

CHARLES BASSETT  
Vice President  
Government Relations & Public Policy  
(602) 864-4350 • FAX: (602) 864-4242  
cbassett@phx1.bcbsaz.com



An Independent Licensee  
of the Blue Cross and  
Blue Shield Association

COPY

November 16, 2007

Representative Bob Stump  
Arizona House of Representatives  
1700 West Washington Street  
Phoenix, Arizona 85007

Dear Representative Stump:

We appreciate your sensible approach to the chiropractic copayment issue that has clogged the health care debate at the legislature for the past year. The chiropractors' lobbyists are an emotionally charged group and assert a great deal of political pressure. You have resisted emotional arguments in favor of focusing on facts and using these facts to make sound public policy decisions.

To that end, I thought it would be helpful to set forth the background and Blue Cross Blue Shield of Arizona's position on this topic. Forgive the length of this letter, but there's a lot to address.

### BACKGROUND

Copayments and other cost sharing devices, such as deductibles and coinsurance, are common in health insurance. These tools are especially important in today's consumer-directed policies and are a necessary means of engaging consumers in thoughtful health care decisions.

Like other health insurers, Blue Cross includes customer cost sharing in its policies and imposes higher copayments for specialists than for primary care providers (PCPs) in our standard group and individual products that have copayments. Employer groups have requested this differential between PCPs and specialists.

In the past few years, Blue Cross changed its copayment structure in two ways. Under the new policy, customers pay a copayment for every office visit. In addition, Blue Cross increased the copayment amount on individual policies. These changes were made to remain competitive with other health plans, which have similar copayment policies.

Although these changes applied to all specialists, only chiropractors were upset because they felt the copayments decreased their business. They, therefore, promoted SB 1504 last year, which dictated that Blue Cross treat chiropractors like primary care providers by applying the lower PCP copayment. The bill applied only to Blue Cross. SB 1504 died in the House. This bill was not supported by other specialists.

After last year's discussions, Blue Cross agreed to review its policies over the summer. As a result of this reflection, and as a demonstration of good faith and cooperation, the company decided to make three changes for chiropractors:

- Reduce the highest specialist copayments on our individual products. The chiropractors objected most strenuously to the \$70 copayment on our individual policies with the highest deductibles and other cost sharing amounts. As a result, we are lowering our two highest specialist copayments (\$60 and \$70) to \$55. This brings Blue Cross in line with the rest of the market in terms of specialist copayments. This change becomes effective in January, 2008 and requires us to divert substantial resources to modify existing documents and notify policyholders. We also have to absorb the losses due to this change because it was not accounted for in the rates.
- Create a new category of chiropractic copayment. Some chiropractors expressed concern that subjecting them to a specialist copayment was a problem because their Board rules prohibit them from advertising as specialists. We therefore elected, effective on renewals beginning next year, to create a new category of copayment for chiropractors, a practice already followed by several other insurers. The chiropractic copayment will be the same amount as the specialist copayment, but will be called a chiropractic copayment. We will not, however, be able to note the separate copayment on the member's card because of space limitations.
- Open the network. Chiropractors had complained that Blue Cross' network was too restrictive. We have now opened up the PPO network to any chiropractor who passes credentialing, as we do with other providers. This change is already in effect.

We had hoped the chiropractors would be pleased with these good faith changes. They were not, and have even ratcheted up the rhetoric. They now say they will be satisfied with nothing less than PCP status, and plan to introduce a bill to classify them as PCPs. For the reasons set forth below, making chiropractors PCPs would be unprecedented, expensive and bad public policy.

This letter sets forth Blue Cross's position that the copayment structure should not be subject to legislative involvement. The rest of the letter expands upon the following reasons supporting our position:

1. Insureds can voluntarily choose to be insured by Blue Cross and determine the level of copayment best suited to their needs.
2. The provider contract between a chiropractor and Blue Cross is voluntary. No chiropractor is obligated to participate in the Blue Cross network.
3. The copayment has not decreased the amount of reimbursement. It has simply shifted a greater portion of the cost to the member.
4. Only 7.7% of Blue Cross members seek chiropractic care.
5. Fees paid to chiropractors on behalf of these 7.7% of members account for the highest percentage of fees paid (almost 9%) by Blue Cross to any physician specialty, higher even than radiologist and family practice fees (8.1 and 8%, respectively).
6. The chiropractic spend represents a significant portion of the premium – a cost to all Blue Cross members.
7. Chiropractic care is and can be abused, with a substantial number of members being seen in excess of 50 visits per year.
8. Chiropractic care does not replace other care.
9. With the changes to the copayment, which affects all specialists equally, only chiropractors have seen a material decrease in utilization, suggesting that members considered some of the chiropractic services optional or not medically necessary.
10. Blue Cross is a substantial source of revenue to chiropractors. We do not believe any other insurer in Arizona provides unlimited visits to chiropractors.

