

Headline News

Supreme Court to Rule on Rights to Sue HMOs Under State Law

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WASHINGTON – The Supreme Court of the United States ruled Monday that it will determine whether federal or state law applies to disputes over an HMO's refusal to cover medical treatment that a member or a physician considers to be medically necessary.

The Court will hear two cases from the United States Court of Appeals for the Fifth Circuit in New Orleans. In the first, Juan Davila filed a lawsuit against his health insurer, Aetna Health Inc., for negligence. Davila claims to have suffered complications when Aetna required him to try a cheaper alternative to the painkiller Vioxx which his doctor had prescribed for arthritis. In the other case, Ruby Calad claims that CIGNA caused her to be prematurely discharged from the hospital following a hysterectomy.

Under federal law, people who obtain their healthcare coverage through private employers are required to challenge an adverse coverage determination by establishing their right to payment, either before or after the treatment is performed. When suits are brought in state court, such suits can be "removed" from state to federal court and are tried without a jury. Under the laws of various states, however, people who claim damage resulting from an adverse benefit determination have attempted to use state law to sue for personal injuries that they claim were caused by the improper denial of coverage.

John B. Shely, a partner with Andrews Kurth LLP and a lawyer representing Aetna in the Davila Supreme Court case, said, "Establishing that federal law controls this area is important, both for employers and for their employees. Multi-state employers and small employers alike must be able to rely upon a uniform and predictable system of remedies and liability when they contract to provide healthcare coverage for their employees. Likewise, employees will experience even more rapidly rising healthcare costs if every case involving an adverse result becomes a tort claim instead of having been quickly resolved as a payment dispute from the outset."

The Supreme Court will hear arguments in both cases next spring, with a decision due by the end of June.

Andrews Kurth LLP, founded in 1902, has more than 400 lawyers and eight offices in Austin, Dallas, Houston, London, Los Angeles, New York, The Woodlands and Washington, DC. The firm has an international client base and has experience in most industries and areas of law.