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## Fight Your Health Plan

### Appealing A Denial Can Yield Victory

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Clare Donoghue was battling breast cancer a second time when her insurer refused to cover a special kind of radiation therapy her doctor ordered because it's more focused and could pose less risk to her heart and lungs.

The company said it was "experimental" in her case and was willing to cover conventional radiation, instead.

Disheartened but determined, Donoghue fought the cancer and the company, embarking on what she called an emotionally taxing appeal process.

It took two unsuccessful appeals to Anthem Blue Cross and Blue Shield and intervention by the state Office of the Healthcare Advocate before Anthem reconsidered the second appeal and granted approval. The 64-year-old Fairfield resident was scheduled to complete the radiation last week.

"I feel for people who are so sick that they don't have this spirit of fight in them," said Donoghue, who got the "intensity-modulated radiation therapy" her doctor recommended.

Many do have the will, though, and thousands of consumers in Connecticut and around the nation triumph each year by overturning health plan denials through formal appeals.

The disputes can range from insurers' refusal to pay for certain drugs, or treatment at out-of-network hospitals, to health plans failing to pay for the final days of a hospital stay as "not medically necessary."

## Gearing Up

Pursuing an appeal is not always easy, but, as the lottery commercials say, you can't win if you don't play. The key is to overcome inertia and suspend cynicism about insurance to

file an appeal, and there's help available from the state and other advocates.

Most insurers, including ConnectiCare, CIGNA, Anthem, and Aetna, have two levels of internal appeals, so in many cases you can request a second review if you lose the first one. If those don't work, the state sponsors an independent or "external" review program that's available to many consumers.

Even if all appeals fail, you'll have the comfort of knowing you did what you could for yourself or a loved one.

Connecticut residents won more than 2,000 appeals last year, according to data that companies reported to the Connecticut Insurance Department.

Before starting the process, consumers should try calling their health plan's member services number to see whether a problem can be ironed out by phone. Sometimes a service or drug is denied because it's not a covered benefit under the insurance policy you or your employer has selected, and an appeal won't change that.

Also, even if an insurer gives you pre-approval for a medical service, it's not a guarantee the company will ultimately pay for it, warns Kevin Lembo, state healthcare advocate. An insurer may refuse to pay for a service after the fact, claiming it wasn't medically necessary.

When it comes to non-emergency appeals, "I think consumers can take the first steps themselves," Lembo said. "They need to begin from minute one keeping notes times of calls, dates of calls, who did they speak with, what was the outcome, what are the action steps? They really have to get into that documentation mind-set pretty quickly."

A consumer's appeal to a health plan should be accompanied by a letter from the physician discussing specifics of the case and any relevant information from the patient's medical records.

Insurers say they assign any appeal concerning a clinical issue to a physician, usually one whose specialty is in the same area as the case under review. The doctors are often the insurers' employees. However, Anthem and others contract with peer review organizations, which find appropriate specialists to review appeals if the insurers don't have the right ones in-house.

Insurers typically respond to appeals within 15 to 30 days, depending on whether the care at issue was already rendered or is still needed. In urgent situations, companies promise to respond within two to three days.

Additional evidence can be submitted for second-level appeals, and some companies, including Anthem, offer consumers a chance at that point to appeal their case in person.

The Sahas of Simsbury, accompanied by staff from the state healthcare advocate's office,

took Anthem up on the offer in August. Anthem had refused to pay for applied behavior analysis, a technique already being used to improve the behavior of their 11-year-old autistic son, Anan.

Dhanonjoy "Don" Saha of Simsbury, a veterinarian, says Anthem's appeal panel was cordial and professional and did agree to cover many but not all of the sessions his son already had. But he recalls a frustrating saga of miscues leading up to that, and says the insurer needs to update its policies and knowledge about autism treatment options to "avoid a lot of paper-pushing."

The proportion of denials that is reversed through internal appeals varies by insurer. Anthem reversed its denials 52 percent of the time. ConnectiCare did so less than 14 percent of the time, but says that's because its doctors make the right initial decisions on whether to approve care.

In total in 2006, six HMOs in Connecticut denied 49,088 requests for approval of health services or treatments, resulting in 3,292 appeals to the companies. Of those, consumers won 1,255, or 38 percent, of their appeals.

Of the 1,805 appeals by members of 15 companies' preferred provider plans (PPOs), consumers won 755, or about 42 percent.

## **The "External" Appeal**

Once you exhaust your insurer's appeals process, many states, including Connecticut, offer an "external" appeal through the state Insurance Department. The department farms out your case, if it's eligible, to one of several independent firms, which send it to a doctor in the appropriate specialty to review.

You have to file an external appeal within 60 days of written notice from your insurance company that you've exhausted its internal appeals.

The insurer has to abide by the external review decision. If you lose that appeal, you might want to talk to a lawyer about whether there are enough grounds for a court appeal, but it may not be practical.

With one exception, external appeal isn't available to members of self-insured health plans, in which employers fund the claims but hire well-known insurers or other firms to process claims and deal with members. You have to ask your employer whether you're in a self-insured plan.

Members of self-insured government health plans, which may include some town employees, do have the right to external appeals in Connecticut.

In 2006, 157 appeals were accepted for external review in Connecticut, and consumers won 56 and lost 87 of them. In another 14 cases, external reviewers revised the insurers'

denials, giving consumers a partial win. External review is not open to people in Medicare supplements or Medicare Advantage plans.

Lembo encourages people who want an external appeal or need to appeal to an insurer on an urgent life-saving matter to call the Office of the Healthcare Advocate for help. External appeal, he noted, "is really a paper process, and what's in the case the documentation attached to it is going to make or break the case."

An external appeal wasn't needed in Donoghue's case. After the state healthcare advocate's office got involved, Anthem sent the appeal to a radiation oncologist for review, who recommended she get the special radiation her doctor ordered, and she did.

Anthem's previous denial was based on a review by a medical oncologist, Donoghue said. Medical oncology uses chemotherapy and hormonal and biological therapy to treat cancer, and Donoghue had chemo earlier this year.

Anthem declined to comment on the specific case, but said it considers intensity-modulated radiation therapy "investigational/experimental for the treatment of breast cancer."

As part of the appeal process, cases may be sent to a non-Anthem physician for review, said company spokesman Scott Golden. If the reviewer comes to a different decision than Anthem and recommends the denial be overturned, the company does so, he said.

When cases are initially denied, "we welcome any additional material that a member or provider would like to submit that will help the reviewer(s) make a decision that takes into consideration all the relevant information," Golden said.

Lembo cautions consumers not to exhaust all internal and external appeals before coming to his office for help, and not to give up.

"Consumers should not assume the insurance company has the last word," Lembo said. "There are protections and processes in place and they need to take advantage of those."

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