

HMO Trauma: When Denied Treatment, Defend Yourself

Special Report By Jamie Court, Consumer Health Care Advocate

Corporate medicine is intent on shackling health care expenses by doctors and other medical professionals against the interests of patients. For the patient denied treatment, this is an adversarial system.

How can patients or their allies help themselves in a system that is set up not to help them get treatment?

Your tactics must be those of negotiation. Everything is negotiable with the HMO, the HMO doctor, and the HMO hospital. In a negotiation, establishing what is reasonable is the goal. What should a reasonable person have to do in order to document his or her need for treatment? What should a reasonable cooperation have to provide and how long should it take? Is the company reasonably living up to the letter and spirit of state law? Reasonableness always includes a reasonable timetable. When will a decision be made to approve care? Who is the decision-maker? How long will it take to schedule the procedure? What is the longest it will take before this doctor sees me? These are the types of standards someone negotiating with their HMO or HMO doctor must require.

HMOs have time on their side. They will delay as a tactic of denial. Because most patients cannot sue HMOs for a denial or delay of treatment and receive damages if they prevail, the company has an incentive to stonewall. A seriously ill patient may not have the energy for a struggle and others close to them must take on that role. So what can a patient or their allies do?

There are some general rules one can follow in dealing with HMOs, but there are no panaceas, simply precautionary measures.

Write everything down. Bring a notepad and pen and take notes on what your doctor tells you. It will help keep track of your care, catch any errors, and provide a record should there be a question of

inappropriate treatment.

If you are denied care, ask for it in writing. You will need a record of the denial if you want to dispute it. Leave a “paper trail”. If it becomes apparent that you are not getting cooperation, memorialize in written correspondence all conversations.

Find out the timelines. Most states have regulations establishing the timeframe within which a treatment or coverage decision must be made. Contact the appropriate regulatory body in your state and find out what those timelines are. Then make sure that everyone you deal with at the medical group or HMO knows that you know those timelines and then, make sure that they stick to them. In addition, non-government groups that accredit HMOs may have more stringent timeline requirements. Find out if your HMO is a member of organizations such as the National Committee for Quality Assurance (www.ncqa.org), American Accreditation of HealthCare Commission/URAC (www.urac.org), and the Joint Commission on Accreditation of Health Care Organizations (www.jcaho.org). Know that organization’s timeline requirements for the health plan’s decision-making process.

Appeal treatment denial to regulators. Find the appropriate state agency and their rules for filing a complaint. Medicare and Medicaid recipients can take a complaint to the federal Health Care Financing Administration. Don’t rely on governmental agencies as your savior; many are ineffective. Patients must be persistent. HMOs don’t like too many documented complaints, so include a carbon copy to state regulators and politicians of any contested correspondence.

Complain to the accrediting organization. HMOs rely on their accreditation by non-governmental organizations (NCQA, URAC, and JCAHO) in marketing to employers and unions. In addition to copying your documentation to the state regulators, send a copy to any accrediting organization where your HMO is a member.

Find allies in the medical profession. When medical experts advocate care HMOs find it harder to deny treatment. Insist on second or third opinions from a qualified professional. If your HMO won’t pay for a second opinion, pay out of your own pocket. It could save your life.

Ask how your doctor is paid. Under new rules, Medicare recipients are entitled to see a summary of their physician’s contract with their HMO, which would give details of any incentive to withhold

treatment. Many states also provide that this information must be given to plan members if requested. Ask for it. File a complaint with your state's medical board if you believe that your doctor is withholding treatment for his or her pecuniary gain.

Never take “no” for an answer. Always ask if there are treatment options available for you other than those that the HMO recommends. If you have a problem, take it up the ladder — fast. If you get health care through your work, enlist the help of your employer's personnel department.

Never stay in the hospital by yourself. Have a spouse, loved one or friend present at all times when you are in the hospital, even if that means they sleep in a chair. Having an advocate present to monitor what is happening around you, to make sure you get the treatment that you need, is essential. If something goes wrong, he or she can act quickly to secure assistance.

Don't be intimidated by someone else's uniform, occupation, credentials and stature. You're paying the bills, not only as a consumer, but also as a taxpayer that helps fund the medical system. Write or call everyone you can think of in the HMO; contact your elected representatives for help; write the newspapers; whenever possible, enlist your doctor as an advocate for you; involve your employer if you get your health care through work. Don't let the bureaucrats slow you down.

Always maintain a reasonable, professional and calm demeanor both in person and in writing. If you lose control, make threats of violence or use foul language, you will simply be dismissed as a “crank”, a “flake”, or a “weirdo” and you will not accomplish your goal.

Get the medical care you need. You must always remember that your health care is your most important priority. Do whatever you have to do to get the medical care you need — mortgage your house, get loans from friends and relatives, try to make deals with doctors and hospitals, get community help with fundraisers. Get the care and worry about the money later.

Get a lawyer if you need one. Lawsuits are no fun. Most who have gone through the process say they underestimated how hard it would be, especially to relieve medical trauma. There is the possibility that you can have a legitimate case but will be unable to prove it in court, or laws won by the insurance industry may limit your right to even go to court. Nevertheless, legal options are often your only leverage against profit-driven managed care.

If possible, never give up the right to go to court. Avoid signing arbitration agreements that force you into HMO-controlled private justice systems. Cross out arbitration clauses and initial it. If your employer has signed your right away, lobby to change that provision of the contract. Some insurers require you to file complicated internal complaints before going to court. Follow these instructions exactly, but don't delay consulting a lawyer in the meantime. If you do not want to be denied care, remember that the fight begins with an understanding of the system and its foibles. Be an aware consumer.

*Jamie Court is a Consumer Health Care Advocate with the Foundation For Taxpayer and Consumer Rights. For additional information, you may want to read his recent book on the topic *Making A Killing: HMOs and the Threat to Your Health* (Common Courage Press, 1999), and you can find it on the Internet at www.makingakilling.org*