### **PUBLIC POLICY AND FACTS**

The chiropractors have actively pursued legislative solutions to their perceived business problems every year for as long as I can remember. The legislature is not an appropriate forum for the vast majority of their concerns, and I encourage you and your colleagues to resist their requests for legislative intervention in the market's workings.

#### **These are voluntary contractual relationships**

Every relationship at issue in the debate over chiropractic copayments is voluntary and contractual:

#### **Insured & Insurer**

In Arizona, health insurance is voluntary. No one is required to buy this product. Fortunately for consumers, Arizona has a sound and vibrant health insurance marketplace, with many insurers competing for business and offering a wide

variety of products, including HMO, indemnity, PPO, and high deductible, HSA-compatible plans. Arizona is not like some other markets where one insurer dominates the market and can dictate a limited range of products.

When business owners and individuals purchase insurance from the wide range of available products, they are making a choice about what is best for their businesses, their employees, themselves and their families. Sound public policy insists that consumers are free to make these decisions for themselves.

The degree of choice is especially relevant in the individual market, which has policies with the highest copayments. Some consumers in this arena are making the decision to buy a policy with a lower premium and higher cost sharing (deductibles, coinsurance and copayments). They may make this decision because they choose to pay for everyday medical needs, knowing they are covered if something catastrophic occurs. Other consumers may not be able to afford any other kind of coverage. By offering products with a higher cost-share, we are giving consumers choice and helping them do the responsible thing and avoid being uninsured. Why would the legislature take this option away?

A consumer who buys insurance enters a contractual relationship that clearly sets forth covered benefits, exclusions, cost sharing levels and other important information.

### **Physician & Insurer**

The relationship between the chiropractor and insurer is also voluntary. Some chiropractors and other types of providers do not contract with insurers in general, or Blue Cross in particular.

For a long time, Blue Cross limited the number of PPO network contracts offered to chiropractors because of the large number of chiropractors in Arizona and the administrative costs associated with contracting. As you know, while Arizona has a severe shortage of medical doctors, there is no shortage of chiropractors. According to the Board of Chiropractic Examiners, there are about 1,900 licensed chiropractors in Arizona, or one for every 18 Blue Cross members receiving chiropractic care in 2006.

Blue Cross recently removed the restrictions on chiropractors entering the PPO network. We opened our PPO provider network to all chiropractors who meet criteria, the same as any other provider specialty. A few chiropractors (15 indemnity-only providers) requesting contracts were identified as not meeting criteria due to administrative costs associated with their being a participating provider, such as being on focused review for billing irregularities or a pattern of inappropriate billing. Despite this small number of rejected applicants, Blue Cross contracts with a substantial number of chiropractors. We have PPO contracts with 876 chiropractors and have offered another 176 chiropractors the

opportunity to join the PPO network. In fact, we believe our network is bigger than our competitors' panels.

When a chiropractor joins an insurance network, the chiropractor and the insurer enter a contract that specifies the terms of reimbursement, cost sharing and other details. A chiropractor should not enter the contract unless the terms are acceptable.

We urge the legislature not to interfere in this private, voluntary contract. Legislative mandates invariably lead to higher premiums.

### **Physician & Patient**

The relationship between the chiropractor and the patient is also voluntary and contractual, and this is the sore spot for the chiropractors.

Most of our customers do not seek chiropractic care. Only 7.7% of Blue Cross members saw a chiropractor last year.

Those who go to a chiropractor enter a relationship in which the chiropractor provides services in exchange for payment of the customers' share of the costs. Chiropractors are complaining that, with the new Blue Cross copayment policy, customers are not visiting them as much and their incomes are decreasing. Dr. Immerman cites one chiropractor whose income decreased by \$100,000 in one year.

