



# Chiropractic and Medicare

By Randy Tate  
ICA Chief Legislative Strategist

Even numbered years always mean odd politics in Congress and 2002 is no exception. In fact, we may even reach new heights of rhetorical excess on the campaign trail, as candidates use promises and blame as the two main campaign strategies this year as the major parties fight for control of the legislative process in both Houses of Congress. For the chiropractic profession, this is a watershed election since the crop of new candidates and shifting political sands mean that much of the work of decades past in building and understanding relationships and commitment to chiropractic issues will inevitably be eroded by the emergence of a new wave of legislators and, perhaps more importantly, new staff.



Randy Tate

This is the time, early in the campaign, for all doctors of chiropractic to closely examine state and federal legislative candidates in their areas, and start down the path to influence first by contact, then by familiarity and then, when you have identified those who are worthy of chiropractic support, by your efforts on their behalf in what is going to be a very hotly contested election year. As an important side note, political activities won't do your practice any harm since they can bring you into positive contact with large numbers of people whom you would be unlikely to meet under other circumstances.

What is left of this Congress will likely be spent in a very public battle between competing visions by Democrats and Republicans on those major issues, like a prescription drug benefit under Medicare, which will form the central themes of the campaign.

## The Lewis bill – H.R. 2284

ICA has aggressively promoted H.R. 2284, legislation introduced by Rep John Lewis (D-GA) that would provide for an expansion of chiropractic Medicare benefits as a logical extension of the Medicare reform effort. As a

drugless approach to health and health care, chiropractic offers a major source of help to those who cannot, for physiological reasons, or who elect not to for reasons of religion or philosophy, to utilize any new Medicare drug benefit. These non-drug consuming senior citizens could number in the hundreds of thousands if not millions and deserve Congressional consideration.

H.R. 2284 is legislation I am most familiar with, it being an ICA initiative. This well-crafted bill does more than expand the list of chiropractic services that would be paid for by Medicare to include examinations and x-rays. It also applies to Medicaid. But there are very significant non-budgetary provisions that are unique to H.R. 2284. The Lewis bill would write into the concrete of federal statute the provision that: **Chiropractic services (to correct a subluxation) may only be furnished under this title by a doctor of chiropractic.** No other piece of chiropractic Medicare legislation would accomplish this vitally important goal. The exclusivity that chiropractic should demand for the correction of subluxation as a unique chiropractic service can most effectively and most permanently be accomplished by passing H.R. 2284.

I am personally surprised that the straightforward legislative route has not been seized upon by all the chiropractic organizations as the way to correct the gray area in Medicare that provides an opening for other doctor level providers to adjust the spine to correct subluxation(s) and claim payment by Medicare for that service.

## H.R. 902 – A different approach

There are other approaches to expanding chiropractic's role in Medicare. H.R. 902, a bill being promoted by the American Chiropractic Association (ACA), would require Medicare to pay for any Medicare covered service a doctor of chiropractic is licensed to perform in a state. This is an ambitious reach, and despite years of effort, it could prove to be an elusive goal. This is a quantitative, not a qualitative statement.

Is H.R. 902 out of reach? Congress will decide, and it is likely, as it has always been throughout the legislative history of chiropractic, that some

compromise will be necessary if anything is to be achieved. Time will very quickly tell if H.R. 902 is viable. Members that I have spoken with have grave concerns over the practicalities of handling Medicare a chiropractic program that is potentially different in every state, and with a new chiropractic program that is all but impossible to cost out. If there is one thing Congress hates, it's a proposal that you cannot put an exact price tag on.

These are the realities of today's legislative environment, regardless of how we as chiropractic advocates feel about the provisions of H.R. 902 or H.R. 2284. If H.R. 902 is not viable, or if H.R. 2284 is not viable, the big question then becomes whether their respective proponents are willing to work together to pursue other language. I think we should.

