

# THE BATTLE AGAINST BLUE CROSS/BLUE SHIELD RAGES ON

By Dr. Alan Immerman



Blue Cross/Blue Shield (BSBC) is the largest insurance company in Arizona. Approximately one year ago, after passage of the Insurance Equality Act forced BSBC to pay equally for chiropractic care, BSBC moved to avoid paying for chiropractic care by adding an exclusion to almost all contracts. The exclusion limits payment for "Manipulation and Associated Health Care services," to \$250 per year per patient. BSBC then arbitrarily defined chiropractic as the "practice of manipulation" and claimed that everything chiropractors do is "associated with manipulation." This reasoning was then used as justification for limiting payment to chiropractors for not just manipulation, but also for examinations, x-rays, and physical therapy. The limit for any and all services performed in a chiropractic office is, therefore, \$250 per patient per year.

At the same time, BSBC has been paying medical and osteopathic doctors and physical therapists for 40 treatments per condition, along with whatever reasonable number of examinations and x-rays the doctor orders.

In August of 1987, our attorney, William Murray, wrote a letter of complaint to the Arizona Department of Insurance. BSBC responded that they were legally allowed to limit payment on manipulation, as long as the limitation applied to all doctors. No further letters were written.

On October 30, 1987, I sent a letter to the Department of Insurance regarding BSBC. BSBC responded on November 25, 1987, by saying that they had already dealt with this issue when challenged by Mr. Murray. BSBC sent the Department of Insurance a copy of the BSBC letter which previously had been used to respond to Mr. Murray.

On November 30, 1987, I wrote a second letter to the Department of Insurance in which I stated that BSBC had never responded to the complaint regarding unequal payment for exams, x-rays, and physical therapy. This letter was forwarded to BSBC for a response.

On December 9, 1987, BSBC responded to the Department of Insurance, claiming that, since the Scope of Practice Law for chiropractic is "restricted to manipulation," every service chiropractors perform is "associated with manipulation" and therefore legally subject to the \$250 limit.

On December 14, I responded with a four-page letter, quoting the language of our scope of practice law and the insurance equality law, providing hypothetical examples of how BSBC would pay if a low back pain patient went to an MD versus a DC, of-

fering BSBC Explanations of Benefits on 3 of my patients as proof of the \$250 limit, and mentioning the historical fact that the AMA pressured National BSBC to coerce the BSBC organizations in each state to write exclusions covering the statutory definition of chiropractic when insurance equality legislation prohibited mention of chiropractic.

On January 13, 1988, Sara Begley, the Chief Hearing Officer of the Department of Insurance, wrote a letter to BSBC saying: "To state that all of the services performed by a chiropractor are manipulation is not legally correct." And: Different limits for medical versus chiropractic doctors on benefits for examinations, x-rays, and laboratory procedures "arguably...may constitute a violation of A.R.S. #20.841.01" (the insurance equality law).

Following this letter, BSBC responded by stating that they would initiate negotiations with the Chiropractic Association of Arizona. The CAA was represented by Howard Bell, William Murray, and Dr. Tom LaBrot. BSBC specifically demanded that I not be present because they apparently did not like the tone of my letters.

Two meetings were held between the CAA and BSBC, with six weeks between meetings. At the final meeting, Ken Smithson, M.D., informed the CAA representatives that the \$250 limit would not be changed. Dr. Smithson stated that BSBC was perfectly correct in their interpretation of state law and that since "chiropractors are not real doctors," there was no reason for a change in benefits.

Following failure of the negotiations, I contacted Sara Begley at the Department of Insurance. She told me that the case would be sent to the Attorney General's office for action. On March 10, 1988, I was told by Mark Webb, Deputy Director of the Department, that BSBC would be receiving "notice of a Formal Disciplinary Hearing" in the near future. The Attorney General's office will function as the prosecutor at the Hearing.

On March 18, 1988, NBC covered this story on the 5:00 p.m. news. Mark Webb was interviewed, along with me and a BSBC-covered patient of mine who has suffered as a result of the exclusion on manipulation. BSBC refused to comment. Mr. Webb was very firm in stating that the Department feels that BSBC is in violation of the insurance equality law.

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Similar interviews have been completed for ABC and a news show will soon be on the air. KPHO, Channel 5, will be taping on March 31. Also, reporters for the Republic and Gazette will be writing articles on this matter.

At the present time, we are waiting for the hearing date to be set. There is cause for optimism since the Department of Insurance does not call a hearing unless they have a strong case. The Department has a heavy stake in winning, since a loss would mean that the Department would have to pay BSBC's legal fees, and the Department could be accused of wasting taxpayer's money.

I fully expect that BSBC will be found in violation of the state insurance equality law. The maximum fine, which is paid to the state, is \$50,000 per six months of intentional violation. However, the Department of Insurance also has the power to suspend or revoke an insurance company's license to do business in this state. We intend to demand that, after BSBC is found to be guilty, the Department give BSBC 30 days in which to change their benefit package for chiropractic care, or BSBC's license will be suspended.

In addition to the Department of Insurance action, chiropractors and patients will be filing a lawsuit against BSBC for compensatory and punitive damages. It is imperative that BSBC be forced to pay heavily for intentionally violating state law for over one year. This would also send a valuable message to all other insurance companies.

I challenge each and every one of you to do what I have done with BSBC. There are many insurance companies that need to be confronted. Never assume that "someone else is minding the shop" since there are just too many battles to be

fought. It is your professional life that is on the line. Will you fight for your own survival? Remember complacency may be equivalent to self-destruction.

*(Editor's Note: Dr. Immermerman has been recently appointed a faculty member, postgraduate division, for National College on the subject of nutrition.)*

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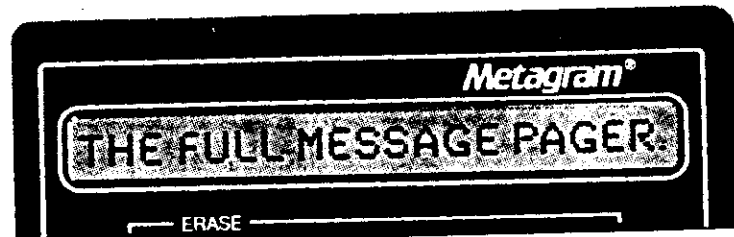
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