Dynamic Chiropractic

YOUR PRACTICE / BUSINESS

Professionalism and Self-Regulation

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A developer, researcher and consummate salesman of a chiropractic technique once wrote the following: "If you perform 'impendent [sic] medical examinations' AND cut your fellow DCs claims, thereby limiting our chiropractic patients' benefits, THEN it IS everyone's business and you need to be ostracized ... better would be horsewhipped."[1]

Is that comment a proper professional reaction to a problem? Do personal attacks of this nature move us toward a solution? Not at all. Perhaps it is time we re-evaluate such knee-jerk responses and construct a better plan.

Any doctor who accepts insurance reimbursement has likely experienced occasions when professional clinical decisions were questioned (or even cut) by an independent medical examiner or claims reviewer. This is always frustrating and time-consuming. Clearly, consultant evaluations are not always handled properly and fairly, and some consultant opinions are obviously wrong.

However, while most chiropractors do treat and charge correctly, we all know that some do not, and we often know who they are. One case in point was a claim for $6,000 for three days of treatment. Does that sound excessive to you? Another high-dollar claim by a DC included billing the insurance company for adjusting himself. Shouldn't the carriers take a look at that? Some doctors "creatively" code spinal decompression as therapeutic activity to circumvent insurance carrier policies of nonpayment for that procedure. Should carriers be expected to pay claims without assurances that the claims are truthful and fair?

On the other hand, is it reasonable for carriers to lump all patients into limited diagnostic categories, regardless of age, circumstance, case history and prognosis? For example, what an insurance carrier might consider "maintenance" in older patients may well constitute active care for this fragile population. We all know that patients experiencing chemical, physical or emotional stress need more care than those who do not. How do we convince the carriers?

It is also clear from the recent U.S. Office of the Inspector General's report on documentation and record-keeping that collectively, the chiropractic profession's clinical note-taking and patient-information maintenance are abysmal. Could it be our poor documentation is causing our problems with receiving proper reimbursement?

Chiropractic is a profession. By nature of the term, the public expects us to hold ourselves to high standards. As with all professions, we are called upon to self-regulate. We are expected to police ourselves with respect to fraud, abuse and unethical behavior. This policing occurs primarily through the state licensing boards as they respond to complaints from the practitioners and the public. If you are aware of fraud, abuse or unethical behavior, it is your responsibility to file a complaint to your respective licensing authority.

With respect to evaluating treatment parameters, we need national guidelines to establish what is proper, in order to manage both sides of the insurance claims problem - reining in both inappropriate consultant and practitioner behavior. We need standards on which we all can rely to allow for proper patient access to chiropractic care, and to eliminate artificial and arbitrary visit restrictions. We need standards that provide cogent, reliable pathways to patient treatment and relief. And we need standards that help protect patients from gross overutilization and odd interventions that capitalize on their vulnerable pain state and implicit trust in the professional, simply by nature of the authority conveyed by the "white coat."

Such standards must be continuously modified as new research provides us with solid information about diagnosis and treatment. These standards would give a safe harbor of reasonable treatment for the clinician and guidance for the reviewer. Everyone would be using the same standards, developed by our profession, for evaluating the treatment of patients. We need to replace the current system, which often bases reimbursement on arbitrarily designed policies or imposes draconian restrictions upon our clinical recommendations for diagnostic tests or treatment.

No health care professional is reimbursed what they charge, and in every case, without some oversight or limitations. It seems strange that some think there should be an "open checkbook" with respect to chiropractic reimbursement. Other professions have developed standards of practice that guide reasonable patient care. To be certain, insurance companies often "wag the dog" with respect to medicine, just as they control the chiropractic profession. However, medicine has much more widely agreed-upon clinical treatment pathways, based upon high volumes of well-funded research and consensus opinion. As a result, there are few aspects of medical practice left open for unfettered and potentially biased consultant opinion.

We as a profession, on the other hand, seem to be standards-averse. Chiropractors often choose our profession because they are "rugged individualists." While this can be a positive trait in a doctor, it leads to a lack of consistency and professional identity when it is misapplied. Certainly the lack of collegial vision has dealt a significant blow to the recent best practices initiative. On the flip side, the profession's recent strong and cohesive commitment to cleaning up our documentation and record-keeping issues illustrates the power that can be tapped to develop and implement rational and uniform standards. When we put our patients' interests foremost in our minds, we can move ahead quickly and powerfully in the eyes of third-party payers.

