

Blood: Patient Cannot Sue Over Getting Blood Not Banked For The Patient.

Patients concerned about HIV or other infection from blood products can in certain circumstances bank their own blood or have friends do it for them before surgery.

In a recent case from the Court of Appeals of Texas, however, the patient was cautioned by her physician that the direct-donor blood stockpiled before her surgery might not be sufficient, and that at least one additional unit of blood from stock might have to be used.

After this came to pass, despite the most certain assurances the blood was not tainted in any way, and with a negative HIV test five months after surgery, the patient sued the hospital, claiming damages for mental anguish and emotional distress for her fear of contracting HIV and AIDS from the stock blood.

A patient's unreasonable fear of getting HIV and AIDS from being administered blood other than the blood friends banked specifically for the patient is not a valid reason for a lawsuit.

The patient's fear is unreasonable when there is no basis in fact to believe the blood the patient got was infected with HIV or that the patient had HIV after being tested several months after surgery.

COURT OF APPEALS OF TEXAS, 1996.

With no actual exposure to a disease-causing agent, a patient's fear of contagion is not a valid basis for a lawsuit, the court ruled. ***Drury vs. Baptist Memorial Hospital System***, 933 S.W. 2d 668 (Tex. App., 1996).

Renal Dialysis: Court Says Medicaid Must Pay For Alien's Continuing Care After Emergency Episode.

Ongoing outpatient renal dialysis following an emergency episode of acute renal failure is covered by Medicaid as treatment for an emergency medical condition.

Medicaid, in general, does not pay benefits for an undocumented alien's medical care.

Medicaid does pay for an alien's medical care for an emergency medical condition.

Continuing treatment for a medical condition which arose as an emergency is covered by Medicaid as care for an emergency medical condition.

Payment for medical care for an emergency medical condition is not limited to the emergency room or to the time frame while the acute symptoms still exist, but must continue as long as the absence of immediate care would result in serious jeopardy to the patient from the condition.

This hospital treated the patient on a charitable basis, but should have been reimbursed by Medicaid.

SUPERIOR COURT OF CONNECTICUT, 1995.

An emergency medical condition is defined by law in the U.S. Social Security Act as:

A medical condition (including emergency labor and delivery) manifesting itself by symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in - (A) placing the patient's health in serious jeopardy, (B) serious impairment to bodily functions, or (C) serious dysfunction of any bodily organ or part.

The Superior Court of Connecticut recently ruled, after reviewing the latest court case precedents from New York, California and Arizona, that ongoing outpatient renal dialysis following an emergency episode of acute renal failure is treatment for an emergency medical condition.

Outpatient dialysis for end-stage renal disease is covered by Medicaid for an undocumented alien as treatment for an emergency medical condition, the court ruled.

The court praised the hospital (Yale-New Haven Hospital) for treating this patient on a charitable basis, which should not have been necessary, as the state Medicaid agency should have paid.

In general, Medicaid simply does not pay benefits for medical care for undocumented aliens, such as this man who came to the U.S. from India under a now-expired student visa. There is an exception under Medicaid that Medicaid will pay for emergency medical care, however.

Emergency care is defined not only as care rendered while there are acute symptoms in the emergency room. Emergency medical care covered by Medicaid includes continuing care, so long as it is for a condition which manifested itself as a medical emergency, and continuing care is necessary to prevent immediate jeopardy to the patient. ***Gaddam vs. Rowe***, 684 A. 2d 286 (Conn. Super., 1995).