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January 16, 2020

Seema Verma
Administrator
Centers for Medicare and Medicaid Services:
7500 Security Boulevard
Baltimore, MD 21244
Sent via email to: PatientsOverPaperwork@cms.hhs.gov

Subject RE: Scope of Practice

Dear Administrator Verma:

Thank you for the opportunity to provide additional input and recommendations regarding elimination of specific Medicare regulations that require more stringent supervision than existing state scope of practice laws or that limit health professionals from practicing at the top of their license. We understand that this additional feedback is in response to part of the President's Executive Order (EO) #13890 on **Protecting and Improving Medicare for Our Nation's Seniors**.

Doctors of Chiropractic (DC) are licensed in all 50 states as portal-of-entry providers who treat the "whole body" and whose scope of practice is defined by state law in every state, allows for the provisioning of a broad range of services. A typical state scope recognizes the ability and training of DCs to; examine, diagnose and treat patients utilizing most physical medicine procedures

Practicing chiropractors offer their patients a broad-based approach to pain management, including manual manipulation of the spine and extremities, joint mobilization, soft-tissue massage techniques, physiological therapies, therapeutic exercise and activity advice.

This safe, non-pharmaceutical approach has been proven to be a highly effective option for many patients with musculoskeletal pain and the evidence exists demonstrating that adding currently covered services performed by Doctors of Chiropractic for patients in Medicare will not add additional costs to the program.[1,2] Furthermore, chiropractors are trained and licensed to know when to refer for x-rays, advanced imaging procedures and laboratory assay and do so at a lower rate than other providers for similar conditions.

As policymakers seek to prevent the use of unnecessary drugs and surgery, doctors of chiropractic are poised to assist in the opioid and drug abuse effort by lowering the reliance on those drugs, especially in cases related to spinal related pain.[3,4] The current policy arbitrarily restricts access to chiropractic services and inadvertently exacerbates these problems.

Currently, Medicare regulations contain more restrictive supervision requirements for Chiropractic than evidenced by the existing scopes of practice of any state. While other portal of entry providers are permitted to practice within the full range of their scope, DCs are not allowed to provide existing, covered, Medicare services that fall within their scopes of practice. This artificial limitation restricts patients from a continuity of care as they age into Medicare, putting beneficiaries at a distinct health disadvantage and burdening them with unnecessary expense to receive the care that they require.

As an example of the barriers presented by the current system, when a chiropractor determines that a Medicare beneficiary needs an x-ray, MRI, electrodiagnostic study, laboratory test or other diagnostic procedure, current policy does not cover these services when ordered by a chiropractor. In those instances, further unnecessary visits and beneficiary expenses are required to obtain the needed "order" from a second Medicare provider who will often (especially in the case of diagnostic imaging and lab tests) order the service from a third Medicare provider. This adds unnecessary cost/waste to the already overburdened Medicare system. It also creates financial stress to the beneficiary (many who are on fixed incomes) because either the patient pays for additional medical visits or pays out-of-pocket when these necessary services are ordered directly by their chiropractor.

In addition, both the National and Local Coverage Determinations for Chiropractic require examination procedures to demonstrate medical necessity to treat a patient, but those services are considered non-covered benefits when performed by a DC, placing the fiscal burden squarely on the patient.

A glaring example of the problem is in Examination and Management of a patient (E/M coding), routinely covered for other portal of entry providers but not when performed by a Chiropractor. Examples include 99201-99205 as well as 99211-99215 CPT codes. This also applies to the use of radiology or laboratory diagnostic testing when performed or ordered by a DC. It is obvious that evaluation and examination and appropriate diagnostic procedures are a required step in rendering care to any patient, yet Medicare excludes these services when performed by a doctor of chiropractic, leaving the patient out of pocket expenses for necessary healthcare services that should be covered by Medicare.

Chiropractors are also allowed to perform medically necessary physical medicine procedures according to state scope of practice laws. Again, many of these services are not covered services under current policy when performed by a chiropractor but are regularly reimbursed when performed by a PT/OT or physician. This creates a break in the continuity of care and a decrease in the quality of patient care for our senior patients, many of whom cannot afford these non-covered services but are also unable to bounce around from office to office to receive the treatment that they require.

Because Medicare's chiropractic policy is stuck in 1972-era health policy, patients are, in effect, channeled to other providers whose standard treatment regimen may involve the use of drugs, spinal injections, or surgery for a range of spinal conditions that chiropractic care has shown to be a less costly and safer alternative for in many of these situations and are routinely covered by private insurance and Medicaid.