The problem is simple: If we don't set the standards for our profession, the standards will be set for us by the carriers. This happens by several methods: by limiting annual chiropractic benefits (e.g., $500 annual maximum and a 20-visit limit) and by hiring consultants to review claims or authorize treatment. We're already very late in having this discussion.

We're losing reimbursement ground every day, when chiropractic management firms establish tiered reimbursement schedules for chiropractors that are far below those paid for similar services by other professions. Clearly it is unacceptable when we have to seek preauthorization for basic treatment, in order to be paid $6.50 for a $33 service - only after multiple calls to refile "lost" paperwork and to remind the company that it originally approved the care.

We're losing ground every day when reimbursement tiers are developed and applied by independent consultants without the presence of profession-wide standards. With no objective basis upon which to appeal, and with such low reimbursement schedules, many doctors simply give up. In one such case, a

highly ethical practitioner with pristine records submitted $900 in claims involving a number of patients to one of these "management companies." After the company finished processing his claims, it sent him a check: for one penny. Rather than cashing the check, he framed it.

Time to Draw the Line

Without national practice standards, we have no leg to stand on when a consultant cuts a claim. But when we have standards, we can fight back. In another case, a consultant had limited X-ray reimbursement in a chiropractic clinic to four 8 x 10 X-rays (two cervical, one AP thoracic and one AP lumbar spine). In challenging this decision with the insurance carrier, the doctor was able to provide a national standard: a widely accepted imaging textbook to show what a proper sectional X-ray study should have been, and why the charges should have been paid. The carrier was stunned with the revelation of solid evidence, resulting in a paid claim and a change in the insurance company policy.

Clearly, we need to get smart, document well and challenge inappropriate decisions. If we are to be successful, we must develop our own defensible standards in the diagnostic and therapeutic aspects of chiropractic practice, and hang onto them with a tenacious death-grip.

What Can You Do?

- Pressure our profession to establish practice standards that we can use to protect our ability to care for patients. Such standards must protect the doctor's right and responsibility to make clinical decisions, while simultaneously identifying and prohibiting unreasonable care. Our profession is in desperate need of a clear set of rules for what constitutes proper treatment. While adding a patient protection dimension, these standards also would result in the capacity to successfully challenge any inappropriate consultant opinion.
- Establish and use state peer-review committees. While some associations or licensing boards already have them, employing a comprehensive system of peer-review panels makes sense. Held to accountability by the association or boards and acting within accepted parameters, the committees could review bills and offer valid judgments for practitioners and patients alike. Their decisions in support of your appropriate and well-documented claim would add considerable weight to combat and appeal any unreasonable consultant opinion by the carrier. However, the peer-review panel also may find you were out of bounds. Are you also ready for that opinion?
- If you perform IMEs, insist that your payment be based solely on your time conducting the review and your professional skills. Compensation based on a percentage of claims cut is never appropriate.
- Be intolerant. Supporting or even allowing overutilization by our peers is misplaced partisan loyalty. Stand up for proper use of clinical chiropractic care. Is our silence consent of their actions?
- Be vigilant. Fight back when insurance companies unjustly slash your claims. Appeal and then appeal again, based on the presentation of immaculate clinical documentation, consensus opinion evidence, peer-review judgments, textbook references and current studies in scientific publications. If all practitioners aggressively and effectively use the appeal process, the carriers will have to listen.

Using the best evidence available, coupled with proper clinical and ethical judgments, doctors of chiropractic make excellent decisions daily regarding treatment parameters. However, both practitioners and consultants are struggling with limited resources. As long as the profession fails to establish clinical practice standards, the situation will remain difficult. Some DCs will overcharge and

some consultants will underpay. Are you ready for a change, or are you going to remain silent and give your "acceptance" to the current situation?

Reference

1. Charlton KH. Guest editorial: "Silence Is Not Golden: It's Consent." *Chiropr J Aust,* 2003;33(3):81-2.

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