ACUPUNCTURE Today

Washington's "Alternative Provider" Law Upheld

SUPREME COURT RULING ENDS EFFORTS TO HAVE BILL REPEALED

Editorial Staff

On January 1, 1996, the state of Washington made health care history with the passage of House Bill 1034. The bill, the first of its kind in the nation, required insurance carriers to provide access to all types of health care providers licensed or certified under state law. Also known as the "alternative provider" statue, the law required insurers to cover services provided by all of the state's licensed categories of health care providers, including acupuncturists, chiropractors, medical doctors, naturopaths, physician assistants, registered nurses, podiatrists and licensed massage therapists.

Almost immediately after going into effect, the state's largest insurance companies began challenging the law in court. The outcome of that effort was a decision made by a federal judge in Tacoma, Washington in 1997. The judge in that case declared that the bill conflicted with the federal Employee Retirement Income Security Act (ERISA) barring state regulation of employer benefit plans.

In June 1998, however, the U.S. Ninth Circuit Court of Appeals in San Francisco overruled the judge's decision and reinstated the law. The court ruled that a federal law did not prevent a state from expanding health coverage to its residents. The court also recognized that HB 1034 met the traditional tests for insurance matters and therefore fell within the state's jurisdiction.

On February 22, 1999, the U.S. Supreme Court declined to hear an appeal by the insurance industry, rejecting their attempts to have the law overturned. The justices also let the decision of the Ninth Circuit Court stand.

Now, more than four years after it was passed in the state legislature, a decision from the Washington State Supreme Court has apparently ended the insurance industry's continued hopes of having the law repealed.

The latest attack on House Bill 1034 was issued this past November, when Regence BlueShield of Seattle accused the state's insurance commissioner, Deborah Senn, of interpreting the law too broadly. Regence argued that the law should not apply to traditional insurance plans, but only to managed care plans in which a patient's health coverage is managed by a "gatekeeper."

The court unanimously rejected Regence's claims, however, ruling that commissioner Senn's interpretation of the statute "is consistent with the legislature's intent" and that it pertained to managed care plans as well as all health care insurance plans offered by health care insurers. The court added that "every health plan offered by Regence (with the exception of basic health model plans)" is subject to the regulations contained within the alternative provider law.

"Choice of provider is the biggest single issue in health care," Senn said after the ruling. "This law is one of the most popular health care laws that the legislature has ever passed."

Senn noted that while the law does not change what is covered by health plans, it does give consumers more options as to who will treat their conditions. Consumers who suffer from back pain, for example, will have more choices (acupuncturists, chiropractors, massage therapists, etc.) as to who they can see for treatment, provided their benefit plan covers that condition.

"We are very pleased the Supreme Court decided to reinstate this bill," added Tim Church, a spokesperson for the Washington State Department of Health. "It means Washington residents will have more choices when choosing health care providers. We know consumers have been asking for more access to treatments like acupuncture, so this is a step in the right direction."

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