

LATEXTRA

TUESDAY, FEBRUARY 23, 2010 :: LATIMES.COM/LANOW

LAWSUIT TARGETS ANTHEM DENIAL POLICY

The insurer was trying to save money when it refused an out-of-state transplant, jurors told.

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Insurance giant Anthem Blue Cross refused to pay for a California produce merchant to get a liver transplant in Indiana because the company wanted to save money, a lawyer for the patient told jurors Monday.

But a lawyer for the state's largest for-profit insurer argued that the patient, Ephram Nehme, was not sick enough to qualify for an exception to his policy's requirement that transplants be performed in Blue Cross-contracted hospitals in California.

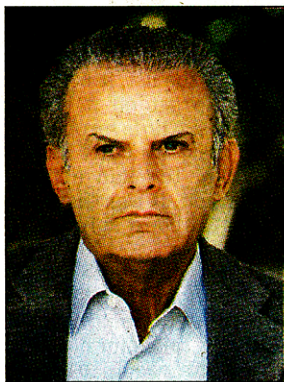
The high-profile trial is expected to shed light on how Anthem Blue Cross, which covers about 8 million Californians, decides what medical care to cover — and what to deny.

"People buy insurance hoping they are never going to need it," Scott Glovsky, the lawyer representing Nehme, said during opening arguments in Los Angeles County Superior Court. "And Blue Cross sells it hoping people will never need it. Why? Because they make more money."

Blue Cross lawyer William von Behren said there was "no dispute Mr. Nehme needed a liver transplant. The question is whether Mr. Nehme needed to go somewhere other than UCLA for that liver transplant."

Von Behren said the evi-

[See Liver, AA5]



ALLEN J. SCHABEN L.A. Times

CARE: Ephram Nehme paid for his transplant.

[Liver, from AA1] dence would show that four physicians working for Blue Cross — two full-time in-house medical reviewers and two contractors — concluded that "there was nothing in" Nehme's medical records "to indicate that there was any reason for Mr. Nehme to go out of network for a transplant."

The case is unfolding just as the Obama administration is attempting to jumpstart a healthcare overhaul. That effort aims to expand the number of people with health coverage, make it affordable and ensure that those with pre-existing conditions are able to buy and keep insurance.

Nehme's case is "Exhibit A" of another problem: insurers refusing to pay for or denying care that treating physicians order, Jerry Flanagan, healthcare director for the Consumer Watchdog advocacy organization, said at a news conference outside the courthouse.

Trial over Anthem policy underway

"Denials of life-saving, medically necessary care is the M.O. of an industry that puts profits before patients and yet another example of why Americans need a public option to the private insurance market," Flanagan said.

Nehme, 62, said he hoped that his lawsuit would make it easier for other patients to get the care they believe they need.

"I'm trying to stop [insurers'] unfair practices," Nehme said outside court. "I'm trying to save lives. There are a lot of people who need liver transplants, and they should be able to get them wherever they need them."

Nehme's liver began to fail in 2006, and his Blue Cross network physician at UCLA recommended a transplant. Blue Cross readily approved the procedure at UCLA Medical Center.

But as Nehme's condition deteriorated, he says his UCLA physician urged him to go to the Clarian Transplant Center, which is affiliated with Indiana University in Indianapolis, because wait times were much shorter there than in California.

Blue Cross refused to cover the procedure in Indiana, telling Nehme his policy required him to stay in-state and at a contracted hospital.

Fearing he would die waiting for an organ in California, Nehme went to Indiana and paid \$205,000 out of pocket for the January 2007 surgery that saved his life.

Blue Cross said it has approved more than 98.5% of all liver transplant requests since July 2004 and makes exceptions to its in-state requirement when its physician reviewers believe there is good reason.

On top of the denial, Nehme said he recently received notice that Blue Cross is raising his premium March 1 by 50% — from \$1,000 to \$1,500 a month. "And I'm self-insured," Nehme said.

It is unusual that the dispute got to court. Most people are barred from suing their health insurer over treatment coverage decisions. Nehme was able to sue because he buys his coverage from Blue Cross with a so-called individual policy.

But more than 130 million people get their insurance through employers, and federal law prohibits such policyholders from taking their health insurer to court.

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