to Celebrate -- Proposed Medicare Fee Schedule Dropped by HCFA

In the Congressional Budget Act of 1989, the Health Care Financing Administration (HCFA) was directed to develop a new fee schedule for Medicare that would more accurately reflect the value of all the various medical procedures covered under the program.

This past June, the HCFA presented their new Medicare fee schedule; it reverberated shock waves throughout the medical community. Under the proposal, a new payment method would assign relative values to all Medicare services, transforming them into a dollar conversion factor (CF).

The CF was seen as more of an attempt to drastically reduce Medicare expenditures than to correct the inequities and inaccuracies of the former program.

For chiropractic, the bad news was that the new fee schedule would reduce Medicare payment for chiropractic adjustments by approximately 14 percent by 1996.

The estimated slash in overall physician Medicare payments ranged anywhere from 7 to 15 billion dollars by 1996.

HCFA's new proposed fee schedule for Medicare services was set to be finalized in October and to go into effect January 1992.

The ICA, ACA, numerous health care organizations, and thousands of individual health care providers quickly and emphatically expressed their dismay over the HCFA proposal.

Our national chiropractic organizations were most concerned with the anti-chiropractic bias of the HCFA proposal. Congress had directed the HCFA to assign fees based on the nature of the services; providers doing similar services would be paid similar fees. Contrary to that directive, the HCFA schedule had doctors of osteopathy (DOs) receiving 80 percent more for a basic manipulative service than DCs. The inequity was appalling.

Sometimes justice prevails; sometimes protest provides immediate and gratifying results. The concerted efforts of our national organizations and the medical community at large has resulted in HCFA dropping their proposed fee schedule.

Dr. R. James Gregg, president of the ICA said of HCFA's unexpected action: "We are pleased that HCFA has recognized the serious shortcomings of this initial proposal, but the battle is far from over. We will need to carefully study any new HCFA proposal to specifically insure that chiropractic is treated fairly in the revised fee structure."

The HCFA will go back to work to revise their proposal; no timetable has been set. Both the ICA and ACA government relations staff are in contact with HCFA officials to get across the chiropractic viewpoint and lobby for equality for DCs under a new Medicare fee schedule.

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