

tional think tank based in Austria. The National Academy of Sciences is formally the U.S. member organization of IIASA, but the annual subscription of about \$2.4 million comes from NSF's budget. Because IIASA's by-laws re-

quire at least 1 year's notice before any member organization can pull out, academy officials are concerned that the academy itself may be stuck with the bill for the 1982 IIASA membership.

Although there may be no overall plan

for R & D, the cuts support a conservative theme: reduce federal involvement in business and education, boost defense, and cut international programs with limited short-term payoff.

—COLIN NORMAN

Blue Shield as a Medical Cartel

The "physician's cartel" in mental health care lost an important battle in February, says an adversary who celebrated the occasion, Anne Marie O'Keefe, lobbyist for the Association for the Advancement of Psychology (AAP). On 23 February the Supreme Court refused to hear a case brought against a group of Virginia psychologists by the Blue Shield medical insurance plan of Richmond, Virginia.

In dismissing the case without comment, the Supreme Court handed the psychologists a new legal tool which they hope to use in the struggle to persuade the world—and particularly insurance managers—that they are at least as competent as medical doctors to treat mental illness, and should be recognized as such.

AAP, the political arm of the American Psychological Association, has been campaigning in Congress and on several legal fronts to do away with what AAP sees as rank discrimination against psychologists by medical institutions. For example, it was common until recently for insurance plans to pay freely for outpatient psychotherapy only if given by an M.D. This was done despite the fact that physicians as a rule have less training than psychologists in dealing with mental disorders. Psychologists were often required to bill through hospitals or doctors' offices.

This practice was precisely what brought Blue Shield and the psychologists into conflict in Richmond. Although Blue Shield had been paying clinical psychologists' bills directly from 1962 to 1972, it suddenly made a change of policy in the early seventies. The plan announced in 1972 that from then on psychologists would have to bill through doctors' offices. Blue Shield said that it was just trying to control costs and make certain that every patient received proper medical attention.

Blue Shield held to this rule despite the protests of the Virginia Academy of Clinical Psychologists, and despite passage of a state law in 1973 which specifically ordered Blue Shield to pay psychologists' bills directly.

Not surprisingly, the Academy of Clinical Psychologists sued Blue Shield. The Academy lost in a state court but won an appeal on 16 June 1980 in the Fourth U.S. Circuit Court of Appeals. Blue Shield then appealed to the Supreme Court for a reversal.

The effect of the Supreme Court's action in February is to support the decision of the Circuit Court, which declared that Blue Shield violated antitrust laws in refusing to reimburse psychologists directly. The Fourth Circuit court agreed with the psychologists' charge that Blue Shield was acting in a conspiratorial way to give physicians in the mental health field an economic advantage over non-physicians. In taking this case to the Supreme Court, Blue Shield hoped to win a reversal on several grounds, two of which are relevant. Blue Shield argued that health insur-

ance companies like itself are automatically exempt from federal antitrust law by the McCarran-Ferguson Act. And it claimed that it was nonsensical to say that Blue Shield, an association of physicians, had conspired with itself.

The Supreme Court does not give reasons for denying to hear a case. Thus O'Keefe offers to make the broadest possible interpretation of the court's action. In her view, this is a landmark decision because it brushes aside the two important arguments raised by Blue Shield. Health insurance companies can no longer consider themselves automatically exempt from antitrust suits involving reimbursement policy. And, O'Keefe says, the Supreme Court has shown that it is possible to argue in certain circumstances that a Blue Shield plan is an inherent conspiracy against nonphysicians. Psychologists will have a stronger legal basis for demanding to be included in Blue Shield plans around the country, O'Keefe thinks. And it will aid nurse midwives, social workers, and others seeking a higher status in the medical establishment.

The legal office at national Blue Shield headquarters in Chicago sees matters differently. According to attorney Mary Lynch, this is "not a case of national importance for the Blue Shield plans" because the behavior of the Richmond office was "atypical." (Blue Shield is a federation of 69 independent plans responsible to the head office only in that they must comply with membership standards.) Lynch says, "We disagreed with the folks down in Richmond. . . . The national association didn't join in at all on this one." Lynch does not think the circumstances found in Virginia exist anywhere else in the country.

Although Blue Shield seeks to minimize the importance of the case, it is interesting to read how the local Blue Shield in Richmond described the case's probable impact in the appeal to the Supreme Court. "The implications of the Fourth Circuit's holding could be catastrophic," the attorneys wrote. "Blue Shield plans insure 80 million people in the United States. Since these plans all have physicians as members of their boards of directors, the Fourth Circuit's inherent conspiracy holding could be construed to have extraordinarily far-reaching and deleterious consequences." Every coot and crank in the nation will want to send his bills to Blue Shield, the brief suggests. Whether accurate or not, that vision didn't scare the Supreme Court into taking Blue Shield's side.

A seasoned antitrust lawyer at the Federal Trade Commission reads the case as important, but not earthshaking. Nonphysician groups have been given a new basis for challenging truly discriminatory reimbursement policies, but not a revolutionary one. This is by no means "an automatic free ride into the prepaid medical plans," he says. As ever, "it depends on how other courts read the case."—ELIOT MARSHALL