

## Who's "At It" Again?

By [Tom Rhudy](#) and Daniel J. Osborne, M.S.

In an article titled, "United Healthcare: Here They Go Again" (*Dynamic Chiropractic* - April 9, 2007, Vol. 25, Issue 08), James D. Edwards, D.C., currently serving as an "Alternate Delegate" ("Tx-East") in the American Chiropractic Association, stated:

The American Chiropractic Association (ACA) has received reports that United Healthcare has implemented a new policy in several states to only reimburse physical medicine and rehabilitation (PM&R) services when performed by a licensed provider.

The new policy states, "PM&R services rendered by non-licensed individuals are not eligible for reimbursement, regardless of whether they are supervised by, or billed by a physician or other licensed therapy provider." This change is effective as of Jan. 1, 2007 for newly contracted providers and April 1, 2007 for currently contracted providers.

So, what exactly does this new policy mean for doctors of chiropractic? In Texas, where United Healthcare is applying the policy, it means a doctor of chiropractic will not be reimbursed for physical medicine or rehabilitative treatments unless those services are actually performed by the doctor or by a person licensed by the state to do so...

Does Dr. Edwards actually identify a disparate situation for chiropractors vis-à-vis other licensed healthcare providers (e.g., MD, DO, PT, OT)? There is no evidence of such a disparity, at least per the reference cited.

However, there can be little doubt that chiropractors perform such services at a much higher rate than other physician-providers on a per-capita basis.

Does Dr. Edwards identify a new policy in reimbursement-standards within the Insurance industry? Dr. Edwards states, "This change will greatly impact patients and providers across the country..." He goes on to state:

If you are a non-licensed chiropractic assistant who applies a heat pack or assists a patient with rehab, you will not be reimbursed! Think that might change the way you practice? (ibid.)

I am unaware of any insurance carrier that will "reimburse" a "non-licensed chiropractic assistant." Furthermore, I'm not certain that the position articulated correctly posits United Healthcare's reimbursement standard(s).

It is significant to note that the CPT Guides are unequivocal in distinguishing between supervised and attended modalities. Additionally, CPT distinguishes between "modalities" and "therapies" in the following manner:

Modalities are defined as "Any physical agent applied to produce therapeutic changes to biologic tissues; includes but not limited to thermal, acoustic, light, mechanical, or electric energy." They may be attended or non-attended.

The definition of modalities was added to CPT 1995 to indicate the different types of service included in this section.

To clarify the work performed by the provider, the section is divided into two parts; Supervised and Constant Attendance.

- Supervised modalities are defined as the application of a modality that does not require direct (one on one) patient contact by the provider.

- Constant Attendance is defined as the application of a modality that requires direct (one on one) patient contact by the provider.

Therapeutic Procedures are defined as "A manner of affecting change through the application of clinical skills and/or services that attempt to improve function." These require direct patient contact.

The definition of therapeutic procedures was added to CPT 1995 to clarify the differences between therapeutic procedures, modalities, and tests and measurements. These procedures require direct one on one patient contact by a physician or

therapist. [At times, the foregoing terms are collectively referred to as "Provider" by CPT - both meaning someone licensed by the State to perform health care services.]

Therapies is a kind of general term used by many people to describe all physical medicine procedures -- modalities, therapeutic procedures, acupuncture, and sometimes, even CMT.

Most insurance companies will refer to the CPT terms described above.  
([http://www.chiro.org/ChiroAssistant/Articles/Modalities\\_vs\\_Therapies.shtml](http://www.chiro.org/ChiroAssistant/Articles/Modalities_vs_Therapies.shtml))

It would appear that United Healthcare is merely applying the applicable CPT codes in the manner the AMA CPT Guides intended. It is not clear why Dr. Edwards perceives that the application of the codes in the manner intended would justify issuing this alarming statement:

The NCLAF ["National Chiropractic Legal Action Fund"] has repeatedly told the chiropractic profession that the concern is not if our adversaries will attack us again, but when they will attack us. And sure enough, here they go again. Fortunately, the NCLAF shifted its focus to building a legal "war chest" for just this type of attack, and has reserves ready to commit to the fight. The ACA and the NCLAF continue to protect and defend your practice, your patients and your profession.

I know of few chiropractors who would not be concerned regarding the current insurance-reimbursement landscape, particularly as it pertains to Chiropractic. However, is the fact that chiropractors are treated in the same manner as other similarly-situated providers justification to break open the "war chest" and rally the troops?

The Chiropractic profession has much to offer the Healthcare community. As we, as a profession, consider what it is that we have to offer, we should proceed judiciously in that arena in which we have clamored for parity for decades, threatening to play the "victim" card when we finally receive the parity for which the battle was fought.

It appears as though one may justifiably ask, "Is it United Healthcare or the Chiropractic profession that is 'at it' again?"

#### **About the Authors:**

Dr. Tom Rhudy is licensed as both an Attorney and Doctor of Chiropractic in the states of Texas and Missouri. Daniel J. Osborne, M.S., is a renowned expert on health care fraud issues and recognized authority on health care compliance.

For the past 20+ years the authors have devoted most of their efforts toward educating and assisting providers in the development of healthcare treatment and compliance programs and prevention of healthcare fraud and abuse, making every effort to improve the quality of care and representation provided to patients.

If you require additional information/assistance regarding the creation of your very own effective Healthcare Compliance program, check us out here: [://www.HealthcareComplianceTraining.net](http://www.HealthcareComplianceTraining.net)

**PUBLISHED: Ezine Articles, March 2009**