



CoverMyCare

THE CMC UPDATE

A BRIEF ON COVERMYCARE WITH IHPC PARTNERS AND COLLABORATORS

MAY 2016 VOL 2 #2

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Federal Action

CMS Acknowledges Reality of 2706-based Discrimination

Along with IHPC and others, the American Association of Naturopathic Physicians (AANP) has persistently asked the US Dept. of Health and Human Services (HHS) to provide guidance for Section 2706 that explicitly defines discrimination and clarifies the obligations that states have under the bill. As is well known, guidance issued in 2013 and updated in 2015 has failed to move any state health insurance regulators to direct their insurers to comply with 2706.

But after 18 months of email entreaties, at least one in-person meeting, and a public comment period on the subject, the office at the Centers for Medicare & Medicaid Services (CMS) that was assigned to Section 2706 agreed to consider documented examples of discrimination that violated Section 2706.



At the end of 2015, AANP along with member associations in Washington, Oregon, California, Hawaii, Maine, and Puerto Rico submitted this documentation to CMS. In April, CMS responded, telling AANP:

- The documentation shows clear examples of discrimination that Section 2706 was intended to end.
- Their review process may lead to HHS to reach out to the state insurance commissioners directly.

This acknowledgement marks a sea change in the posture that HHS has adopted since its flawed 2013/2015 guidance. It also could be welcome news for other professions whose providers have faced similar discrimination. (See the article noted in "CMC in the News.")

In the States

"Minnesota Fair Care" Introduces Bill: "Patient Rights and Provider Non-Discrimination"

Minnesota's multi-disciplinary provider coalition, *MN Fair Care* made good on its intention to introduce a non-discrimination bill in the state's shortened legislative session by bringing *"Patient Rights and Provider Non-Discrimination"* to the House (HF3291) Senate (SF3046) in March.



Although this year's shortened session concludes at the end of May and prevented the measure from passing through committees, interest in dealing with the costs of care remains high in the legislature. MN Fair Care **Coordinator Michele Maiers, DC, MPH, PhD**, Executive Director of Research and Innovation at **Northwestern Health Sciences University**, reported that other bills addressing high-cost pharmacy and high-deductible plans "are getting unprecedented attention this session, and set us up well to make provider non-discrimination and patient access a campaign issue this summer/fall."

The bill addresses historic tactics insurers use to exclude providers by declaring a licensed discipline "not medically necessary, not clinically efficacious, or experimental, solely to deny services." It would also fill the enforcement hole so pronounced in the ACA's Section 2706, with this language:

"Noncompliance with this section shall result in suspension of a plan participating in any state public health program...."



See the latest at:

<http://www.facebook.com/MNFairCare>

<http://www.covermycare.org/cmc/Minnesota/>

Hawaii: Largest Insurer Ready To Assign Primary Care Provider Status to NDs

An unexpected response to the 2015 HHS Update to guidance on Section 2706 has taken place in Hawaii, where the state’s largest health insurer, the **Hawaii Medical Service Association (HMSA)**, a Blue Cross, Blue Shield plan), has invited applications from licensed naturopathic physicians to be included in HMSA’s network as Primary Care Providers.



Michael Traub, ND, DHANP, CCH, FABNO, member of the **Hawaii Society of Naturopathic Physicians (HSNP)** (and co-chair of the IHPC Non-Discrimination Committee) reports that he and his colleagues submitted their applications for credentialing in April after several positive meetings with the insurer. Dr. Traub reports that this new plan is in part due to the May 2015 update to HHS guidance on 2706, although it is not being made to be in formal compliance with 2706 (other licensed providers are not included in this policy).

The change will be made along with significant modifications in the insurer’s payment model that align with the Affordable Care Act’s intention of rewarding providers for keeping patients healthy: paying for “value,” rather than fee-for-service. Variations of this model are proliferating across the US. Announcements of the new HMSA policy are expected through the summer.

New Mexico: Superintendent of Insurance to Host June Meeting with Advocates

New Mexico’s Superintendent of Insurance, **John G. Franchini**, has called a special meeting on June 7th with representatives of licensed Naprapaths, Chiropractors, Nurse Midwives, Nurse Practitioners and Acupuncturists for an exchange about the difficulties these providers have had getting credentialed and contracted with state-regulated insurance companies. This is a result of the letters the advocacy group submitted at the end of 2015.



John G. Franchini
New Mexico
Superintendent of Insurance

The state **Network Adequacy Working Group**, which was formed earlier this year had its second meeting in early May. The group is composed of community members, health care advocates, providers, agents and brokers, legislators, and other government officials and includes CoverMyCare supporter Southwestern University of Naprapathic Medicine president **Patrick Nuzzo, DN**.



Other State Developments

Oregon Lawsuit Based on 2706 Remains in Court; one claim dismissed

The lawsuit filed in 2015 by the **Oregon Association for Naturopathic Physicians (OANP)** on behalf of several patients claiming discrimination under Section 2706, remains in the court, after the judge dismissed one claim. The defendant Health Net Health Plan of Oregon, has consistently asked for the entire case to be dropped. OANP Executive Director Laura Farr summarized the status this way:

“The judge threw out one of the three claims in our lawsuit. It was the third one for the provider plaintiffs who claimed discrimination. Ironically, even though 2706 is about provider discrimination, the avenue for redress is through the ERISA act, which only allows redress for patients ... The other two claims - which demonstrate economic damages done to patients because of the provider discrimination - will be allowed to move forward.”

