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## **Medicare Patients Can Sue HMOs**

**Health: State court rules in favor of consumers' right to seek redress if care is improperly denied.**

SAN FRANCISCO - Medicare patients in California may sue health maintenance organizations for denying necessary but expensive medical treatment, the California Supreme Court decided Thursday.

The 5-2 ruling clears the way for elderly and disabled patients and their survivors to seek hefty compensation, including punitive damages, from HMOs that improperly deny care. About 1.5 million Medicare patients in California are enrolled in HMOs.

Many such suits in California previously had been dismissed on the grounds that federal law requires these complaints to be filed in an administrative proceeding established by the Medicare law. The federal process allows only limited claims and compensation.

Jeffrey Ehrlich, an appellate attorney with Shernoff Bidart & Darras LLP of Claremont, said his firm alone has about 10 cases pending that will be allowed to go trial because of Thursday's ruling.

He predicted that the ruling will "nip in the bud" attempts by HMOs in other states to prevent Medicare patients from suing in state court.

George McCall, who brought the case, suffered from lung disease. He charged that his HMO, PacifiCare, and his physician provider group, Greater Newport Physicians Inc., refused to refer him for a lung transplant.

The Costa Mesa businessman was receiving treatment under Medicare. He was extremely ill and in the hospital when a nurse asked his wife, Barbara, why he wasn't on a lung transplant list.

When he asked about a transplant, his doctors told him he would be a candidate but they would not refer him until he quit the HMO and relied fully on Medicare, which covers the full cost of such transplants.