What does this mean? First, keep in mind that Blue Cross did not decrease reimbursement to chiropractors. Rather, BCBSAZ increased the portion of allowable reimbursement that is paid by the member as cost sharing. If a chiropractor's income from Blue Cross has decreased, it is only because the customer/patient has made the decision to seek less frequent care. This suggests that some of chiropractic care that had been provided was "feel good" care that was not medically necessary. Based on advertisements and web pages of many chiropractors, as well as a review of records, services can include massages and other non-covered services. Unfortunately, it is impossible for Blue Cross to determine when this occurs without ordering medical records or interviewing patients, the cost of which is prohibitive.

If the patient is in pain, he will seek the care he needs. That he is avoiding the care now that his out-of-pocket costs are higher means it was not necessary.

Chiropractors will characterize this as depriving care to chiropractic patients. But it has nothing to do with care. It relates only to cost sharing. Moreover, the Blue Cross copayment policy applies to all specialists, not just chiropractors. We have not seen visits to other specialists plunge. We have not heard other specialists complain about the copayment policies.

Chiropractors must show value to their patients. If they do not, the patients will not visit them.

In this age of skyrocketing medical costs, with businesses and individuals struggling to afford coverage, insurance companies should not be paying for unnecessary, feel-good care. If chiropractors' business has declined substantially since the Blue Cross changes, it strongly suggests chiropractors were providing care that was not medically necessary. If they do not like an insurer's cost sharing practices, they, like any provider, are free to leave the network. Non-contracted providers are free to collect full billed charges from the patient at the time of service. They have no obligation to submit claims or accept discounted rates. The market will decide whether Blue Cross' cost-sharing practices are sound.

Given that all the relationships tied to this issue are voluntary and contractual, why is it a legislative issue? Why does the Arizona legislature want to interfere in the minute details of insurance coverage such as setting copayments for a certain type of provider that only a small percentage of the population wishes to see? This is not a role for the government.

### **The Data**

The Arizona Chiropractic Society suggests that Blue Cross data concerning the cost of chiropractors should not be trusted. In fact, it is the only data that matters. First, it is Arizona data, on Arizona customers, on business that is subject to Arizona law. Second, and more important, it is the data we use to set rates, which in turn determines how many Arizonans can afford coverage.

Rates are the key here. We must be able to keep rates down to succeed in a very competitive marketplace, with more carriers entering the market all the time. Competition is good because it gives consumers more choices and keeps margins thin.

The chiropractors discuss studies about chiropractic coverage. But these studies are irrelevant to rate setting for an Arizona company. The Arizona mandate is in place and we have to cover chiropractic care. We know precisely how much the coverage costs and how many of our customers use it. We do not need peer-reviewed journal articles to help us set rates.

### **Low demand. High cost.**

Here is what we know about chiropractic care. This data is from Blue Cross and is based on actual utilization and claims data. It refutes most of the chiropractic lobbyists' claims about chiropractic care:

- Not many of our customers seek chiropractic care. In 2006, only 7.7% of our PPO members utilized a chiropractor.
- Chiropractors are nevertheless very expensive. Despite the minimal demand for chiropractic services, chiropractors are more expensive than any other physician specialty, including family practice, radiology, OB/GYN, internal medicine, cardiology. Chiropractors accounted for nearly 9% of Blue Cross PPO spending on physicians on claims incurred from July, 2006 through June, 2007. This translates into more than \$30 million.
- Chiropractic care does not replace other care. Chiropractic lobbyists often claim that chiropractic care saves money because it replaces other, more expensive care. This is not true. Chiropractic care does not serve as a substitute for other care.

We compared 2006 claims by our members who never see chiropractors, sometimes see chiropractors, and often see chiropractors. Frequent chiropractic utilizers and occasional chiropractic utilizers incurred more inpatient claims, outpatient claims, physician claims, and drug claims than non-chiropractic members. They were far more likely to be admitted to the hospital, have an MRI, visit a primary care provider, visit a specialist and receive a prescription than their counterparts who do not see chiropractors.

- Chiropractic care can be abused. While many chiropractors practice in a reasonable manner, the rare abuses are staggeringly expensive.
  - One subscriber visited a chiropractor 291 times in 2006. The person apparently only took Sundays and holidays off! But it did not stop there. Between July, 2005 and April, 2007, the patient went to the chiropractor 405 times.
  - The ten subscribers who visited chiropractors the most in 2006 went, on average, more than 13 times per month, or 156 times during the year.
  - Over 800 members utilized chiropractic services at least weekly during 2006.
- People who buy insurance are not asking for enhanced chiropractic coverage. In fact, many businesses ask us to remove chiropractic coverage from their benefits because they see the cost. Of course the mandate prevents this. Only chiropractors are talking about the need for enhanced chiropractic coverage.

