

# Health Insights Today

A SERVICE OF CLEVELAND CHIROPRACTIC COLLEGE

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## Health Reform and Chiropractic: A Major Step Forward

By Daniel Redwood, DC

**F**rom the start of the health reform debate, chiropractors knew the high stakes. Depending on which provisions were present or absent, the prospect of health reform legislation invoked both a genuine sense of peril and an inspiring glimpse of possibility.

At worst, if chiropractic services were excluded from key programs and protections, a reform bill could significantly worsen the situation for chiropractors and their patients. At best, federal law would for the first time recognize the essential role of chiropractic in the health care system, through what would fundamentally be a national version of what are known at the state level as ‘insurance equality’ laws. In addition, chiropractors and their patients sought specific inclusion of chiropractic services in any core benefit plan that might be part of national health reform legislation.

All major chiropractic organizations cooperated in a major national organizing effort under the aegis of the Chiropractic Summit. In a series of Summit meetings, representatives of the American Chiropractic Association, International Chiropractors Association, Council of Chiropractic State Associations and dozens of other groups reached a unified position and then put in many months of unheralded but absolutely necessary legwork to bring this message to every Senator and Member of Congress. Tens of thousands of chiropractic patients and supporters used the Chirovoice (ACA) and Adjust The Vote (ICA) websites to make their voices heard.

### Clear Legislative Victory on Nondiscrimination Policy

The bottom line is that the profession and its patients, with critical help from Washington heavyweights such as Senators Tom Harkin (D-IA) and Chris Dodd (D-CT), achieved resounding success—it is now illegal under federal law for insurance plans to discriminate against chiropractic. Section 2706 of the Patient Protection and Affordable Care Act of 2010 states: “... health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider’s license or certification under applicable State law.”

Make no mistake—this is a major step forward. Without wading too deeply into the technical details of health insurance jargon, a key immediate effect of this provision is to eliminate a gigantic loophole through which insurance policies regulated under ERISA (the Employee Retirement Income Security Act of 1974) were allowed to evade state insurance equality laws. What was originally a small loophole eventually applied to the vast majority of health insurance policies, thus neutering decades of insurance equality progress at the state level. *That is now over and done.*

The full, long-term effects of a major policy change of this sort will be only become clear after executive branch decisions on how to implement it (i.e., regulatory language from the Department of Health and Human Services or other agencies, as well as state insurance regulators). Eventually, there may be court decisions on whether, for example, the “coverage” terminology in the Harkin nondiscrimination amendment applies to disparities in reimbursement rates, as when MD/DOs or physical therapists are paid more for certain services than chiropractors are paid for the same services.

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Page 2

No one yet knows precisely how it will all play out. One thing for certain is that the removal of the ERISA exemption is a major positive change for chiropractors and their patients.

## Core Benefits Package

At the beginning of the health reform debate, chiropractors recognized that if Congress were to include a specifically defined benefits package in its reform legislation, inclusion of chiropractic services was crucial. However, it quickly became apparent that, Congress wished to avoid this degree of policy micromanagement, which they accurately perceived would anger at least as many people and groups as it would please. Though the reform law includes certain broad parameters regarding types of services to be covered, Congress essentially punted on this issue, deciding to focus on other matters and leaving the details of any possible core benefits plan to later decisions by the Department of Health and Human Services.

In this and likely in many other ways, the Affordable Care Act is just the beginning of the health reform process. Executive branch regulatory language matters a great deal. The profession's leadership understands this and is acting in accord with the long-term needs of chiropractors and their patients. We are in a far stronger position now than when chiropractors first gained statutory inclusion in Medicare in 1973, and were soon blindsided by a harshly discriminatory set of regulations from the federal health bureaucracy.

## Other Key Provisions

Two other helpful, though not game-changing, provisions in the new law are noteworthy for their specific mention of chiropractors:

1. Doctors of chiropractic are specifically included as potential members of interdisciplinary community health teams.
2. The legislation establishes a National Health Care Workforce Commission to examine current and projected needs in the health care workforce. The commission specifically includes doctors of chiropractic by defining them as part of the health care workforce, and includes them in the definition of health professionals.

## A Milestone Moment and an Ongoing Process

Passage of the Patient Protection and Affordable Care Act is a milestone moment. Under its provisions, tens of millions of uninsured Americans will be able to attain coverage. Moreover, insurance companies are banned from (1) discriminating on the basis of preexisting conditions; (2) dropping people from coverage when they get sick; (3) implementing lifetime or annual caps on coverage; and (4) spending less than 75 percent of premium dollars on medical costs (rather than profits, advertising, and administration) for individual plans or less than 80 percent for group plans.

There are literally hundreds of moving parts in this comprehensive legislation, which seeks to lower currently unsustainable cost increases while improving the quality of care. This is a tall order and all predictions must be taken with a grain of salt. Over time, as the facts on the ground show what is working and what is not, further changes will be forthcoming. The chiropractic profession must continue to be vigilant.

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