This shift in policy would not add any new, reimbursable services to Medicare as these are services that are already covered when performed by other providers. What is requires is a modification of existing statute to ensure that Doctors of Chiropractic are allowed to provide and order "existing covered services" which they are currently lawfully permitted to do under state law. This would have the net effect increasing the quality and continuity of care to our senior population while reducing the financial burden to our senior population.

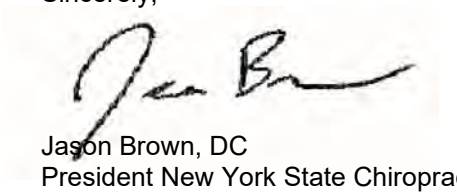
In conclusion, we ask that you reflect on these recommendations and ask that you endeavor to implement them into practice where possible. Coverage of the full range of services that a Medicare patient can receive by a Doctor of Chiropractic under most commercial insurance products will likely result in lower costs.[5,6,7,8]

This will happen due to decreased use of expensive diagnostic tests, over-prescribed pharmaceuticals, such as opioids, and unnecessary referrals to specialists. By removing these artificial barriers, Medicare patients will no longer be prevented from benefiting from the full range of safe, clinically effective treatments offered by Doctors of Chiropractic and allow them to access this widely recommended and cost-efficient care.

That said, we understand that you may be constrained by current law. To that end we invite you to provide a memorandum of support for the bill H.R. 3654.

If any further information or resources would be of assistance, we would be happy to provide them. On behalf of the Officers, Board, and membership of the New York State Chiropractic Association, thank you for your time and attention.

Sincerely,



Jason Brown, DC
President New York State Chiropractic Association

References:

1. Findings from a study utilizing data from the North Carolina State Health Plan collected between 2000- 2009 show that care by a doctor of chiropractic (DC) alone or DC care in conjunction with care by a medical doctor (MD) incurred “appreciably fewer charges” for uncomplicated lower back pain than MD care with or without care by a physical therapist. Hurwitz et al. (2016), *Journal of Manipulative and Physiological Therapeutics*

2. Low back pain initiated with a doctor of chiropractic (DC) saves 20 to 40 percent on health care costs when compared with care initiated through a medical doctor (MD), according to a study that analyzed data from 85,000 Blue Cross Blue Shield (BCBS) beneficiaries in Tennessee over a two-year span. The study population had open access to MDs and DCs through self-referral, and there were no limits applied to the number of MD/DC visits allowed and no differences in co-pays. Researchers estimated that allowing DC-initiated episodes of care would have led to an annual cost savings of $2.3 million for BCBS of Tennessee. They also concluded that insurance companies that restrict access to chiropractic care for low back pain treatment may inadvertently pay more for care than they would if they removed such restrictions. Liliedahl et al (2010), *Journal of Manipulative and Physiological Therapeutics*

3. Patients who saw a chiropractor as their initial provider for low back pain (LBP) had 90% decreased odds of both early and long-term opioid use. Kazis et al. (2019), *BMJ Open*

4. Chiropractic users had 64% lower odds of receiving an opioid prescription than non-users. Corcoran et al. (2019) *Pain Medicine*

5. The results of a clinical trial showed that chiropractic care combined with usual medical care for low back pain provides greater pain relief and a greater reduction in disability than medical care alone. The study, which featured 750 active-duty members of the military, is one of the largest comparative effectiveness trials between usual medical care and chiropractic care ever conducted. Goertz et al. (2018) *JAMA Open Network*

6. "Manual-thrust manipulation provides greater short-term reductions in self-reported disability and pain compared with usual medical care. 94% of the manual-thrust manipulation group achieved greater than 30% reduction in pain compared with 69% of usual medical care." Schneider et al (2015), *Spine*

7. "Reduced odds of surgery were observed for...those whose first provider was a chiropractor. 42.7% of workers [with back injuries] who first saw a surgeon had surgery, in contrast to only 1.5% of those who saw a chiropractor." Keeney et al (2012), *Spine*

8. Older Medicare patients with chronic low back pain and other medical problems who received spinal manipulation from a chiropractic physician had lower costs of care and shorter episodes of back pain than patients in other treatment groups. Patients who received a combination of chiropractic and medical care had the next lowest Medicare costs, and patients who received medical care only incurred the highest costs. Weeks et al (2016), *Journal of Manipulative and Physiological Therapeutics*