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$120.5 Million Verdict against Aetna Managed Care

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The managed care industry is gasping for its collective breath in the aftermath of a jury verdict against Aetna, the nation's largest health plan, for $116 million in punitive damages and 4.5 million in medical damages.

The civil suit was filed by Yucaipa, California kindergarten teacher Teresa Goodrich. Her husband, David, a deputy district attorney in San Bernardino, California, had died at the age of 44 in 1995 of a rare stomach cancer. Mrs. Goodrich's suit contended Aetna had refused to pay for her husband's treatments, even though that care was authorized by Aetna doctors.

David Goodrich died believing his wife was left with $750,000 in medical expenses.

In the two-month trial, the jury of 10 women and two men, found that Aetna HMO acted with malice, oppression and fraud in its treatment of David Goodrich.

Health care experts said the San Bernardino Superior Court decision will help inflame the debate in Congress over whether patients should have the right to sue their health plans. Most patients currently do not that right.

The victorious attorney, Michael Bidart, who specializes in managed care law, in perhaps the understatement of the year, said the verdict would send shock waves throughout the HMO industry. This verdict follows other significant managed care verdicts against HMOs:

- a 1993 $89 million verdict in Riverside, California against Health-Net for delay and denial of experimental breast cancer treatment of Nelene Fox;
- a 1995 suit of medical neglect against Kaiser Permanente for $45 million in which the HMO had a boy sent for treatment at a hospital 42 miles from the family home; the child ended up having limbs amputated.

The ERISA Roadblock

The federal law which the ACA has vigorously lobbied to reform, the Employee Retirement Income Security Act (ERISA), allows most people to recover only for the medical bills. Victims of HMO malfeasance can only sue for their health care benefits, and few attorneys accept those cases because of the low threshold of recovery.

In the Aetna case, the ERISA statute had no bearing. The ERISA laws do not apply to: individuals who buy medical policies; government officials (David Goodrich was a deputy district attorney); or those who work for nonprofit organizations.

Aetna, of course, said they would vigorously appeal the decision. Aetna's counsel, Hugh Helm (L.A. law firm of Galton and Helm) could not be reached for comment.