

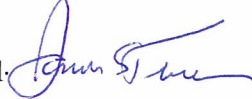
# SWANKIN & TURNER

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**DATE:** December 14, 2015

**FROM:** James S. Turner, Esq.



**SUBJECT:** The Status of the Doctor of Chiropractic in the Medicare Statute

The analysis and advice of this firm has been sought on the issue of redefining the status and role of the doctor of chiropractic in the Medicare program. Among the many aspects of this matter, the specific question of how deleting the current “subluxation” limitation may or may not expand the list of covered services provided by a doctor of chiropractic that are paid for by Medicare has been asked. Based on a close examination of the current statute, its legislative history, the history of the Centers for Medicare and Medicare Services (CMS) in relation to the chiropractic profession, in-depth consultations with current and former legislators, and the experience of other professions, it is the opinion of this firm that doing so would open up only the possibility that the agency might enhance the list of services for which the doctor of chiropractic might be paid. It would, however, have no automatic coverage or reimbursement effect, and would unquestionably place the existing coverage at risk of being eliminated entirely by decision of the regulators.

The degree to which CMS might expand the list of services for which doctors of chiropractic are paid would be entirely in the hands of agency decision-makers, and the outcome of this process, if the statute is amended and the current authorizing language removed, falls beyond the capacity of the profession to predict or influence. Among the list of services, reimbursement for which would be placed in the agency’s hands, would be subluxation correction, since the elimination of the specific authorizing language would certainly be interpreted as a removal of the Congressional mandate to do so. It is also important to note that Medicare coverage determinations for services provided by doctors of chiropractic would never be fixed, in the absence of specific Congressional specifications, but would be subject to fluctuations in agency attitudes, political direction, and perceived resource limitations, and would offer a very insecure and quite possibly a constantly changing status for chiropractic patient and provider alike.

It is clear that amending the Medicare statute to provide for expanded coverage for services provided by the doctor of chiropractic can be accomplished by articulating additional specific services to be covered, which could very well be all services that the doctor of chiropractic is authorized by state law to provide. Removing the subluxation specific authorization is neither necessary nor sufficient to accomplish that goal. If parties are lobbying for elimination of the subluxation language, it must be for other reasons as, once again, it is easy to see how this specific authorization could be built upon and expanded to the widest possible degree, while keeping the current language, and the attendant Congressional mandate of coverage, safely in place.

This firm will be happy to research and answer any specific questions on any aspect of this matter and we are standing by to do so.