

AIDS AND INSURANCE CUTOFFS

by Sarah Henry
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Some Companies Put Ceilings on Lifetime Coverage

Howard Jacobs didn't understand how his health insurance could have run out in September. Jacobs, who has AIDS, was told by a clerk at his local pharmacy that he had reached his maximum coverage for prescription drugs. No stranger to the byzantine world of health insurance bureaucracies, Jacobs surmised that his insurer had simply neglected to pay the bill.

It was no mistake, however. After wrangling with an insurance agent, Jacobs, 27, of West Hollywood, Calif., learned that his former employer, New York City-based Tollman-Hundley Hotels, had cut its lifetime coverage for HIV-related claims from \$1 million to \$10,000. Jacobs, who was covered by the Tollman-Hundley insurance plan for 18 months after leaving his job there, was outraged.

"I want to scream and yell, 'This is wrong!' " he said.

Jacobs's case represents a growing trend that is of concern to the AIDS community as well as people with other terminal and chronic diseases. For many, it also raises doubts about the reliability of their health insurance. In cases being disputed in courts in several states, self-insured companies like Tollman-Hundley have singled out AIDS as one of the few conditions they are unwilling to fully cover. Instead, some companies are putting ceilings - sometimes as low as \$5,000 - on the amount they will pay for treating the disease.

A Tollman-Hundley spokesman would neither confirm nor deny the policy, but bills from the insurance company that administers the plan state simply that Jacobs's claims have been denied under Code 701 - an insurance industry reference meaning maximum benefits have been paid.

To date, the company is denying more than \$21,000 worth of claims - including a \$15,075 bill for a recent hospital stay in which Jacobs battled his fourth attack of pneumocystis carinii pneumonia.

AIDS is an expensive disease: the cost of treatment is about \$32,000 a year, and the lifetime cost averages \$85,333, according to Fred Hellinger at the U.S. Department of Health and Human Services' Agency for Health Care Policy and Research. But the cost of treating AIDS is comparable to other chronic or catastrophic ailments that self-insured firms routinely cover. The lifetime cost for a woman with breast cancer is usually more than \$52,000; the average bill of a liver transplant is about \$145,000, and the lifetime cost of caring for a premature, low-birthweight baby can be as much as \$500,000.

The AIDS-exclusion cases, say health policy experts, highlight one of the holes in the so-called safety net of health insurance - and the flaws in a health-care system that leave so many people vulnerable.

In addition to AIDS coverage, some insurers are limiting payments for treatment of mental health conditions, chemical dependency and organ transplants.

Companies that self-insure pay employees' medical expenses directly rather than pay premiums to an insurance company. By doing so, they assume the risk of an insurer, although the plans are often administered by insurance companies. A 1990 survey by employee-benefits consulting firm Foster Higgins indicates that 73 percent of large firms are self-insured, as are 44 percent of

businesses with fewer than a thousand employees. And according to a recent study cited by the Employee Benefits Research Institute, more than half the companies that converted to self-insurance say they did so to avoid state mandates for certain types of coverage.

While many state insurance departments prohibit or discourage exclusions such as caps on AIDS coverage, self-insured companies are exempt from these state regulations.

Some managers of self-insured firms say that caps are necessary to protect businesses against annual, double-digit increases in health-care costs. Critics charge, however, that these "AIDS only" limits are discriminatory: a kind of medical "red-lining" by disease.

Self-insured companies are subject to regulation under the federal Employee Retirement Income Security Act (ERISA), a law enacted in 1974 to protect employee benefit plans, especially pensions. ERISA does not, however, require employers to provide specific benefits.

Major insurance companies such as Aetna, Prudential and Travelers will not offer or administer plans that contain AIDS-specific caps or exclusions, and some officials in the health insurance industry decry the singling out of people with AIDS.

It is difficult to determine just how widespread AIDS caps are since companies tend not to advertise such policies. But one insurance specialist, Jacques Chambers of AIDS Project Los Angeles, said he knows of about 10 industry trusts (benefit plans administered by management and labor) that have put a ceiling on AIDS coverage.

Although companies deny that they are discriminating against AIDS patients who are gay, some AIDS-cap policies leave little doubt about their intentions. The Laborers Health and Welfare Trust for Southern California, which provides insurance for several building and construction employers and their unionized workers, has a policy that excludes coverage for AIDS or AIDS-related complex - unless the person is younger than 13 or became infected through a blood transfusion. Many people with AIDS are gay or use intravenous drugs and have contracted the disease through those risk behaviors. They would not be eligible for coverage under those criteria.

An official from the company that administers the trust did not return phone calls.

The caps are being challenged in court. In one case that is on appeal, Jack McGann of Houston filed suit against his employer, H & H Music, after the company switched to a self-insured plan and cut coverage for AIDS-related claims from \$1 million to \$5,000. McGann's attorneys argued that the policy violated a provision of ERISA stating that a plan cannot discriminate in offering benefits to employees.

So far, lower courts have ruled in the company's favor, saying that H & H had the right to change the plan to ensure its survival and that "McGann was not entitled to health benefits whose terms never change." The case is on appeal to the U.S. Court of Appeals for the Fifth Circuit in New Orleans.

Employers insist they are motivated by economic survival - not discrimination - in implementing such policies. "We had to buy what we could afford to buy for the greatest number of people," said William Everitt Sr., chairman of H & H Music. Everitt wrote to employees at the time the cap was introduced, saying: "For every dollar that was received in premium, almost \$1.50 was spent in benefit payments . . . something drastic had to be done to save the plan. A time for tough decisions has come!"

Advocates outside the AIDS community are watching for decisions on these cases. In Houston, the American Association of Retired Persons filed an amicus brief supporting McGann.

"AARP is very concerned about any attempts by insurers to limit or exclude by disease category," said John Rother, legislative director for AARP. "Once you start with one disease, like AIDS, the next step could be Alzheimer's or other chronic conditions. I think that would be a disaster for the people who need help the most."

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