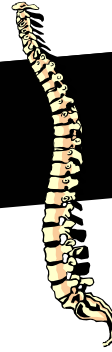


BACK TALK



Advertising Material

November/December 2004

Chiropractic and Children

We recently have noticed a pattern with Farmers Insurance Company sending a letter to their insured which states among other things the statement "Please be advised that any time a child receives chiropractic care, we require that a pediatrician examine the child and provide a referral."

Many of you probably wonder can Farmers do this? Is it legal? Both of those questions are not very precise. Farmers can do it because they have done it. It is not illegal for them to set a company standard requiring a pediatric referral before chiropractic care can be paid for. However, that standard goes beyond the statutory requirements under the no-

fault law. The no-fault law requires them to pay for all necessary and reasonable care related to the automobile collision. What constitutes necessary and reasonable is ultimately up to a court to decide. This means that a jury could ultimately sit in judgment on the reasonableness and necessity of the care that you give to a child. Even a successful lawsuit for Farmers in one given case would not necessarily set a precedent for other cases.

Care that may have been appropriate in one case may simply not be appropriate in another. Unfortunately, some jurors who do not understand chiropractic may not understand the value of chiropractic at all, especially for a child. On the other hand, I believe that a jury



Continued on pg. 2

Holiday Greetings

We would like to express our warmest holiday greetings to you and your staff. Remember to keep what is important in focus at this time of year. We know most of you love your work, but please remember it is only a means to an end.

Take the time to tell your employees how important they are to you and to your business.

Take time to spend with your family and

loved ones and do your best to allow your employees the same.

We appreciate and acknowledge that a large part of our business is based on the trust you put in us by referring your patients. We thank you from the bottom of our hearts and pledge our continued diligence to do the best job we can.

Happy Holidays!

Kids and Chiro*Continued from pg. 1*

could be persuaded in the right case. I would be willing to pursue such a case against Farmers or any other insurance company for non-payment of no-fault benefits if it was the right case. Such a test case would include a number of variables to make it a good test case. Some of those variables should include the following:

- 1) A case where the total amount of chiropractic care and all other care was less than \$3,000.00 (so the defense couldn't argue that it was merely a run at getting a third party claim.)
- 2) The child should be a somewhat older child between the ages of 8-16.
- 3) The child's case must be well documented including re-examinations demonstrating progress of the child.
- 4) The child needs to be reasonably articulate for his or her age and must think that the chiropractor did a wonderful job in making them feel better.
- 5) An even stronger case would be one in which the child was referred for chiropractic care by his or her pediatrician or other M.D. and Farmers or another insurance company still declined to pay for the chiropractic care.

If you have such a case feel free to give me a call so we can discuss the possibility of using it to help teach Farmers that children are not made of rubber and as the most precious joys in our lives, they should be given the best healthcare possible, including chiropractic when appropriate.

The end.

Study Finds Medical Costs Driving Up Auto Injury Claims

A new study by the Insurance Research Council (IRC) finds that claimed losses for auto injuries have escalated at vastly different rates across four states with no-fault auto insurance regulations. From 1997 to 2002, the average amounts that personal injury protection claimants reported for expenses stemming from their injuries increased 122 percent in Colorado, 60 percent in New York, 37 percent in Florida, and just 2 percent in Michigan. The study finds escalating medical costs are the key factor behind the growth in losses in Colorado, New York, and Florida. Skyrocketing claim costs contributed to the 2003 Colorado decision to end the state's no-fault auto insurance system.

The recently released IRC study, *Analysis of Auto Injury Insurance Claims in Four No-Fault States*, examines detailed information from auto injury claims that closed with payment in Colorado, Florida, Michigan, and New York. The IRC report focuses on auto injury claiming behavior by exploring claim patterns under two if the principle private passenger auto insurance coverages in no-fault states: (1) personal injury protection (PIP), which pays benefits to persons injured in auto accidents without regard to fault, and (2) bodily injury liability (BI), which pays for an insured driver's legal liability for injury caused to someone else.

The IRC study reveals different levels of use of certain medical professionals and diagnostic procedures by state, as well as vastly different charges for those professionals and diagnostics. The analysis identified the following PIP claim patterns and differences among the four states:

– The type of medical treatment received by claimants varied by state.

*More than 33 percent of the PIP claimants in Colo-

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Can You Sue your HMO If It Won't Provide Coverage for a Treatment?

