

**STATE OF VERMONT
AGENCY OF HUMAN SERVICES**

OVHA

Office of Vermont Health Access

Bulletin No: 09-03

FROM: Susan W. Besio, Ph.D., Director
Office of Vermont Health Access

DATE: May 4, 2009

SUBJECT: Eliminating Adult Chiropractic Coverage in Medicaid and the Vermont Health Access Plan (VHAP)

CHANGES ADOPTED EFFECTIVE June 1, 2009

INSTRUCTIONS

- Maintain Manual - See instructions below.**
- Proposed Regulation - Retain bulletin and attachments until you receive Manual Maintenance Bulletin**
- Information or Instructions - Retain until _____**

MANUAL REFERENCE(S):

**M103.3 P.6
M640
4003**

This bulletin proposes a rule change to eliminate services from a chiropractor for adults in Medicaid and VHAP (both Limited and Managed Care). This returns the rules to their status prior to July 1, 2008 when these services began to be covered. This includes returning the coverage from a chiropractor for children to only manipulation for subluxation as reflected in the existing rule at M640. This action is being taken because of the extreme fiscal crisis in the state. These services are optional according to federal law, so their elimination for adults is allowable within the boundaries of federal law. Elimination of this benefit has been agreed to by the Administration and the Joint Fiscal Committee of the Vermont legislature, and was approved by the Joint Fiscal Committee on December 19, 2008.

Specific Changes

Interpretive memos facing rules at M103.3 P.6, M640, and 4003, effective 7/1/08, removed in emergency rule (Bulletin 9-05), remain removed.

Comment Period

A public hearing on the emergency rule, Bulletin 09-05, was held on January 23rd, and six people attended to comment – one beneficiary, two chiropractors, a representative of the Vermont Chiropractic Association, and two interested citizens. Because of the short time before the emergency rule went into effect, these comments, as well as any written comments received, are considered for this bulletin.

A public hearing for this bulletin, 09-03, was held on February 23rd, and no one attended.

A note is that a bill was introduced by the Senate Health and Welfare Committee to reinstate the chiropractic coverage (S.53). It was referred to the Senate Appropriations Committee on February 3 and has gone no further.

Eleven written comments were received. Four commenters were beneficiaries, two were chiropractors, two were physicians, two were interested citizens, one represented the Vermont Chiropractic Association, and one represented the Disability Law Project.

One commenter spoke in favor of the proposed rule and pointed to a PBS Scientific American Frontiers episode.

Several commenters spoke about chiropractic interventions that either they had experienced or their patients had experienced that proved to be simple, effective, and quick. They said that people experienced relief with chiropractic care that they had not received with other treatments. They pointed to research that demonstrated the cost-effectiveness of chiropractic care, and expressed a belief that chiropractic care is less expensive than covered alternatives. One said that Medicare patients have lower claims. One also said that costs for emergency and physician visits will increase. They also spoke about chiropractic care as a means of avoiding surgery, reducing pain, and promoting wellness and prevention.

Response: The data that OVHA has produced for SFY '09 shows that while reimbursement to chiropractors for SFY 09 has risen significantly due to the July 1, 2008 change, it has also risen for all other providers when the most commonly billed chiropractic diagnoses are considered. For all related services, costs have risen from approximately \$6,450,000 in SFY '08 to \$7,500,000 in SFY '09. At the same time, reimbursements to chiropractors have risen at approximately the same rate – from around \$100,000 in SFY '08 to \$1,177,000 in SFY '09. Thus, the change to allow chiropractic services has not resulted in a decrease in overall costs or been shown to be cost-effective.

Also, a Department of Health and Human Services demonstration study of Medicare coverage of chiropractic services was completed in March 2007. It expanded the lists of diagnoses, diagnostic tests, and modalities eligible for Medicare coverage. In October 2008, Secretary Michael Leavitt gave a preliminary report to the Senate and House leaders which stated that costs for reimbursements for chiropractic services increased by 78%, and the cost impact was an average of \$180 per user, per six months. Notably, there was no cost offset found within Medicare Part B. One commenter said that this memo was not a sufficient basis to justify eliminating the chiropractic benefit. OVHA intended it to support our decision, not be the justification for it. The commenter stated that 18 months was not sufficient time, since cost offsets would likely come later, when an injury does not heal or the patient is in a crisis situation; and that the Medicaid population is younger so cost benefits are likely to be more significant. We simply do not have Medicaid or Medicare data at this point in time to support this position. We can certainly continue to monitor the Medicare study reports to see what further analysis may emerge.

To summarize, OVHA has found no data to indicate that including chiropractic care is cost-effective, and has, in fact, found the opposite in the time that the expanded chiropractic coverage was allowed. Our financial crisis is immediate, and it is clear that savings would ensue from this rule change.

A commenter pointed out that the state's description of the budget cut said that people can get services from primary care physicians. The commenter said that beneficiaries cannot get this type of care from primary care physicians, that it is a unique branch of the healing arts, and that primary care physicians do not treat neuromuscular injury or pain. Another commenter stated that if beneficiaries can get services from other providers, there is no cost savings.

Response: The initial language said that patients “would receive essential services from their primary care physicians”. This was an error that was corrected in subsequent versions of the rescission descriptions – the correct term was “health care providers” not “primary care physicians.” In addition, primary care physicians may refer their patients to a number of specialties that may be able to treat their patients. These include, for example, physical therapists, osteopathic physicians, and naturopathic physicians. Other providers may perform the same modalities that a chiropractor performs, including manipulations. The data shows that costs for manipulations from non-chiropractors stayed at around the same level in the first six months of SFY '09 (just under \$100,000), while the costs for manipulations by chiropractors jumped to \$856,000. There is a clear cost savings in removing services of a chiropractor.

One commenter said that chiropractors can do adjunctive therapies but had not been paid for these.

Response: Chiropractors were paid for adjunctive therapies from July 1, 2008 through January 31, 2009.

Three commenters suggested alternatives to this rule in order to save money. These included examining “big-ticket” items that may not be medically necessary, stopping excessive charges for X-rays and MRIs, and cutting all reimbursement by a fixed amount or percentage. Another suggestion was to increase copays and/or premiums.

Response: OVHA is happy to look at all suggestions, and will take these into consideration as the budget is examined more closely.

To get more information about the Administrative Procedures Act and the Rules applicable to state rule making go to the website of the Office of the Vermont Secretary of State at: <http://vermont-archives.org/aparules/index.htm> or call Louise Corliss at 828-2863

For information on upcoming hearings before the Legislative Committee on Administrative rules go to the website of the Vermont Legislature at: <http://www.leg.state.vt.us/schedules/schedule2.cfm> or call 828-5760.

Vertical lines in the left margin indicate significant changes. Dotted lines at the left indicate changes to clarify, rearrange, correct references, etc., without changing content.

Manual Holders: The following pages should have been removed from your manuals after Emergency Rule Bulletin #09-05. If not, please maintain your manuals as follows:

Manual Maintenance

Medicaid Rules

Remove

Interpretive Memo facing M103.3 P.6	7/1/08
Interpretive Memo facing M640	7/1/08

Insert

Nothing
Nothing

VHAP Rules

Remove

Interpretive memo facing 4003	7/1/08
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Insert

Nothing
