

Will Healthcare Reform Affect the Rate of Claim Denials?

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On Monday October 19, 2009, Lisa Girion of the *Los Angeles Times* reported on the healthcare reform bills being debated in Congress and their potential impact on claim denials by insurers. Girion states that, “Despite growing frustration with the way health insurers deny medical treatments, major healthcare bills pending in Congress would give patients little new power to challenge those sometimes life-and-death decisions.” She further explains that “a patient's ability to fight insurers' coverage decisions could be more important than ever because Congress, in promoting cost containment and price competition, may actually add to the pressure on insurers to deny requests for treatment.”

The [article](#) discusses the wrongful death lawsuit filed by Hilda and Grigor Sarkisyan, whose daughter Nataline died in 2007 after Cigna decided not to cover a liver transplant. The lawsuit against Cigna over the transplant denial was dismissed this year by a federal judge, who ruled that the Employee Retirement Income Security Act (“ERISA”) preempts suits with state law claims for damages over such health benefit decisions. The Sarkisyans traveled to Washington this year to try to persuade members of Congress to pass legislation which would remove ERISA’s bar of certain types of damages that are now available under state law.

Rep. Adam B. Schiff (D-Burbank), who met with the Sarkisyans in Washington, said that there are not enough votes in Congress to pass such legislation. Insurers and employers strongly support ERISA’s limitations on damages. They say any increase in litigation would drive up costs and could force some employers to drop health benefits.

The healthcare reform bill pending in the House would extend the right to sue under state law for damages to anyone who buys coverage through one of the health insurance exchanges it envisions. That could include small businesses. However, the pending legislation does not remove ERISA’s barrier to such suits by employees who procure coverage in the employment-based insurance market.