

Washington State Chiropractic Association/Washington State Chiropractic Trust 2020 Legislative Agenda

Regulating Benefit Managers – SB 5601/HB 1562

Benefit managers are companies that contract with health care insurance companies and employers to perform various health care services, such as utilization review, provider credentialing, prior authorization processes and claims management, to name a few. The companies that perform these services are located out-of-state (at least in the case of Washington State) and they employ health care providers of many types to perform reviews of patient health care benefits and the providers who deliver the services. Sound confusing? Well, it is confusing to many and YOU work in health care! Try to imagine how hard it is to explain this to a legislator as we ask them to regulate these companies.

Examples of a benefit manager includes eviCore, who contracts with both Regence BlueChield and Premera Blue Cross to manage physical medicine and rehabilitation services, and in the case of Regence BlueShield, chiropractic care as well. Tivity is another benefit manager and they contract with both Aetna, and Kaiser Permanente. American Specialty Health is a benefit manager for Cigna, in Washington State, but they are also a health insurance company in other states. There are also other types of benefit managers that manage laboratory, radiology, pharmacy and other services.

The one thing in common with these companies is that they are the only part of health care delivery that is not regulated by anyone. Providers are regulated through their licensure with State Department of Health and are required to complete continuing education hours. Providers are also contracted with the insurer and are required to deliver services within the rules of the provider agreement, even though the contract is not negotiated, but rather a condition of doing business with the insurers' enrollees, or subscribers.

Insurers are regulated through state laws that require insurers spend a percentage of their premium dollars on health care benefits. They must be approved by the state Office of the Insurance Commissioner before they can sell policies, and they must follow a myriad of statutes that address delivery of services, fair and prompt payment and network adequacies, to name a few.

Patients are regulated to some degree in that they only have access to the services outlined in the policies that they purchase through the individual market, through their employer, or as part of a government sponsored plan (Medicaid, the Exchange etc.).

What is not regulated anywhere is the company in the middle that is interrupting the provider-patient relationship. These companies have people making clinical decisions on behalf of the patient and in some cases, they conflict with the care recommended by the patients' provider. These people who work for a benefit manager are almost always not licensed in Washington

State, unfamiliar with Washington State law, and could possibly be a provider who is not even licensed in the same field of the treating provider.

The WSCA is part of a large provider coalition seeking to require these companies to be licensed at the Office of the Insurance Commissioner, disclose what services they perform for each of the companies that they contract with, and disclose where they are located and how a provider resolves disputes. Currently, the OIC can only inquire through the licensed insurance company which delays resolution of complaints, as well as patient care, and sometimes there is no resolution for the provider or patient at all and no accountability by the unregulated company.

Introduced in the 2019 legislative session, both the House and Senate bills are still eligible for consideration. Stakeholder meetings are underway and hopefully the legislation will move during the 2020 legislative session.

Clarifying Prior Authorization and Episode of Care Language – SB 5887

The WSCA, along with the Physical Therapy Association of Washington, Occupational Therapy Association of Washington, American Massage Therapy Association-Washington Chapter, Washington East Asian Medicine Association and Washington Association of Speech and Hearing, introduced SB 5887 to clarify the practice of authorizations for benefits. The benefit managers for the insurers feel that these laws “don’t apply to them,” and created “workarounds” in their language to avoid compliance with the law as intended by the sponsor. Sen. Shelly Short (R-7), has been clear about her intent of the law, as passed the legislature in 2018, that patients have access to up to 6 visits of care per episode (90 day period with no care for same condition) without authorization for each of the 6 professions in statute (listed above).

During the interim, several meetings have occurred to attempt resolution of this issue and we may possibly have agreement for legislators to consider.

Introduced in the 2019 legislative session, the Senate Bill is still eligible for consideration during the 2020 legislative session.

Opioid use disorder treatment, prevention, and related services - SB 5380 and Chiropractic Inclusion into Adult Medicaid

During the 2019 legislative session SB 5380 passed and requires state agencies to perform many activities creating opioid abuse disorder, treatment and prevention goals. Specific to chiropractic is the content of the bill that requires prescribing providers discuss nonpharmacological options with patients before prescribing an opioid. The bill also required the Health Care Authority (HCA) to recommend nonpharmacological options be included in government sponsored health care programs. A draft report provided to the WSCA recommends chiropractors be included in the list of providers eligible to treat adult Medicaid recipients (currently chiropractors are in the list of eligible providers, but not included in the list for adult recipients). WSCA provided public comment and has been engaged in the follow up of the recommendations in the report, as well as with legislators in preparation for the 2020 legislative session. However, there is a budget shortfall and the program is expected to cost the

state approximately \$17 million. The budget calculations do not consider any cost of-sets, which is frustrating, because we know that every patient who doesn't receive an opioid, will save the state money, and possibly the life of a patient.

Making Loan Repayment Permanent

HB 2158 was introduced to address higher education and a workforce shortage in Washington State. The bill raised B&O taxes on all professions (health care at .20%; other professions at .33%; and tech industries at .66%) to fund college education. The WSCA argued that there are no chiropractic colleges in Washington state, nor are chiropractors eligible for the student loan repayment. The legislature then amended the legislation to include chiropractors into the loan repayment program, but only for one biennium. This will require legislation to make the program permanent.

Chiropractors will be eligible to apply to this program in the spring of 2020, and the eligible facilities and areas will be determined by the Department of Health this winter or spring. As the WSCA learns more, members will be notified.

Blocking MDs from Removing Manipulation Prohibition

The WSCA will work diligently to block the medical profession attempts to remove the prohibition on spinal manipulation. Period.

The Future of Chiropractic

The future of chiropractic will need strong engagement to educate legislators about your training. It will require the legislature to consider defining chiropractors as primary care providers within their scope of practice. When this is done, copays will not be allowed to be inflated and visit limits should change as well. Chiropractors are the only physician level provider with arbitrary limits, and the only physician level provider excluded from adult Medicaid. These things need to change *just to level the playing field*. Then, chiropractors will be able to effect outcomes for patients in a more positive manner reducing unnecessary spine surgeries, opioid prescriptions and treating the entire condition rather than "within 10 visits."