Katherine W.
Phone hearing
1/25/13

(PAUSE)

I will be presenting my own case.
I would like to present all of my information before entertaining any questions.

I have asked that copies of my request for reconsideration and my Level One appeal be supplied to all of the attendees—so that you may consider all of my evidence.

(BIG PAUSE)

Introduction

My name is Kate W.
I am thirty-three years old.

I have colon cancer. This cancer has spread within my abdome n—invading the wall of my bladder and obstructing my right ureter.

The local doctors have treated me with an incomplete debulking surgery and four months of systemic chemotherapy.

These treatments have not been curative. My local doctors have only palliative treatments to offer for my disease.

Cytoreductive surgery

The only curative treatment for colon cancer with peritoneal spread is cytoreductive surgery and hyperthermic intraperitoneal chemotherapy—HIPEC.

This is the treatment which my in-network physicians have requested. Clearing the abdomen of all visible tumor is a 12- to 20-hour marathon surgery which may include:

extensive surgical resections
omentectomies
splenectomy
cholecystectomy
ileocecal resections
small bowel resections
resections of the colon
and multiple peritonectomy procedures.

This is followed a two-hour infusion of heated chemotherapy into the open abdomen, which is massaged into all surfaces.

Sound complicated? It is.

Dr. Paul Sugarbaker is the one surgeon in the United States who successfully treats these advanced abdominal cancers. Dr. Sugarbaker has performed over 2,000 of these surgeries—with good outcomes documented in the literature over twenty years. 320 of these surgeries have been for colon cancer.

With colon cancer, this treatment is tried and proven to achieve a 30% chance of disease-free survival over ten years.

The treatment offered locally—repeated debulking surgeries and systemic chemotherapy—has shown 5% survival at three years.

Which one would you choose?

(PAUSE)

My treating physician Dr. The says in her letter, "I am compelled to seek the best surgical/oncologic care for my patient. Thus, I recommend Ms. Waidmann for this combined treatment with Dr. Sugarbaker."

Request for reconsideration

In my urgent request for reconsideration, I asked that Aetna negotiate fair reimbursement with Dr. Sugarbaker's office—because there is no effective treatment in the network.

In this document, I prove that the local doctors have no experience with my disease—and no effective treatment for it.

I supply fourteen cases where Aetna has fully funded this treatment with out-of-network surgeons.

Aetna is very familiar with Dr. Sugarbaker. I prove that Aetna has signed five single-case contracts with Dr. Sugarbaker's office for this treatment.

I list or cite fifty-one recent peer-reviewed medical journal articles which support the safety and efficacy of this treatment for colon cancer.

Administrative law judges decide Medicare cases. I quote the published opinion of administrative law judge Bruce J. Kelton—stating that this treatment is "medically necessary for gastrointestinal and gynecological malignancies."

I prove with facts that this treatment is medically necessary—per Aetna's own definition.

The denial

On 1/22/13, I received a letter from Aetna denying this treatment as "experimental."

Aetna gives two reasons for their position:

1. Our Coverage Policy Bulletin #278 deems this surgery to be experimental for colon cancer.

2. NCCN guidelines deem this surgery to be experimental for colon cancer.

In my Level One appeal, I prove that neither one of these objections has any basis in fact.

Level One appeal

I prove that this treatment is not experimental—per Aetna's own definition. In other words …

1. This treatment is not given as part of a clinical trial.

2. All parts of this treatment have long been approved by the FDA.

3. Dr. Sugarbaker has performed 2,000 of these surgeries, and documented his outcomes in 492 peer-reviewed medical journal articles. Cytoreductive surgery is known around the world as "The Sugarbaker Procedure."

   Surely we have proved Dr. Sugarbaker's proficiency.

4. As to the reliable evidence … we provide fifty-one recent peer-reviewed articles which support excellent longterm outcomes with this treatment for colon cancer.

   We give the 2007 consensus statement signed by sixty-one prominent surgical oncologists from the United States and around the world.

   We provide the finding of administrative law judge Kelton that this treatment is medically necessary for gastrointestinal and gynecological cancers.

NCCN guidelines

The National Comprehensive Cancer Network (NCCN) is one of a half-dozen private companies. NCCN is not an impartial entity. Furthermore, it is not an authoritative source.

