



1701 Clarendon Blvd T E L 703 276 8800
Suite 200 F A X 703 243 2593
Arlington, VA 22209 W E B acatoday.org



October 11, 2019

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

Dear Administrator Verma:

The American Chiropractic Association (ACA) appreciates the opportunity to comment on the **Request for Information (RFI) for the Development of a CMS Action Plan to Prevent Opioid Addiction and Enhance Access to Medication-Assisted Treatment**. 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.

Initially, I'd like to draw your attention to two recent studies related to low back pain and opioids. The first, published last month in *BMJ Open*, found that patients who received initial treatment from chiropractors or physical therapists had decreased odds of short-term and long-term opioid use compared with those who received treatment from primary care physicians.¹ Additionally, in a systematic review and meta-analysis published earlier this year in the *Journal of the American Academy of Pain Medicine*, in random effects analysis, chiropractic users were 64% less likely to receive an opioid prescription, providing further evidence that chiropractic care can help in diminishing the rate of opioid use.² ACA urges CMS to consider these two studies seriously as it continues to explore non-opioid alternatives to pain treatment.

ACA wishes to submit the following comments, focusing on several areas of concern, specifically related to questions 3, 4, and 8 in the RFI on acute and chronic pain as indicated below:

¹ Kazis LE, Ameli O, Rothendler J, et al Observational retrospective study of the association of initial healthcare provider for new-onset low back pain with early and long-term opioid use *BMJ Open* 2019;9:e028633. doi: 10.1136/bmjopen-2018-028633

² Kelsey L Corcoran, Lori A Bastian, Craig G Gunderson, Catherine Steffens, Alexandria Brackett, Anthony J Lisi, Association Between Chiropractic Use and Opioid Receipt Among Patients with Spinal Pain: A Systematic Review and Meta-analysis, *Pain Medicine*, , pnz219, <https://doi.org/10.1093/pm/pnz219>

Questions on Acute and Chronic Pain:

Question 3. What, if any, payment and coverage policies in Medicare and/or Medicaid have enhanced or impeded access to non-opioid treatment of acute and/or chronic pain?

In Medicare, DCs are unable to practice to the full scope of their training and licensure,³ forcing beneficiaries to incur substantial out-of-pocket costs or forgo treatment entirely. Research⁴ has shown that the provider a patient first encounters after the onset of back pain significantly impacts the likelihood of opioid prescription and use. Reducing barriers that prevent Medicare beneficiaries from accessing non-drug and conservative therapies such as services provided by a chiropractor are a critical goal in addressing the ongoing opioid epidemic. Fortunately, Congress is considering legislation (H.R. 3654, the Chiropractic Medicare Coverage Modernization Act) designed to allow full patient access to the Medicare-covered services a chiropractor can perform within their state licensure.

Expansion of Medicaid benefits to include evidence-based integrative health services would allow beneficiaries to access 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.*”⁵

Low back pain remains one of the most common conditions for which opioids are prescribed, despite increasing understanding and knowledge regarding the risk of addiction.⁶ A significant barrier to chiropractic care remains arbitrary and limiting insurance coverage and the lack of nonpharmacological therapies.

As recommended to the Pain Management Best Practices Interagency Task Force in March 2019, CMS and private payors should investigate 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 that outlines the barriers patients face as they try to access non-pharmacologic, non-surgical approaches to pain management. We recommend CMS and commercial payors 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. Millions of

³ §1861(r)5 of the Social Security Act

⁴ 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

⁵ 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

⁶ 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.

Americans suffering from MSK disorders have been caught up in the nation's opioid epidemic because they were not offered non-pharmacologic treatment options as first-line therapy. ACA supports changes to Medicare and Medicaid that can help achieve these goals.

Question 4. What evidence-based treatments, Food and Drug Administration (FDA)-approved evidence-based medical devices, applications, and/or services and items for the following conditions are not covered, or have limited coverage for Medicare beneficiaries with

a. Acute and/or chronic pain;

The availability and coverage of evidence-based, non-drug pain management therapies can substantially decrease initial opioid prescriptions in patients seeking treatment for Low Back Pain (LBP).⁷ An example of this is the arbitrarily limited chiropractic benefit in Medicare. Medicare beneficiaries who require 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 DCs to *order* those covered services. In such instances, further unnecessary visits and beneficiary expenses are required 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. Medicare coverage of the services of medical doctors and osteopaths is determined by state licensure. Likewise, the coverage for chiropractic services in Medicare should reflect the scope of practice determined appropriate by state authority.

b. Pain and behavioral health needs requiring integrated care across pain management and substance use disorder (SUDs), with consideration of high-risk patients (i.e. multiple medications, suicide risk)?

The prevalence of Substance Use Disorder (SUD) is a prime example of the critical need for wide-spread access, coverage and acceptance of conservative, non-pharmacological treatments for pain. High-risk patients and those with SUD deserve access to evidence-based therapies to treat and mitigate pain as well as a biopsychosocial model of care.⁸ Both the Veterans Administration and the recent draft report from the Health and Human Services Task Force on Best Practices in Pain Management⁹ recommend a “biopsychosocial” model of care. Recognizing the influence of psychological and social factors does not challenge those who treat pain from a physical perspective, such as doctors of chiropractic. On the contrary,

⁷ Kazis LE, Ameli O, Rothendler J, et al Observational retrospective study of the association of initial healthcare provider for new-onset low back pain with early and long-term opioid use BMJ Open 2019;9:e028633. doi: 10.1136/bmjopen-2018-028633

⁸ Chesney and Goertz, April 2019 <https://www.acatoday.org/News-Publications/ACA-News-Archive/ArtMID/5721/ArticleID/443>

⁹ Draft Report on Pain Management Best Practices: Updates, Gaps, Inconsistencies, and Recommendations, U.S. Department of Health and Human Services. <https://www.hhs.gov/ash/advisory-committees/pain/reports/2018-12-draft-report-on-updates-gaps-inconsistencies-recommendations/index.html>.

recognizing the role of psychological factors in how patients respond to their pain may provide insights for DCs in tailoring their approaches, and at times, may help explain why some patients appear to be relatively resistant to treatment.¹⁰

Question 8. What other issues should CMS consider to improve coverage and payment policies in Medicare and Medicaid to enhance access to and effective management of beneficiaries with acute and/or chronic pain?

Policy makers must start to think out of the box for answers to this nation's opioid crisis. Ensuring access to providers specializing in physical medicine and musculoskeletal care who provide team-based physical medicine services and a safe, non-narcotic/non-opioid option to pain management should be part of the solution.

Nonpharmacological therapies have become a vital part of managing chronic pain. While nonpharmacological treatments can be used as stand-alone therapies, they are often used to augment and complement pharmacological treatments. The choice of nonpharmacological intervention is determined by the nature of each case, what works for a specific patient and the skills of the clinician. However, the research is clear: Noninvasive, nonpharmacological interventions may present less risk to patients than invasive or pharmacological measures, underscoring the need for greater access to and integration of safe and affordable alternatives.

ACA appreciates the opportunity to comment and commends CMS for its efforts to combat the opioid epidemic. If you have any questions regarding our comments or need more 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

¹⁰ Chesney and Goertz, April 2019 <https://www.acatoday.org/News-Publications/ACA-News-Archive/ArtMID/5721/ArticleID/443>