

# THOMSON, RHODES & COWIE, P.C.

## MANAGED CARE LAW UPDATE

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### FEDERAL AGENCY ACTIONS

**Senate Approves Limited Patient Bill of Rights.** In a vote split largely along party lines, the Senate on July 15, 1999 passed, largely unscathed, the Republican majority's version of the Patient Bill of Rights. The measure would not permit employees to sue health plans in state courts or to recover punitive damages. The majority also blocked a Democratic amendment which would have given doctors, not health plans, the final word on treatment. The bill now moves to a largely academic debate in the House, as President Clinton has vowed to veto the measure.

### OTHER ITEMS OF INTEREST

**Physicians Say Union Yes!** The AMA House of Delegates voted June 23, 1999 to form a collective bargaining unit to negotiate with managed care plans. But, AMA members vowed not to strike or to withhold patient care as a negotiating tactic. In a separate move, leaders of the New York State Psychological Association voted to form an affiliation with the New York State United Teachers. Among the issues to be addressed by that group are cutbacks in psychological services by managed care entities.

**Medicare+Choice Plan Withdrawals.** On July 15, 1999, HCFA gave its official estimate of the number of Medicare beneficiaries likely to be affected by the July 1<sup>st</sup> announcements of various health plans' decisions to withdrawal from certain unprofitable counties beginning January 1, 2000. HCFA estimated that 327,000 beneficiaries will be affected by those withdrawals. The HCFA estimate is significantly more than the 250,000 estimated by the American Association of Health Plans on July 1. In earlier testimony before the Senate finance committee on June 9, 1999, HCFA deputy administrator, Michael M. Hash, insisted that the Medicare+Choice Program is healthy, pointing out that 32 new plan and service area expansions have been approved since November, 1998.

**Health Care Fraud Claims Continue.** On July 2, 1999, a Federal jury in Florida convicted two Columbia/HCA executives of conspiracy and making false statements in cost reports in the Medicare and CHAMPUS programs. The criminal charges grew out of a much publicized whistleblower case. Jurors found a third defendant not guilty and failed to reach a verdict on a fourth. In separate actions: A Colorado chiropractor was indicted on June 28<sup>th</sup> for alleged billing improprieties resulting in about \$220,000 in false claims to Medicare; the Daughters of Charity National Health System agreed to an additional settlement of \$146,500, on top of the \$600,000 previously paid, for failing to report discounts received on x-ray film; and the U.S. Supreme Court agreed, on June 24, to decide whether states can be subject to liability under the False Claims Act and whether the 11<sup>th</sup> Amendment prevents qui tam suits against States.

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