

NO-FAULT: ELIMINATE AUTHORITY TO NOT COVER CERTAIN CHIROPRACTIC SERVICES

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House Bill 4449 as enacted
Public Act 104 of 2020
Sponsor: Rep. Beth Griffin
1st House Committee: Insurance
2nd House Committee: Ways and Means
Senate Committee: Insurance and Banking
Complete to 7-1-20

BRIEF SUMMARY: House Bill 4449 amends the Insurance Code to remove certain chiropractic services from a list of services that are specifically not required to be reimbursed under automobile insurance personal injury protection (PIP) coverage, beginning with services performed on or after July 2, 2021.

FISCAL IMPACT: House Bill 4449 would not have a fiscal impact on the Department of Insurance and Financial Services or on other units of state or local government.

THE APPARENT PROBLEM:

2009 PA 223 expanded the scope of practice for chiropractors to include, among other things, certain diagnostic and evaluative services. A legislative compromise made at the time excluded the chiropractic services that were added to the scope of practice from being required to be covered under various insurance laws, including those governing worker's compensation and no-fault automobile insurance. Some feel that this compromise has outlived its value and that its primary effect with regard to auto insurance PIP coverage is to allow insurers to refuse payment to chiropractors for services that other health care providers would be reimbursed to perform. Legislation has been offered to remove the stipulation that chiropractic services added to the scope of practice definition by 2009 PA 223 are not required to be covered under PIP.

THE CONTENT OF THE BILL:

House Bill 4449 amends the Insurance Code to remove certain chiropractic services from a list of services that are not required to be reimbursed under PIP coverage, beginning with those services performed on or after July 2, 2021.

Under the Insurance Code, auto insurance PIP benefits are payable for allowable expenses consisting of reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation. Currently, however, PIP reimbursement is specifically not required for chiropractic services that were not included in the scope of practice for chiropractors as defined in the Public Health Code on January 1, 2009. (That is, insurers do not have to pay for the services that were added

to the scope of practice definition for chiropractors when it was amended and expanded by 2009 PA 223.¹⁾

The bill amends this provision so that PIP coverage or reimbursement is not required only for those chiropractic services that are performed before July 2, 2021.

MCL 500.3107b

BACKGROUND INFORMATION:

2009 PA 223 expanded the scope of practice for chiropractors. Services not included in the old definition were not required to be reimbursed under auto insurance PIP coverage. (Under the bill they are not required to be reimbursed if performed before July 2, 2021.) Below is a comparison of the chiropractic scope of practice before and after 2009 PA 223.

Scope of practice before 2009 PA 223	Scope of practice after 2009 PA 223
Practice of chiropractic means that discipline within the healing arts which deals with the human nervous system and its relationship to the spinal column and its interrelationship with other body systems.	Practice of chiropractic means that discipline within the healing arts that deals with the human nervous system and the musculoskeletal system and their interrelationship with other body systems.
Includes: Diagnosis, including spinal analysis, to determine the existence of spinal subluxations or misalignments that produce nerve interference, indicating the necessity for chiropractic care.	Includes: The diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions. These diagnoses shall be for the purpose of detecting and correcting those conditions and disorders or offering advice to seek treatment from other health professionals in order to restore and maintain health.
	Includes: The evaluation of conditions or symptoms related to subluxations, misalignments, and joint dysfunction through physical examination; the taking and reviewing of patient health information; the performance, ordering, or use of tests (as regulated by rules promulgated under section 16423 of the Public Health Code); the performance, ordering, or use of x-ray; the performance, ordering, or use of tests allowed under section 16423 of the code as of December 1, 2009.

¹ 2009 PA 223: <http://legislature.mi.gov/doc.aspx?2009-SB-0968>

Includes: A chiropractic adjustment of spinal subluxations or misalignments and related bones and tissues for the establishment of neural integrity utilizing the inherent recuperative powers of the body for restoration and maintenance of health.	Includes: The chiropractic adjustment of subluxations, misalignments, and joint dysfunction and the treatment of related bones and tissues for the establishment of neural integrity and structural stability.
Includes: The use of analytical instruments, nutritional advice, rehabilitative exercise and adjustment apparatus regulated by rules promulgated under section 16423 of the Public Health Code, and the use of x-ray machines in the examination of patients for the purpose of locating spinal subluxations or misaligned vertebrae of the human spine.	Includes: The use of physical measures, analytical instruments, nutritional advice, rehabilitative exercise, and adjustment apparatus regulated by rules promulgated under section 16423 of the code.
Does not include: The performance of incisive surgical procedures, the performance of an invasive procedure requiring instrumentation, or the dispensing or prescribing of drugs or medicine.	Does not include: The performance of any procedure that cuts or punctures the skin; the dispensing or prescribing of drugs or medicine; the use of x-ray for other than diagnostic purposes; the performance of an invasive procedure involving a body orifice or cavity (unless allowed by rules promulgated under section 16423 of the code and limited to examinations involving the ears, nose, and throat); the treatment of fractures or dislocations; or the performance or ordering of non-x-ray diagnostic imaging tests that were not allowed under section 16423 of the code as of December 1, 2009.

ARGUMENTS:

For:

Supporters of the bill argued that current law allows the refusal of reimbursement for services performed by one kind of licensed health care provider, while requiring reimbursement for the exact same services when performed by another kind of provider. The effect is to interfere with patients' choice of provider: forcing them to decide whether to skip a specific treatment, pay for it out of pocket, or take the time and trouble to seek another provider for care. The bill would not increase the services that PIP is required to cover, but it would allow patients who wish to have those services performed by a chiropractor to do so. According to committee testimony, services often not reimbursed when performed by a chiropractor include such things as massage, heat or cold therapy, traction, electrical stimulation, ultrasound, and therapy and examinations that go beyond the spine.

Against:

The exclusion from required reimbursement for services that were added to the chiropractic scope of practice in 2009 was apparently part of a legislative compromise made in enacting those bills. (The services are also excluded from required coverage under, e.g., the worker's compensation and prudent purchaser acts.) Opponents of the bill argued that this compromise should be honored and that changing this status quo for no-fault insurance could possibly increase costs for insurers and increase auto insurance premiums.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.