

# MANAGING MANAGED CARE

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*Managed care is becoming ever more common. This environment presents new challenges in avoiding risks, some of which are illustrated in a tragic malpractice case I recently began defending.*

*As is common, the HMO in my case merely markets its plan. It provides care through contracts with medical groups, who hire some physicians and contract with others. The patient in my case was a young woman admitted to a community hospital contracting with the HMO. Physicians appropriately and quickly diagnosed a rare disease. The prognosis was good, but the patient urgently needed treatment requiring equipment and facilities not generally available at the time outside of major hospitals. Physicians therefore sought to transfer the patient to an appropriate facility.*

*Unfortunately, a delay of several days intervened between the recognition of the patient's needs and the transfer. The patient died within hours of transfer, before treatment.*

*Investigation has suggested several reasons why the delay may have occurred. The specialist, who handled the transfer issue, wanted the patient transferred to a major facility where he had privileges, but which had no contract with the HMO. The HMO wanted the patient transferred to a facility which had a contract. Perhaps the transfer approval came too slowly because it was first requested late on a Friday, and weekend staffing was slow. Perhaps there was some confusion over whose approval was required for the transfer, as the specialist was uncertain of the demarcation between the authority of the HMO and the contracting medical group. Perhaps the approval was delayed because HMO had difficulty understanding the nature and import of the request, given the rare disease and unusual treatment involved (which was considered experimental not long before this case).*

*Several lessons may be drawn to avoid harm to the patient and malpractice risk:*

- 1. Insist on knowing whose approval is required for what.** *Patients in urgent need of care may not be able to wait for multiple calls trying to determine what approval is required. An HMO may not be reliable in pointing you to the correct person on the first call. It may even be necessary to educate the right person that they do, indeed, have responsibility for giving you the approval you need.*
- 2. Communicate with the patient, and perhaps the patient's family in appropriate cases.** *The family in my example had no idea what the physicians were doing to arrange the transfer. The physicians may have avoided being named if the family had been told clearly that the lack of approval came despite diligent efforts of the physicians. Educating them that the receiving hospital would not accept the patient without the necessary approval might also have helped (they believed the physicians could have transferred the patient any time, but needed approval to be paid). The patient or family may also become your allies in obtaining approval for appropriate treatment. This communication with the patient or family should be documented in the patient's chart.*
- 3. Advise HMOs appropriately of urgency.** *Don't hesitate to let the administrator know if your patient is in pain, or if delay could threaten life or limb. Crying "wolf" too often may be harmful, in the long run.*
- 4. Enlist other physicians on the case to help you.** *The specialist in my case probably had little contact with the HMO, while the attending physician's practice was dominated by patients from the HMO. Yet, the specialist apparently did not seek the help of the attending physician in dealing with the HMO.*
- 5. Chart events carefully.** *The chart in my case fails to reflect who was contacted for transfer approval,*

*what they were asked for or told, or when the first calls took place.*

- 6. Follow the appeals process and be the patient's advocate.** *A managed care organization's mere denial of authorization for a procedure, test, or treatment does not mean that your job is done. Know and use the HMO's appeals process if your medical recommendations are not taken. Be the patient's advocate and get credit for this advocacy in the chart and in the patient/family's mind. Document in the chart and copy the patient/family with any appropriate correspondence regarding the appeal. Making and documenting your medical recommendation is not only good patient advocacy but is good medical practice in the managed care environment.*

*Managed care presents different challenges, but not necessarily more malpractice risk. Physicians in a managed care environment may be called upon more to act as patient advocates, even to make the system work in spite of itself. Patients and physicians can both benefit because good loss prevention efforts are good medical practice.*

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