

# Health Plans: US Supreme Court Bars Suits For Damages Over Patient-Care Decisions.

In the past few years health insurance plans and health maintenance organizations have been sued successfully in state courts for professional malpractice over patient-care decisions made by their nurses, doctors and other healthcare professionals.

Although the US Employee Retirement Income Security Act of 1974 (ERISA) has been on the books for some time, patients' lawyers have convinced a lot of judges that benefit-allocation decisions and patient-care decisions are separate issues.

While suits to recover the value of health benefits or services wrongfully denied are strictly regulated by ERISA, judges have ruled that suits which can be characterized as suits over patient-care decisions are eligible for all of the economic and non-economic damages customarily awarded by juries in medical malpractice lawsuits.

## Landmark Case

### Involves Nurse's Discharge Decision

Many of the cases in this area of the law, including the US Supreme Court's recent landmark ruling, have involved patient-care decisions by health-plan nurses employed to review patients' cases.

**Health insurance plans and health maintenance organizations are governed by the US Employee Retirement Income Security Act of 1974 (ERISA).**

**Health insurance plans and health maintenance organizations can be sued in the Federal courts to obtain benefits wrongfully denied to a beneficiary.**

**Health insurance plans and health maintenance organizations cannot be sued in Federal or state court for professional negligence in making patient-treatment decisions that adversely affect patients' health or well-being.**

**Such suits would bring into play all of the economic and non-economic damages customarily awarded by juries in medical malpractice lawsuits, which was not the intent of Congress.**

SUPREME COURT  
OF THE UNITED STATES  
June 21, 2004

In the recent landmark case, one of the patients who sued was discharged from the hospital against her treating physician's recommendation because of a health plan's case-review nurse's decision the patient's clinical situation did not meet the plan's criteria to continue as an inpatient in the hospital.

This is a fairly common scenario in these cases as they have been coming out of the state courts. We have been reporting them from time to time in this newsletter when they involve nurses' potential liability for their errors and omissions.

### Benefit Allocation

#### Medical Costs = Damages

Viewed as a benefit-allocation case, the patient would be able to sue at most for the cost of a certain number of additional hospital days times the daily rate.

#### Patient Care / Malpractice

#### Damages = Medical Costs,

#### Pain and Suffering,

#### Loss of Earnings, Future Disability, etc.

Viewed as a patient-care decision, to treat someone outpatient as opposed to inpatient, the damages alleged for post-surgery complications once the patient finally did get back into the hospital, allegedly caused by being sent home early, could be very substantial.

The Supreme Court's ruling will free some nursing and other healthcare professionals from liability considerations. However, this is a hot political topic. There could be Congressional action to overturn or modify the Court's ruling. [Aetna Health Inc. v. Davila](#), \_\_\_ U.S. \_\_\_, 124 S. Ct. 2488, 72 USLW 4516 (U.S., June 21, 2004).

## LEGAL EAGLE EYE NEWSLETTER

For the Nursing Profession

ISSN 1085-4924

© 2004 Legal Eagle Eye Newsletter

Indexed in  
Cumulative Index to Nursing & Allied  
Health Literature™

Published monthly, twelve times per year.  
Mailed First Class Mail at Seattle, WA.

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