For a timetable of court actions for case # 3:15cv01248BR, through April 2016, see this PDF:

<http://www.covermycare.org/cmc/wp-content/uploads/Oregon-HealthNet-Plan-lawsuit-160421.pdf>

The original Press Release of the lawsuit is here:

<http://bit.ly/OR-lawsuit>

Rhode Island Tables Proposed Workman's Comp Bill

Rhode Island Senate Bill 2650, which would enable acupuncturists to be included under Workman's Compensation rules has been tabled, with an uncertain chance to be re-visited before the session ends in June. The legislation calls for creation of a Medical Advisory Board that would consist of: “one orthopedic surgeon; one neurologist; one physiatrist; one doctor of acupuncture and Oriental medicine; one chiropractor; one physical therapist; one internist; one psychiatrist or psychologist; and four (4) ad hoc physician members.”

Regular CMC state updates:

In the States

<http://wp.me/P5cud1-Q8>



International Chiropractic Association's "Medicare Fairness" Campaign and Medicare Part B

In an effort to rekindle Medicare's previous adoption of non-discriminatory language regarding licensed healthcare providers, the ICA's "Medicare Fairness Campaign" is developing a legislative initiative that would include some of that language in order to give patients access to chiropractic providers under **Medicare Part B**.

ICA's **Stephen Welsh, DC**, puts it this way: "It would let us refer to the language from Medicare Advantage that was used to shape Section 2706 in the first place. We have non-discrimination language in Federal law that applies to insurance companies, and similar language that applies to Medicare C. But discrimination by license type is permitted in Medicare B. The patient should have a choice."

The Medicare language in 2706 Dr. Welsh refers to is noted in an obscure footnote to the revised guidance on 2706 written by HHS in May 2015.

"(Federal code 42 CFR 422.205)... provides, in part, that a "[Medicare Advantage (MA)] organization may select the practitioners that participate in its plan provider networks. In selecting these practitioners, an MA organization may not discriminate, in terms of participation, reimbursement, or indemnification, against any health care professional who is acting within the scope of his or her license or certification under State law, solely on the basis of the license or certification."

This language predates the Affordable Care Act by about 15 years and clearly informed the authors of Sect. 2706, who copied it almost exactly. The complete revised FAQ containing this footnote is here:

<https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ACA-FAQs-Part-XXVII-MOOP-2706-FINAL.pdf>

The ICA campaign web site is here: <http://medicarefairness.org>

Stay up to date on the petition campaign on Facebook:

<https://www.facebook.com/MedicareFairness>



Modified Campaign Pages Now Reach HHS Secretary Sylvia Burwell Directly

In order to reinforce other efforts to persuade HHS to clarify its guidance on **Section 2706**, we have fashioned a new letter that ABSC employer members, and others who visit the campaign page, can direct to Secretary Burwell.



Referring to recent cost benefits shown for integrative disciplines, the letter notes:

"This is why large self-insured firms like Aetna, General Mills, SAS, and Dow now provide integrative options for their employees. There is no longer any reason why the benefits they enjoy should not also be available to my business, to others in our state, and to businesses in all states."

The campaign page contains background documents and links supporting employer use of integrative practice for their employees' healthcare and for preventive programs.

See the campaign page here:

<http://asbcouncil.org/action-center/campaigns/integrative-healthcare-reimbursement>

CMC in the News

"Salvaging Crippled Federal Law in the States"

This article written by CMC Director Taylor Walsh reviews the difficult passage that Section 2706 has had as a Federal law since going into effect in January of 2014 and the resultant growing initiatives in the states that address non-discrimination in many ways, some borrowing language from 2706, some devoted to the protection of a single discipline.



See more at:

<http://altarum.org/health-policy-blog/salvaging-crippled-federal-law-in-the-states#sthash.V3dFW7zr.dpuf>



Resources

IHPC-ASBC Webinar: Recording and Presentations Available

The presentations and slides from our Nov. 17 webinar, *“The Future of Healthcare is Complementary, Integrative and Holistic,”* co-produced with ASBC, are available here:
<http://asbcouncil.org/video/health-care-reimbursement-webinar-nov-17-2015>

IHPC’s Compilation of Integrative Health Cost-Effectiveness

Don’t forget the numbers! There are compelling numbers in this unique resource, *“Integrative Health and Medicine: Today’s Answer to Affordable Healthcare,”* that show the cost benefits attained by selected integrative practices when measured in specific research programs. This is a brief but powerful resource for anyone who is making the case of value for integrative health and medicine. The PDF is here:

<http://www.ihpc.org/wp-content/uploads/IHPC-CE-Booklet-March2015.pdf>

*Have a story to tell of reimbursement denied?
Consider contributing to our Stories Album.*



<http://www.covermycare.org/cmcc/stories/>

We welcome your questions or inquiries; please drop an email to Project Director Taylor Walsh.

CoverMyCare is a project of IHPC www.ihpc.org

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