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### **Rare Suit Against HMO Goes to Jury**

**SAN BERNARDINO -- Jurors began deliberating Thursday in a case against the nation's largest health maintenance organization - one of the few such cases to escape a federal law and mandatory arbitration provisions that usually prevent suits against HMOs.**

Teresa Goodrich filed suit in September 1997 against Aetna Health Plans of California Inc., contending that the HMO failed to pay for care needed by her now-deceased husband, even though that care was recommended by Aetna specialists. The Redlands resident ended up with more than \$500,000 in medical bills, which were covered by insurance offered through her job as a kindergarten teacher.

In closing arguments Wednesday that concluded a two-month trial in front of San Bernardino County Superior Court Judge Christopher Warner, attorneys on both sides made last-ditch pleas to the jury regarding Aetna's conduct toward Goodrich's husband. David Goodrich died in 1995 after a three-year bout with a rare form of stomach cancer.

Michael Bidart, counsel for Goodrich, said signing up for a health insurance plan should provide "peace of mind and protection."

But that was not what was provided to David Goodrich, said Bidart, with the Claremont firm Shernoff, Bidart, Darras and Arkin.

"Can you imagine just trying to survive a severe illness, and heaped on top of that, you've got an insurance company that won't stand behind you?" Bidart asked the jury. He compared Aetna's staff to "bean counters who are practicing medicine without a license."

Aetna's attorney Hugh Helm disagreed.

"Aetna's conduct wasn't unreasonable or malicious," said the attorney with the Los Angeles firm Galton and Helm. "[David Goodrich's] death was no one's fault."

Goodrich's suit, filed in San Bernardino County Superior Court, alleges breach of a health plan contract and breach of good faith and fair dealing. Goodrich v. Aetna, RCV020499. She is seeking reimbursement for medical bills, as well as punitive damages and unspecified damages for loss of companionship and support.

David Goodrich's position as a San Bernardino deputy district attorney - a government job - gave his widow the backing she needed to sue the HMO. Such organizations are able to ward off most lawsuits because of a litigation shield that comes as a result of the Employee Retirement Income Security Act. The 1974 law bars those who secure health benefits from their employers from suing HMOs. But it does not apply to government employees, those who purchase individual medical policies, or those covered by Medicare, Medicaid or other government health programs.

Goodrich, in her complaint, contends that Aetna began to "renege on its promises" shortly after her husband collapsed on the floor in court June 9, 1992, as a result of the cancer. She claims that he was referred by in-plan physicians to hospitals outside the insurance plan, but Aetna would not pick up the tab. On one occasion, when he found out that a certain type of liver treatment helpful to his condition was being offered at

another out-of-plan hospital, he requested a referral from Aetna. When the referral took too long, he went ahead with the consultation and surgery. Once again, Aetna did not cover the costs, the complaint alleges.

The trial included testimony from Goodrich, San Bernardino County District Attorney Dennis Stout, Aetna physicians, and friends and family of David Goodrich.

"Aetna's plan says their physicians will coordinate all your health-care needs," Bidart said. "That was clearly false here." While he admitted that some of the language in the HMO's literature "wasn't perfect," Helm maintained that David Goodrich violated his insurance agreement.

"If treatment is to be provided, the patient should not go out of the plan," Helm said. "David Goodrich knew this when he signed up with Aetna. If we didn't have rules, we'd have total chaos."