

American Chiropractic Association

DEDICATED TO IMPROVING THE HEALTH AND WELLNESS OF AMERICA, NATURALLY.

September 6, 2005

Ms. Vallencia Lloyd
Director of Managed Care Certification and Surveillance
New York State Dept. of Health
Corning Tower, Rm 1911
Empire State Plaza
Albany, NY 12257

RE: Oxford Health Plans/ACN Group Consolidation

Dear Ms. Lloyd:

This letter is written on behalf of the American Chiropractic Association (“ACA”) and its 1,154 members practicing and residing in the State of New York. We understand that the department is currently reviewing a proposed arrangement between Oxford Health Plans and the ACN Group. This arrangement would, as we understand it, permit ACN Group to manage Oxford’s chiropractic benefit. We would like to take this opportunity to provide information we believe has an important bearing upon New York residents and the delivery of quality chiropractic services. Specifically, the ACA has received an increasing number of complaints from our doctor members across the country and, in particular, from New York pertaining to the practices and policies of the ACN Group.

In that connection, the ACA has requested New York Chiropractic College (NYCC), the only accredited chiropractic educational institution operating in New York, to review and analyze the criteria utilized by the ACN Group. The full analysis is enclosed with this letter. Please note one conclusion of the NYCC analysis states: “If NYCC were to use ACN material above as a cornerstone for our educational process, we would need to significantly alter our curriculum, protocols and practices and would expect to see a significant decline in positive patient outcomes”. (emphasis added).

In addition, our review of the data has revealed a disturbing pattern of various methods of withholding benefits that have been purchased by the patient and/or employer but, in fact, are restricted under the guise of medical necessity.

Insurers have long been charged with the duty to review claims for medical necessity. Organizations such as NCQA, and URAC exist to accredit managed care organizations to certify that, among other quality measures, no abusive restrictions of benefit payments or care authorizations that would jeopardize patient care can occur. The recent growth of Pay-for-Performance Programs has stirred concern at the ACA due to the potential of abuse of the link



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between performance and cost-control. These types of Programs have recently been evaluated by the American Medical Association, who determined there was a need for formal Principles and Guidelines to ensure fair access to quality patient care, and to serve as a standard for ethical operations of these Programs. These Principles include: ensuring quality of care, fostering the patient/physician relationship, offering voluntary physician participation, use of accurate data and fair reporting, and providing fair and equitable program incentives.

The data collected by the ACA show that some managed care networks, including in our view the ACN Group, that have oversight over chiropractic care are in violation of these AMA Principles. Authorization for care is denied for arbitrary reasons without review of the patient's medical record, including: patient is not improving quickly enough so care is deemed ineffective, or the patient is improving, therefore care is no longer deemed necessary. Although networks such as the ACN Group show an extensive amount of research, statistics, and algorithms to ensure that there is a consistent process behind authorizations, actual claims evidence shows a huge disparity between company written policy and actual utilization management decisions. The research cited in denials represents a narrow view of very selective research that is not clinically supported by the profession and does not represent the wide body of research currently available. As a result, the ACA is very concerned that some of these denials of care are not clinically sound and may jeopardize the health and well-being of patients.

Chiropractic care has often proven to be the effective treatment for patients with chronic problems that need supportive care. There is a disturbing trend with chiropractic networks to routinely deny supportive care based on the simple fact that the patient has been treated in the past for the same diagnosis. The ACN Group, for example, has an algorithm for supportive care, but routinely denies this to patients often only authorizing 4 or 5 visits when the patient may have a benefit on their policy for 20 visits.

The effects of such restriction of care are many. First, the patient is misled to think that the benefit stated in their Summary Plan Description is available for use at the discretion of their physician and the patient's own determination that they need to see the doctor. Second, the fact that a benefit is represented to a patient or employer who then expects access to the value it is stated to provide in terms of care - this becomes deceptive and, in our view, represents an illusory benefit.

The goal of chiropractic is efficient care - the best possible clinical outcomes in the most cost-effective manner. When care is restricted and results in poor outcomes, efficient care is not achieved. We simply have restricted care. As non-compliance with the plan of care in other

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clinical professions results in poor outcomes, restriction of care by the insurer/network has the same result except in this case, the patient does not have a choice.

Also enclosed is specific information which includes the following:

1. ACN – Summary of Issues: This outline summarizes the many complaints ACA has received pertaining to the ACN Group activity.
2. Managed Care Networks – New York Complaints: This outline identifies specific complaints from New York doctors on a variety of managed care organizations including the ACN Group.
3. Analysis ACN Group Summary Data: Prepared by Jeffrey F. Simonoff, Ph.D, professor at New York University. This is a detailed analysis of ACN Group statistical procedures. While highly technical in nature, Dr. Simonoff has stated that: “the [ACN Group] summary statistics certainly suggest that such [cost and visit limiting controls] could be affecting practice by (in effect) truncating the number of visits from above”. We believe this analysis supports our contention that the services are artificially being reduced by ACN’s statistical maneuvering and therefore benefits are being denied that have otherwise been promoted, and paid for by employers to the detriment of the patient’s health and well being. He also stated in a follow up letter that, "If different patients have different treatment needs (based on their medical condition), and different doctors treat different mixes of those patients (that is, some doctors are more likely to treat more seriously affected patients, while others are more likely to treat milder cases), an overall mean and standard deviation provides a very poor summary of expected treatment requirements, and the variability from patient to patient of such requirements."

Finally, under N.Y. COMP. CODES R. & REGS., tit. 10, § 98-1.12 (2004), it appears that those organizations doing utilization review in New York should have a Quality Assurance Program in place to assess the program's effectiveness. This is also a requirement of URAC which accredits ACN Group. Our concern is that ACN Group states that it is not hearing of any complaints from doctors, yet the ACA has had hundreds of complaints submitted since March, 2005.

We would be happy to meet with you to provide more detailed discussion of the above-referenced information and problems with the ACN Group. We would also be happy to appear and provide public testimony in connection with these concerns.

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We would specifically request that your department commence a formal inquiry into the effects of ACN Group policies and limitations on patient care before any final approval of further ACN Group management services. Please feel free to contact me with any additional questions and we thank you for your time in the consideration of this information.

Sincerely,



Garrett F. Cuneo
ACA Executive Vice President

GFC/mah

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