## The HCFA lawsuit

I am also fully aware that a lawsuit has been underway for some time, at the hands of the American Chiropractic Association, to compel the Centers for Medicare and Medicaid Services (CMS), formerly HCFA, through the courts, to close any loopholes in the current law that allow non-DCs to be paid for "manual manipulation of the spine to correct a subluxation."

I recently saw a statement on the "Goals" of this suit circulated by the ACA that indicated that one of the key objectives of the HCFA suit was to: *Preserve and defend the unique and exclusive right of doctors of chiropractic to identify and correct subluxations of the spine.*

This is a worthy goal and one that ICA enthusiastically supports. But, if you want to permanently secure this goal, consider what one senior Senator, who also happens to be a member of the Senate Finance Committee, recently told ICA. "Congress, not the courts make national health care policy. If you want to make a permanent change, make it in the statute. Trying to do what you want to do in Medicare through the courts is like trying to tie up a monster with a rope of sand." The opportunity to make a change in the statute on this point exists. Why not push with a united front to seize this vital goal through Congress, NOW?

The debate over prescription drugs provides the perfect opening to move chiropractic ideas and chiropractic issues to the forefront of the Medicare enhancement debate. I have personally been deeply involved in these discussions in the House and we are now shifting our focus to the Senate Finance Committee, and there could be very fertile ground there for some major gains for chiropractic.

Realistically, looking at the two major approaches, H.R. 902 and H.R. 2284, both are fighting congressional concern over shrinking Medicare reserves. The irony, however, of hearing Members of Congress and staff talk about spending concerns for any new chiropractic benefits, and in the same conversation about their desire to pass legislation to pay for prescription drugs for Medicare beneficiaries, should be lost on no one.

The honest truth is that the Medicare program is fighting an uphill battle to pay for those services it covers now, let alone for the 55 million seniors it will be called upon to serve in the years

immediately ahead.

Still, regardless of the ultimate reality, Medicare is a powerful model and its shadow has major implications in the entire third-party payment world, both public and private. This makes all Medicare reforms and improvements for chiropractic providers and practitioners alike, well worth fighting for. The devil, however, is in the doability.

## Time is of the essence

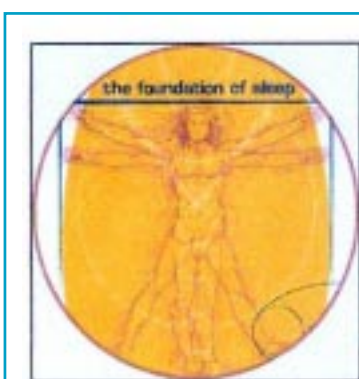
The road to meaningful improvement for chiropractic under Medicare includes, from my perspective, the following elements, and chiropractic needs to act NOW to make them happen:

- Set reasonable, finite goals by deciding what new services best support the chiropractic patient, decide what makes sense according to what Congress is willing to approve and unite behind those goals. H.R. 2284 is a very good starting place.
- Recognize that "Only DCs are authorized to be reimbursed for subluxation correction under Medicare" is a vital goal that can be accomplished this year, regardless of whether new benefits are authorized. It is not a budgetary matter and can be quickly moved through both Houses.
- Act quickly and on a common front because the window for any action this year is very narrow and closing rapidly. Now is not the time for dogmatic paralysis or organizational posturing.

Time is not on chiropractic's side. Let's hope that wisdom and determination is.

(For a complete copy of H.R. 2284 and model patient letters see ICA's website [www.chiropractic.org](http://www.chiropractic.org))

**RANDY TATE** is ICA's chief legislative strategist and more than familiar with the workings of Capitol Hill. A former Congressman, representing Washington's 9<sup>th</sup> district from 1995-1997, Mr. Tate was a member of the House Transition Team and served as Deputy Whip for House Majority Whip Tom Delay. He also served in the Washington State House of Representatives from 1989-1995. At age 22 he was the second youngest person ever elected to the Washington legislature.



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