- We know why the ASC targets Blue Cross. We believe Blue Cross is the major source of reimbursement for chiropractors. Our competitors skirt the chiropractic mandate by setting up out-of-state trusts or simply ignoring it and imposing visit limits in their plan design. Blue Cross provides quick payment without a visit limitation. Presumably, if the demand for unlimited chiropractic care was so great, competitors with twelve-visit limits would have difficulty selling policies. Yet, this does not appear to be the case.
- The chiropractors' proposed legislation to reduce chiropractic copayments will increase the cost of health insurance. Our customers do not want to subsidize chiropractic care in this manner for the few who use it.

### **PCP versus Specialist**

Blue Cross, and every insurer and other objective source we can think of, classify chiropractors as specialists, not PCPs. This is not something new.

Primary care providers are a person's main health care provider in non-emergency situations. They identify and treat common medical conditions and provide the first level of whole body health care, including well-care, preventive care, acute care, and chronic care. They provide comprehensive care to all organ systems, not a single organ system, such as the musculoskeletal system. They include general practitioners, family practitioners, internists and pediatricians.

Chiropractors may be considered portal of entry providers, but they are not PCPs because their scope of practice involves neuromuscular skeletal disorders, such as subluxations and dysarthrosis. They are not qualified by training or practice to be PCPs because they cannot provide many of the services for which people seek care from PCPs. For example, chiropractors cannot provide immunizations, prescribe antibiotics, provide asthma treatments or treat diabetes. The list goes on. In fact, the chiropractors' regulatory board prevents chiropractors from advertising that they provide complete health care services.

The chiropractors claim they can refer patients to competent providers for some of these services. The idea of a PCP, however, is to actually perform the basic services patients need, without a referral.

Chiropractors offer no examples of other payers that consider them PCPs. In fact, they have tried to legislate PCP status in other states (Oregon, North Carolina and New Hampshire, for example) and been rejected.



## **Inconsistent with Recently Passed Legislation**

In 2005, the legislature passed and the governor signed SB 1416. This bill provided that Blue Cross and other health insurers could offer policies "that contain a choice of deductibles, coinsurance, copayments, out-of-pocket and any other cost sharing levels." The language that applies to Blue Cross can be found in A.R.S. §20-826.02.

SB 1416 recognized the growing consumerism movement in health insurance. Now, just two years later, chiropractors are trying to undermine this effort. The legislature should not retreat from its earlier policy statement.

## **Discrimination**

The chiropractic lobby likes to toss around the term "discrimination." They wanted to be treated like medical doctors and, now that they are, they still are not satisfied. Now they demand special treatment.

The current industry copayment structure does not constitute discrimination. As discussed above, chiropractors are specialists and we treat them like other specialists.

They have failed to even file a complaint on this topic with the Department of Insurance, presumably because they know the discrimination statute, which they wrote and lobbied, simply does not apply here. For all their venomous accusations, making them subject to the specialist copayment is simply not discrimination and they know it. So they want to enact a new law, conjuring a new class of discrimination out of thin air.

## **12-Visit Limit**

Speaking of discrimination, we suggest the legislature equalize the unfair PPO and HMO mandates. Under the current law, an HMO can cap chiropractic coverage at 12 visits. Other types of insurers must cover any chiropractic coverage that is "medically necessary." If the legislature feels the need to concentrate on chiropractic issues, why not extend the 12-visit limit to all types of coverage? The current inequality puts Blue Cross' PPO at a competitive disadvantage.

## **Chiropractic Issues Divert Us from Important Issues**

Every minute the legislature spends micromanaging the details of chiropractic business interests is a minute wasted in dealing with the far more important issues of health care costs and the uninsured. Everywhere you look, there are articles discussing how the cost of health care is out of many people's reach and how Arizona has a one of the highest uninsured rates. These are the issues on

which the legislature should focus. Don't let a small special interest group hijack the legislature's attention from these important topics.

And it's not just the legislature. Blue Cross is a leader in public policy and in the marketplace. Every year, chiropractic attacks divert our resources – time, personnel and money – from our mission to provide the best value in health insurance and to improve the quality of life for Arizonans.

I urge you to reject this latest advance by the chiropractors. Their request is unsupported by the facts and offends solid policymaking.

Sincerely,



Charles Bassett  
VP, Government Relations