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## Health Net faces suit over refusals to cover treatments

**Two patients and the L.A. County Medical Assn. allege insurer Health Net did not follow the legal standard for denying coverage.**

September 13, 2012 | By Chad Terhune, Los Angeles Times

**Robert Mendoza of Monrovia says he had to come up with about \$30,000 last year to pay for a cancer surgery that his insurer, Health Net Inc., refused to cover because it wasn't considered "medically necessary."**

**Kalana Penner of La Cañada Flintridge says she had the same problem when her doctor recommended surgery for a serious nerve condition, and once again Health Net said it wouldn't pay. Finally, she got California insurance officials last year to order the Woodland Hills insurer to cover it.**

**California health insurers, under state law, can reject treatments that are deemed unreasonable or contrary to medical standards. But Mendoza and Penner contend that Health Net violated that legal standard, and Wednesday the two consumers sued the insurer for damages and sought a court injunction against the company's alleged conduct.**

**The Los Angeles County Medical Assn., which represents about 6,000 doctors, joined them in the suit as plaintiffs.**

**"Patients shouldn't be penalized for following their doctor's orders," said William Shernoff, a lawyer in Claremont representing the patients. "These people can get stuck with huge medical bills."**

**Health Net said that it hadn't seen the lawsuit filed in Los Angeles County Superior Court and that it couldn't comment on the specific allegations. The company said "it strives in all cases to ensure our members receive the appropriate access to necessary medical care. Medical care is complex, and sometimes there are differing medical opinions as to what constitutes medically necessary care."**

**This dispute touches on the role of managed care to hold down rising medical costs and to ensure that doctors and hospitals aren't performing unnecessary or overpriced tests and procedures.**

**The Institute of Medicine issued a report last week that said \$210 billion is wasted annually in the U.S. on excess medical services. Meanwhile, new advances in technology and surgical procedures often lead to disagreements among medical professionals over the proper course of treatment for some complex cases.**

**Patients facing a denial by their insurer do have avenues of appeal, first internally with their health plan and then with government regulators. In a report last year, federal auditors said health coverage denials are frequently reversed in the consumer's favor on appeal.**

**The California Department of Managed Health Care said it received 1,213 requests last year for independent reviews about medical necessity. Those reviews upheld the insurance company's decision in 39% of those cases in 2011; the rest were overturned or reversed by the insurer before a ruling was issued.**

**The agency said it offers an expedited review for denials that pose an immediate threat to a consumer's health.**

**Mendoza, 59, said he was diagnosed with an aggressive and rare form of prostate cancer in March 2011 and his doctor urged immediate treatment.**

**His first doctor advised a minimally invasive, robotic-assisted surgery that Health Net was willing to cover.**

**Mendoza received a second opinion from the head of USC's Norris Cancer Hospital who recommended a more extensive surgery because of the advanced nature of his condition. Mendoza said Health Net denied that treatment as not being medically necessary.**

**Mendoza said he paid for the \$30,000 surgery out-of-pocket because he felt it gave him the best chance at survival.**

**To pay his medical bills, he said he cashed in his wife's life insurance policy and used money he had set aside to pay his income taxes as a self-employed court interpreter. He said Health Net has declined to reimburse him.**

**"It's had a dramatic financial impact on the whole family," said Mendoza, who continues to pay \$1,800 a month in premiums for a Health Net policy that covers him and his wife.**

**The state appeals process worked for Penner, a 33-year-old mother and student. She has suffered from a nerve condition that caused her chronic pain. In 2010, Penner said a neurosurgeon recommended an implant to treat her**

***condition after other medications and procedures had been tried.***

***In April 2011, an independent medical review done through the state overturned Health Net's denial and she underwent a successful surgery soon after.***

***Penner said not all consumers have the time and resources to pursue an appeal.***

***"I lost some of my life to this stalling by the insurance company," she said.***

***The case filed Wednesday is being spearheaded by two lawyers, Shernoff and Rocky Delgadillo, who have a history of suing insurers over alleged abuses.***

***Delgadillo, during his previous job as Los Angeles city attorney, and Shernoff both sued Health Net and other insurers for canceling consumers' insurance policies after the patients became sick and filed expensive medical claims.***

***Those cases over the practice of "rescission" sparked a regulatory crackdown, multimillion-dollar legal settlements for consumers and the passage of tougher insurance rules in the federal Affordable Care Act in 2010.***

***Delgadillo, now chief executive of the Los Angeles County Medical Assn., said this new lawsuit marks the "next big frontier for protecting patients' rights."***

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