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ACA Files Suit against HCFA for Medicare Part C

By Michael Pedigo, DC

November 12th, 1998 was an important day for our profession. ACA took a bold, courageous step in protecting the future of our profession and the rights of Medicare patients to have chiropractic care as mandated by Congress. ACA filed a lawsuit against HCFA over their illegal regulations in Medicare Part C, which will go into effect in January 1999 if we don't stop them. They are perpetuating an illegal regulation they established under Medicare Part B.

ACA has worked diligently, exhausting all administrative avenues to get them to change the regulation under Part B and to not implement it under Part C. The regulation in question is one that states any health care provider can perform the chiropractic service of manipulation of the spine to correct a subluxation.

The issue is not "only chiropractors can manipulate the spine" but rather "only chiropractors can manipulate the spine to correct a subluxation" as mandated by Congress when they included chiropractic care as a Medicare benefit in the 1970s.

The reason this is so important to our profession's future is that Medicare Part C will drive many more patients into HMOs. While HMOs know they must provide chiropractic care for Medicare patients, many claim to do so by using MDs, DOs and PTs. As more and more Medicare patients go into HMOs, they will find they have been misled into believing they have coverage for chiropractic care, believing it will be rendered by a doctor of chiropractic, only to find they will have to go to a different health care provider. The problem is further complicated by HMO gatekeepers, most of which are MDs.

I am aware that there are a growing number of MDs who refer to DCs, but it is still a very small percentage, so small that nationwide, the number of MD gatekeepers that would refer to a DC for chiropractic care when they have the option of referring to an MD, DO or PT is insignificant to the chiropractic profession as a whole. To understand why that is the case, one only has to review the recent history of the AMA to brainwash MDs and society against chiropractic care. The AMA was found guilty of illegally attempting to

destroy the entire chiropractic profession in the Wilk vs. AMA antitrust suit. While we won that suit, the vast majority of MDs still hold the bias against our profession that the AMA pounded into their minds from years of brainwashing with statements such as "chiropractors are nice people, but they are killers and rabid dogs."

So, while HCFA's regulation was a problem for our profession under Part B, it will become a huge problem if Part C goes into effect. Not only are Medicare patients affected, but also since the private sector insurance companies frequently follow the lead of Medicare, they are likely to also attempt to exclude chiropractic care via the same means.

This is a very serious threat to our profession. Do not take it lightly, and do not sit back and expect ACA to foot the entire bill. We just do not have the funds to do so. It is projected the cost will be somewhere between \$300,000 and five million dollars. Why such a spread? Because we are suing the federal government, which has an unlimited budget, and because the suit could take years. Nonetheless, it is of such importance that ACA filed the suit and has faith that the profession will step up to the plate and support this action.

Leading the way was the little state of Connecticut, which gave \$5,000, and NCMIC, which gave \$50,000! Individual doctors are joining ACA so their dues dollars can help and/or are giving to the legal fund. We need your help, and we need it now. Please get your state association to invest in the future, as well as you personally.

The address for the legal fund is:

Legal Action Fund/HCFA Lawsuit
P.O. Box 75359
Baltimore, MD 21275

I want to make it clear that the goal of this legal action is to make sure that all Medicare patients, whether or not they are in an HMO, have access to a doctor of chiropractic for chiropractic care. We have no control over whether other health care providers are permitted to render spinal manipulation, but it is clear that when Congress included chiropractic benefits by writing special language that defined chiropractic care under Medicare as "manipulation of the spine to correct subluxations," their intent was that all Medicare

patients had/have the right to receive chiropractic care by a chiropractor.

It is an insult to Medicare patients, Congress, and our profession for HCFA to now rewrite history by attempting to make chiropractic care a generic service.

Don't get confused by the fact that today there are different definitions for subluxations. When Congress enacted legislation that included chiropractic care, MDs said there was no such thing as a subluxation except for a near dislocation; PTs did soft tissue mobilization; and DOs correct spinal lesions. Only chiropractors manipulated/adjusted the spine to correct subluxations. Thus, the clear intent by Congress was that chiropractic care was to be rendered by chiropractors! We cannot allow an administrative body (HCFA) to rewrite history in such a way that it could have the effect of doing what the AMA attempted to do with their illegal boycott of our profession.

While there is no guarantee about any legal action, I feel good about this case, and I am certain we are right and the HCFA is wrong.

Dr. Michael D. Pedigo is a past president of the American Chiropractic Association and the International Chiropractors Association, and the only doctor to receive the Chiropractor of the Year Award from both organizations. He practices in San Leandro, Calif., and can be contacted with questions and comments via his Web site: www.drpedigo.com.



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