AMERICAN CHIROPRACTIC ASSOCIATION

1701 Clarendon Blvd
Suite 200
Arlington, VA 22209

TEL 703 276 8800
FAX 703 243 2593
WEB acatoday.org

ACA CHIROPRACTORS Hands down better™

Jan. 14, 2020

Ms. Seema Verma
Administrator, Centers for Medicare and Medicaid Services
Office of the Administrator
200 Independence Ave., SW
Washington, D.C. 20201

Dear Administrator Verma:

The American Chiropractic Association (ACA) appreciates the opportunity to provide comment on the **Centers for Medicare and Medicaid Services' (CMS) request for 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 licensure.** ACA is the largest professional organization in the United States representing doctors of chiropractic (DCs). ACA members lead the chiropractic profession by working with other healthcare providers, supporting meaningful research and reporting functional outcome assessment measures to ensure the health and well-being of the estimated 35 million Americans who seek chiropractic care each year. ACA is also committed to evidence-based solutions that address the ongoing opioid epidemic and encourages patients and healthcare providers to first exhaust conservative pain management options before utilizing potentially addictive treatments such as prescription opioids.

Foremost, ACA is encouraged by and supports CMS' attention to this issue. Allowing providers to practice to the full extent of their licensure is good policy and allows beneficiaries to access the wide range of essential Medicare-covered services to which they are entitled. However, CMS must also be aware that there are providers—in this case, chiropractors—that by federal statute are prohibited from practicing to the full extent of their state scope of practice, which in turn creates barriers to care for beneficiaries.

By statute, DCs are unable to practice to the full scope of their training and licensure,[1] forcing beneficiaries to incur substantial out-of-pocket costs or forgo treatment entirely. Research[2] has demonstrated that the provider a patient first encounters after the onset of back pain significantly impacts the likelihood of being prescribed and using opioid pain medications. Reducing barriers that prevent Medicare beneficiaries from accessing conservative non-drug therapies, such chiropractic services, is a critical strategy in addressing the ongoing opioid epidemic. Fortunately, Congress is considering bipartisan legislation, **H.R. 3654, the**

[1] §1861(r)5 of the Social Security Act
[2] Weeks, William B et al. The Association Between Use of Chiropractic Care and Costs of Care Among Older Medicare Patients with Chronic Low Back Pain and Multiple Comorbidities; Journal of Manipulative & Physiological Therapeutics, Volume 39, Issue 2, 63 - 75.e2

Chiropractic Medicare Coverage Modernization Act[3], which is designed to allow patients full access to the Medicare-covered services a chiropractor may perform under their state licensure.

Promoting policy to include evidence-based integrative health services would give Medicare beneficiaries access to conservative, non-drug options for pain relief while also lowering overall costs associated with the treatment and management of musculoskeletal disorders. As noted in a workshop convened by the National Academies in December 2018, Medicare and Medicaid beneficiaries "encounter increased coverage constraints because most states provide limited to no coverage for acupuncture and chiropractic care."[4]

Low back pain remains one of the most common conditions for which opioids are prescribed, despite the increased understanding regarding the risk of addiction.[5] Research shows the availability and coverage of evidence-based, non-drug pain management therapies can substantially decrease initial opioid prescriptions in Medicare patients seeking treatment for low back pain (LBP)[6]. However, arbitrary and limiting Medicare coverage and the lack of nonpharmacological therapies available are significant barriers to relief for many beneficiaries.

A prime example of this is the arbitrarily limited chiropractic benefit in Medicare. Beneficiaries who require Medicare-covered services that are "attendant to" the spinal manipulation service provided by doctors of chiropractic must obtain those services from another provider in order for Medicare to cover them. This requires the beneficiary to experience unnecessary delays, inconveniences and the added expense (time, travel, etc.) of seeing a second provider. If a DC determines that the beneficiary needs an X-ray, laboratory test or other diagnostic procedure, current policy does not even allow them to *order* those covered services. In such instances, further unnecessary visits and beneficiary expenses are necessary to obtain the required order from a second Medicare provider—who will often turn around (especially in the case of X-rays) and order the service from a *third* Medicare provider.

Doctors of chiropractic are licensed in all 50 states as portal-of-entry providers who treat the "whole body" and whose scope of practice—as defined by their respective state law—allows them to provide a broader range of services compared with what is currently allowed under Medicare. A typical state scope recognizes the ability and training of DCs to examine, diagnose, treat and refer. Since Medicare coverage of the services of medical doctors and osteopaths is determined by state licensure; likewise, Medicare coverage for the services of chiropractors should reflect the scope of practice determined appropriate by state authority.

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[3] https://www.congress.gov/bill/116th-congress/house-bill/3654/

[4] Stroud C, Posey Norris SM, Bain L, editors. The Role of Nonpharmacological Approaches to Pain Management: Proceedings of a Workshop. Washington (DC): National Academies Press (US); 2019 Apr 12. Available from: https://www.ncbi.nlm.nih.gov/books/NBK541702/ doi: 10.17226/25406

[5] Feldman V, Return on investment analysis of Optum offerings — assumes Network/UM/Claims services; Optum Book of Business Analytics 2013. Analysis as of 12/8/2014.

[6] Kazis LE, et al. BMJ Open 2019;9:e028633. doi:10.1136/bmjopen-2018-028633

As recommended to the Pain Management Best Practices Interagency Task Force in March 2019, CMS should investigate, promote and implement innovative payment models that recognize and reimburse holistic, integrated, multimodal pain management, including complementary and integrative health approaches. ACA agrees with the section of the report that outlines the barriers patients face as they try to access non-pharmacologic, non-surgical approaches to pain management. We recommend CMS allow primary-based musculoskeletal providers to act as the point-of-entry for back pain management. This would reduce risk of opioid dependency, provide quick access for pain management, minimize fragmentation, avoid unnecessary surgery, and lower total episode costs. ACA supports changes to Medicare that can help achieve these goals. Millions of Americans suffering from musculoskeletal disorders have been caught up in the nation's opioid epidemic because they were not offered non-pharmacologic treatment options as first-line therapy.

H.R. 3654, the Chiropractic Medicare Coverage Modernization Act, would ensure that beneficiaries have access to providers specializing in physical medicine and musculoskeletal care who offer team-based services and safe, non-narcotic/non-opioid options for pain management. Support of this important legislation should be part of CMS' commitment to eliminate antiquated Medicare policy that limits health professionals from practicing at the top of their licensure. **We urge CMS to support H.R. 3654 and relay that support to Capitol Hill immediately.**

ACA appreciates the opportunity to comment and commends CMS for its efforts to grant beneficiaries the ability to choose providers that may practice to the full scope of their licensure. If you have questions regarding our comments or need additional information, please contact John Falardeau, ACA Senior Vice President for Public Policy and Advocacy, at jfalardeau@acatoday.org or (703) 812-0214.

Sincerely,

Robert C. Jones, DC
President