

## **The Insurance Intelligencer**

12/28/09

### ***The Biologist and the Plagiarist***

Steve is a fish biologist from Eastern Washington. This month, we fought the appeal for Steve's wife Maria -- through two levels of internal appeal, two independent reviews, and one in-person hearing. Because of Steve's scientific curiosity, lies were revealed, illusions dispelled, and a plagiarist unmasked.

The good news? We won.

When I heard that there was a couple in Eastern Washington who needed to get to Dr. Sugarbaker -- and had Premera Blue Cross Blue Shield -- I thought, "Piece of cake." In 2007, I had already won that battle for Norma. I wrote a big mean letter to Premera, and Norma's husband Kim exploited his business connections, and called the medical director. Within twenty-four hours, we had approval. What could be easier?

Never underestimate your opponent.

### **The written appeal**

Am I getting too good at writing appeals? Up until a few months ago, insurers received my appeal documents, and either approved or denied the treatments. All of a sudden, insurers are finding ways NOT to decide.

On receiving my appeal for Maria, Premera immediately sent it to an "independent review organization." This was not the next step according to their appeals process. I believe that the appeal was such a hot potato -- so embarrassing to Premera -- that they did not want to uphold their denial, and they did not want to be responsible for reversing their denial. So, they sent it out to independent review.

### **The independent review**

"Independent review" sounds like a good thing. It sounds like due process, taken out of the hands of the insurance company, yes? An "independent review organization" sounds very official -- like an institution. Surely an independent review org has many many experts on staff? They are qualified, regulated, diligent and impartial? How I wish that they were.

The independent review came into being in response to patients who were denied treatments by their insurance companies. These patients were also voters, and they put pressure on their elected officials, saying, "The businesses that will have to pay for our treatments gets to decide whether they are 'medically necessary' or not. This is wrong, it is the world's worst conflict of interest."

Independent review orgs sprung up like mushrooms, and state insurance commissioners and insurance companies added a new layer to their appeals process -- independent review. I assume that this development quieted the clamor to remove medical decisions from the hands of insurance companies.

When we are ill, and are denied the one treatment that could save us -- we want desperately to believe that there is some powerful entity that will step in and help us. This is a dangerous -- sometimes fatal -- belief.

More and more, insurers and employers (in the case of self-funded plans) hand medical necessity decisions off to independent review orgs. Who are these organizations, who hold your life in their hands?

Independent review organizations are not licensed. Some states require them to have "clinical peer" reviewers, some don't. They are not accountable for their decisions. An independent review org could uphold 100% of the denials sent to them, and nobody would ever know. Often, they are the end of the line for you; there is no more due process after the independent review.

Guess what? In some states, the insurance company doesn't have to abide by the decision of the independent reviewer. In these states, why do they bother to do them? Talk about your illusion of due process.

Like insurance companies, independent review orgs understand the power of words. They dream up power names like "Maximus." ("We will crush you like a bug!") Or quasi-medical names like "Medical Review Institute" (MRI).

The first time that one of my cases got sent to independent review, my helpee was thrilled, "They are independent ... that's got to be good, right?" "Hold your horses," I replied, "Let me find out who these people are."

The requested treatment was cytoreductive surgery and hyperthermic intraperitoneal chemotherapy for appendix cancer with peritoneal spread. The independent review org was a chiropractor in Texas with a post office box.

### **The plagiarist**

Premera was so razzle-dazzled by our appeal that they prematurely sent it out independent review. The reviewer -- a breast cancer doctor -- upheld the denial.

Steve and I found the denial letter very strange. It didn't mention any of the insurer's stated reasons for denial, and it didn't address any of the points that we had approved in our written appeal.

The last page of the reviewer's letter mentioned an obscure article which Steve had never seen before. Because of his scientific curiosity, he googled the article.

This article appeared in only one place -- a blog called "Cancer Treatments." This blog lists hundreds of different cancer treatments, and gives a generic paragraph or two to introduce them to laymen.

The verbiage sounded familiar to Steve. Pages two and three of the reviewer's three-page decision were plagiarized directly, word-for-word, from the blog post about cytoreductive surgery. The entire post was cut and pasted into the reviewer's letter.

Some expert. Some review.

## **The hearing**

After the sham independent review -- and five days before Maria's surgery date -- Premera ordered my helpes to drive over the snowy Cascade mountain range, to present our case once again, at Premera headquarters, at an in-person hearing. I wrote a speech for Steve, and a speech for me.

Our presentations must have been powerful. Once again, Premera denied, and handed off the case to another independent review organization.

This time, I insisted that the reviewer have relevant clinical experience, and that the reviewer receive and consider every page of information that we had prepared -- including both of our speeches.

Within a few days, the denial was reversed, the treatment was approved, and Steve and Maria were on their way across the country for her lifesaving surgery.

Disclaimer: I am not saying that no insurance denial is ever overturned on independent review. I am simply saying not to count on it. Know that an independent reviewer is not necessarily qualified to render an opinion on your treatment, and may not even bother to learn about it. They may, they may not. In other words, do all you can to win your appeal -- before it ever gets to the Bermuda Triangle that is independent review.

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Maria had her surgery on December 16. Dr. Sugarbaker was able to remove all of the cancer, and to perform the heated intraperitoneal chemotherapy. A good outcome, and a promising future for Maria. Now she builds her strength, walking to the patient lounge, and watching the snow fall peacefully in Washington, D.C.

A little bird has told me that another patient from my area needs to get to Dr. Sugarbaker. Guess who is her insurer? Premera Blue Cross Blue Shield. Here we go again.

Looking forward to my Class of 2010,

Laurie Todd

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