



# The Minnesota Fair Care Act

## Patients' Rights & Provider Nondiscrimination Legislation

The **Minnesota Fair Care Coalition (MN Fair Care)** has developed and introduced legislation that will correct serious barriers for patients and providers in Minnesota by addressing two primary objectives:

- ✓ **Ensure patient rights to financial control of their healthcare costs, by:**
  - Improving patient access to licensed lower-cost providers.
  - Allowing patients to choose any state-licensed health care provider during their insurance plan's deductible period.
  
- ✓ **Empowering patients to seek care from the provider of their choice, by:**
  - Removing arbitrary and discriminatory insurance limitations against specific types of state-licensed providers.
  - Combating the opioid abuse epidemic by increasing access to non-drug pain therapies.

### **Discriminatory Practices in Minnesota**

There are many examples of sanctioned discrimination that consumers face when using licensed providers of their choice. Variations in current MN Laws, rules and regulations put some licensed provider types into inequitable positions, or limit access to their services outright. For example:

- Providers of different disciplines (e.g. medical physicians, chiropractors, podiatric physicians, acupuncturists, physical therapists, athletic trainers, naturopaths) can be reimbursed at different rates, even when providing the same covered service.
- Arbitrary caps are placed on the number of treatments a patient may receive based solely on provider type.
- *Patients are often steered toward more costly providers when a lower-cost provider is excluded from a provider network.*
- Entire groups of providers, whose education and experience can effectively address both the primary care provider shortage and the opioid abuse epidemic, are omitted from insurance plans based solely on their licensure.
- Consumers are denied access to providers who have been licensed by the state and deliver evidence-based services.
- The state commissioner of insurance has failed to comply with federal statutes that were written to end insurer discrimination.

**The MN Fair Care Act will correct these discriminatory practices** and their limitations under private health insurance, workers compensation, auto insurance, self-insurance, state health programs, and third party administered plans. The Act's objectives:

- Ensure that reimbursement for services already covered by a plan is not based on provider type.
- Equally apply co-payments, deductible structures, conversion factors and covered essential benefits.
- Conform MN laws, rules and regulation to Federal nondiscrimination standards.
- Ensure consumers have access to all licensed provider types in all state-approved health insurance plans under network adequacy rules.
- Require that denials of care:
  - Have a transparent rationale;
  - Are applied uniformly across provider types;
  - Clearly articulate authorization on determination, criteria and insured's right to appeal;
- Apply non-discrimination provisions to all plans in MN (including self-insured, third party administrators, workers compensation, state health care program, and auto insurance carriers).

## **Protecting Consumers as Healthcare Costs Shift**

### ***Patient-preferred Provider Choice and Expenditures in the Deductible Period***

*At a time when high deductible insurance plans are becoming the norm in Minnesota, individuals must have the right to limit their total healthcare expenses whenever possible. Provisions of the MN Fair Care Act will accomplish this by giving consumers the option of selecting providers during the period when their health plan's deductible is applicable, including providers who are out of their plan's network. The costs of care paid by patients in this period -- regardless of the licensed provider chosen and regardless of that provider's relationship with the patient's insurer -- will be credited to the patient's deductible.*

**Under the high deductible plans being sold in Minnesota a very small minority of patients will ever meet their deductibles.** Since health insurance consumers are at risk for 100% of the costs of care under the deductible, providing access to a wider selection of health care providers who are licensed, certified, or registered by the state of Minnesota -- including those whose total cost of care may be lower than those available in a plan's network -- will help establish a more patient-centered marketplace for healthcare services.

Currently, insurers dictate the providers that consumer must choose from during the deductible period if the charges for those services are to be applied to the deductible. They also exclude from reimbursement whole categories of provider types, despite covering services they provide. **This limits consumer options and creates an ineffective, non-competitive marketplace.** MN Fair Care Act provisions emphasize the importance of patient-centered choice of providers that can empower consumers to shop for affordable quality healthcare that is appropriate to their needs and circumstances.

## Alternatives to Opioid Use and Abuse

*The number of Minnesotans who die of opioid overdose has risen by more than 500% in the last 15 years. More Minnesotans die every year from opioid abuse than from homicide. This trend is overwhelmingly due to abuse of prescription painkillers. What often begins as treatment for back pain, a knee injury, or pain after a motor vehicle accident can rapidly turn into substance use, abuse, and death. This public health crisis impacts individuals and families throughout Minnesota.*

**Insurance policies that create barriers to proven non-drug and conservative care alternatives for pain treatment in effect exacerbate the opioid abuse epidemic.** But by increasing access to providers who deliver evidence-based, non-drug treatment options the entire healthcare work force can be engaged in combating opioid abuse. Minnesota lives could be saved:

- ✓ when the factory worker with back pain has access to chiropractic care, instead of opioids.
- ✓ when the 15 year-old soccer player with a knee injury uses acupuncture, instead of opioids.
- ✓ when a mom of three uses massage to recover from her car accident, instead of opioids.