In one of the most closely watched cases of the year, the Supreme Court handed a big victory to HMO's— and a big defeat to injured consumers.

The court ruled that in most cases, an HMO can't be sued for pain and suffering even if it wrongly denies coverage for necessary medical care.

The case involved two patients. One was a man whose doctor prescribed Vioxx for his arthritis pain, but who took a generic instead because Aetna refused to pay for Vioxx. He had a severe reaction to the generic drug and had to be hospitalized.

In the other case, Cigna refused to cover an extended hospital stay after a patient's hysterectomy even though the patient's doctor recommended it. As a result, she had post-surgery complications.

Both patients sued, claiming that their HMOs had wrongly denied coverage and should be responsible for their pain and suffering.

But the Supreme Court sided with the HMOs. It said that under federal law, HMOs that deny cover-

age aren't responsible for bad medical outcomes.

Important: the ruling does not apply if a patient's treating doctor is employed by the HMO. So, for instance, if a patient's doctor works directly for the HMO, and the doctor makes a treatment decision that's not based entirely on what's best for the patient, but rather is based in part on what is covered by the plan, then in some cases the HMO could be sued for medical malpractice.

For other people, the options are limited. The ruling does allow patients who are wrongly denied coverage to pay for a treatment up front and then sue the HMO to be reimbursed. But this is cold comfort in many cases, because a treatment could cost tens or even hundreds of thousands of dollars, and patients might not be able to come up with the money on their own.

Patients who are denied coverage could also seek a "preliminary injunction" forcing an HMO to provide payment. This is an expedited court hearing. However, it can still take weeks of months to get an injunction, and the patient might have to put up a lot



of money as a bond in case the HMO ultimately wins the case. Plus, a sped-up court process can be a terrible imposition on a patient who is seriously ill or injured.

In general, the ruling is bad news for patients because it removes any incentive for an HMO to be fair. If an HMO is faced with a big treatment bill, it can simply deny coverage. If the patient's family does not sue, it gets to keep the money scot-free. And even if the family does sue, the worst that can happen is the HMO has to cough up the money sometime in the future — after it has earned interest on it by unjustly refusing to pay right away.

The end.

Medical Costs, P I Claims *continued from pg. 2*

rado, Florida, and New York went to a chiropractor compared to 13 percent in Michigan.

*Colorado and New York claimants were at least twice as likely to see physical therapists as claimants in Florida or Michigan.

*Twenty-two percent of New York PIP claimants went to alternative professionals such as acupuncturists or massage therapists, compared to 18 percent in Colorado, 7 percent in Florida, and 1 percent in Michigan.

—Average charges for certain medical professionals varied drastically among PIP claimants by state.

*The average per-visit charges for chiropractors were significantly higher in Florida (\$254) and Colorado (\$223), compared to Michigan (\$125) and New York (\$83).

*The average total charged per claimant by chiropractors was more than three times as high in Colorado (\$4,804) and Florida (\$4,837) than in Michigan (\$1,522) and New York (\$1,549).

In summarizing the findings, Elizabeth A. Sprinkel, Senior Vice President of the IRC, said, “PIP claimants appear to be using more medical resources in some no-fault states than in others, even among claimants with similar injuries. On top of that, the average charges for certain medical treatments in some no-fault states are sometimes more than double the cost for similar treatment in other no-fault states. As a

result, claimed auto injury losses have risen much faster in some states than in others, ultimately leading to greater increases in auto insurance premiums for drivers in those states.”

In no-fault state, injury thresholds must be surpassed before an injured claimant can file a bodily injury liability claim against an at-fault driver. Injury thresholds varied among these four states from a monetary threshold of at least \$2,500 of medical expenses in Colorado to a strict verbal threshold in Michigan that restricts BI claims to injuries that lead to permanent serious disfigurement, serious impairment of a bodily function, or death.

One of the goals of no-fault auto insurance systems is to alleviate pressure on the court system by reducing tort liability claims for minor injuries. Reflecting the restrictive tort threshold in Michigan, BI claimants there had more serious injuries than claimants from the other three states. In addition to the closed claim data revealing injury levels among BI claimants, claim frequency data show fewer Michigan BI claims per number of insured drivers than the other three no-fault states in this study.

“Michigan is an example of a no-fault state where the majority of BI claims are for severe injuries with disabling consequences,” Sprinkel explained. “Despite the tort thresholds in the other three no-fault states that were examined, liability payments often were paid to claimants with relatively minor injuries.”

The end.



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