In my Level One appeal, I take a close look at the NCCN guideline.

NCCN is comprised of twenty-one member institutions. Five of these institutions are high-volume centers for cytoreductive surgery and HIPEC. They routinely perform this treatment for patients with colon cancer.

Surgical oncologists at Fred Hutchinson Cancer Center, Roswell Park Cancer Institute, Johns Hopkins and MD Anderson would be very surprised to hear that their names were being invoked in order to deny the treatment upon which they have based their careers.

This NCCN guideline is skewed, biased, and unfounded. It is not impartial, and it does not reflect current medical practice with regard to this treatment.

Milliman guidelines

I must have done a good job discrediting the NCCN guidelines. In their denial letter to Dr. Sugarbaker, Aetna has abandoned NCCN, and switched to the Milliman guideline.

Basing a denial of lifesaving cancer surgery on this controversial guideline is puzzling at best.

Since their inception ten years ago, the Milliman guidelines have been denounced by medical providers and hospitals alike. They have been the object of litigation—including a racketeering suit in Florida in 2002.

There is scientific evidence discrediting the Milliman guidelines. The medical journal article, "An analysis of 25 Milliman and Robertson guidelines for surgery" appeared in Annals of Surgery in 1998 … and I quote:

> "We conclude that the use of Milliman and Robertson guidelines may risk hurting patients. This study should be considered a cautionary note that all guidelines must be reviewed scientifically to determine their soundness, applicability, and credibility."
>
> (Rutledge, R. An analysis of 25 Milliman and Robertson guidelines for surgery. *Annals of Surgery* 1998;228: 579-587.)

Cost comparison

This is not about Aetna's policy language, and it is not about Sterling Jewelers' certificate of coverage.

This is about one person with a difficult and advanced cancer for whom there is only one effective treatment: cytoreductive surgery and HIPEC.

Without a single-case agreement for fair reimbursement, my surgery will be cancelled—and Sterling Jewelers will begin to incur the astronomically expensive costs as my disease rapidly advances.

How cost-effective has my treatment been thus far?

Folfox has been shown to extend the lives of colon cancer patients for about nine months. It has never been a curative treatment for advanced colon cancer.

I have undergone six cycles of Folfox—each costing approximately $30,000, for a total of $180,000. The employer has spent this princely sum on a treatment which has not shrunk my tumors—and which has no longterm survival advantage.

The one documented, definitive, curative surgery for my disease will cost the employer a one-time charge of approximately $30,000.

I am simply asking Aetna to do the most cost-effective thing, and to practice evidence-based medicine.

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My disease has manifested in a highly unusual way—with an obstructed right ureter, and a tumor invading the wall of the bladder. Dr. Sugarbaker is likely the only surgeon who can achieve a good outcome.

Without this definitive surgery, I will decline within a year, and die a horrible death from this disease.

It is a death that doesn't have to happen.

(PAUSE)

At a time when I should be preparing for major lifesaving surgery, I am spending all of my time proving to Aetna that I deserve to have the legitimate, proven treatment that they have approved so many times before.

Penny S.

Yesterday, Aetna appeals department contacted Dr. Sugarbaker's office. They asked Dr. Sugarbaker to prove that Aetna had approved this treatment for colon cancer before.

Dr. Sugarbaker's office found a recent patient—Penny S. Penny was insured by Aetna; Penny had colon cancer. This treatment was not denied by Aetna as "experimental."

Dr. Sugarbaker's office provided Aetna with Penny's consultation visit report—and the single-case agreement signed by Aetna. At that time, Aetna's Policy Bulletin #278 was exactly the same as it is now.

Dr. Sugarbaker performed Penny's surgery on 9/2/11—approved and fully-funded by Aetna.

All I ask is the same fine treatment which Aetna has provided to Penny S.

Conclusion

I am ill. I am tired. I am in pain.

I have moved heaven and earth to save my own life.

I have been misdiagnosed and mistreated long enough. I have researched enough. I have proved enough.

It is time for Aetna to do the right and reasonable thing, to adopt a just policy for treating my advanced and difficult disease, and to let me go to my lifesaving surgery in peace.

Thank you.