*Insurance plans that do not reimburse a patient's selection of a licensed provider of non-pharmacologic, non-addictive treatments for pain unnecessarily limit physicians' and patients' ability to control and reverse the consequences of the opioid epidemic.*

## Cost Savings of Complementary, Integrative Care

In recent years, a growing body of research demonstrates the clinical and cost effectiveness of complementary and integrative health care. [Never Only Opioids](#), produced by the PAINS project, summarizes the benefits of these therapies for the treatment and management of pain patients. This imperative for the integration of non-pharmacological approaches is further emphasized by the Joint Commission and the CDC in recent statements on pain management. The following 4 studies of integrative and chiropractic care demonstrate compelling cost savings that include:

1. A 6-year analysis of the national Medical Expenditure Panel Survey, which showed Complementary and Alternative Medicine (CAM) users (compared to non-CAM users) had:
  - Accessed Doctors of Chiropractic (DC) for 75% of the CAM providers
  - Significantly **better self-reported health**
  - **Lower spine-related medical costs** by \$424
  - **Lower total health care cost** by \$796 (Martin 2012)
2. A 4-year retrospective review of claims from 1.7 million health plan members in a large managed care system demonstrated **reduced overall health care expenditures** for those whose insurance plan included a chiropractic benefit, including:
  - **Lower annual total health care expenditures** (\$1463 vs \$1671 per member per year)
  - **Lower expenditures for back pain** were 25% less (\$289 vs \$399 per episode)
  - **1.6% decrease in total annual health care costs** at the health plan level (Legoretta 2004)

3. In one integrative medicine (IM) independent provider association, members receiving primary care services from Doctors of Chiropractic (versus Medical Doctors) in a major metropolitan mid-west city had:
  - 43% **fewer hospital admissions**
  - 58% **fewer hospital days**
  - 43% **fewer outpatient surgeries** and procedures
  - 51.8% **less pharmaceutical** costs
  - 60% of this population was managed solely by the DC as their primary care provider (Sarnat 2004)
  
4. A 3-year Rhode Island Medicaid pilot program used integrative therapies for patients suffering from chronic pain conditions. Patient management through holistic nurses, chiropractors, acupuncturists, and massage therapists resulted in:
  - 27% decrease in per member per year average medical costs
  - 61% decrease in emergency room visits
  - 86% decrease in opioid prescriptions
  - 61% reduction in total prescriptions
  - 93% satisfaction with integrative care

#### **Cost Savings in Spine Care – 3 major examples from Insurers**

- A. Blue Cross Blue Shield data collected over 2-years analyzed the cost of open access to chiropractors and MDs through self-referral, without limiting the number of visits or differences in co-pays. Results showed:
  - Paid claims for episodes of **back pain care initiated with a chiropractor were 20% less expensive** than episodes initiated with an MD, after adjusting for risk.
  - Savings to a payer for allowing DC-initiated episodes of care were estimated to be **\$2.3 million per year**. (Liliedahl 2010)
  
- B. According to Minnesota's own Optum Health analysis of 14.7 million episodes, **individuals with back pain who see a Doctor of Chiropractic first:**
  - See fewer total health care providers for that episode
  - Have the lowest total cost per episode compared to other provider types
  - Are less likely to undergo imaging
  - Are prescribed fewer medications
  - Are more likely to receive treatment recommended by practice guideline (Kosloff 2013)
  
- C. A 2015 systematic review of 25 cost comparison studies of chiropractic in the US:
  - **92% of studies in private health plans reported lower health care costs** for members whose spine care was managed by doctors of chiropractic.
  - On average, **chiropractic care reduced costs by 36%**. (Dagenais 2015)

## ***Insurer Impact***

*Nothing in the MN Fair Care Act interferes with or modifies the treatments that health plans cover. It allows consumers greater choice in the type of provider they select for treatment and pay for up until the deductible is reached.* It removes financial disincentives that discourage patient access and that are arbitrarily placed on providers based solely on licensure. This could be a win for patients and health plans.

*Patients will have greater access to the care they need,  
and plans save money when a lower-cost licensed provider is used.*

## ***Healthy Competition***

The provisions of the Minnesota Fair Care Act may also stimulate needed competition in a highly concentrated Minnesota healthcare market. Currently, there is a near-oligopoly of plans offering very limited provider networks. For purchasers of health care this bill will help reduce the healthcare cost inflation rate in the state. Consumer choice of providers promotes transparency and competition, saves the consumer money, and improves patient satisfaction.

## ***The Minnesota Fair Care Coalition: MN Fair Care***

The MN Fair Care coalition was formed in 2015 by patient advocacy groups and provider organizations to support and promote consumer rights, patient choice, access, and equitable insurance reimbursement, and to encourage consumer participation in the health care system. MN Fair Care introduced SF3046 / HF3291 during the 2016 Legislative Session to protect consumer rights, control the costs of care and end discrimination against state-licensed providers. Putting provisions like these into legislation is MN Fair Care's primary objective.

The goal of the coalition is to transform Minnesota health care into a system based on patient-centered decision-making across the care and reimbursement continuum. Our focus is to protect patients' rights and eliminate the many discriminatory barriers to care in Minnesota Law, rules and regulations.

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