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By Peter Blumberg

Ruling Widens Patients' Rights Against HMOs

SAN FRANCISCO - Giving millions of elderly people new power to sue their health insurers, the California Supreme Court ruled Thursday that Medicare recipients can seek unlimited monetary damages when their HMOs deny them treatment.

By a 5-2 vote, the high court held that the widow of 58-year-old Costa Mesa man whose health maintenance organization doctor allegedly refused to refer him to a lung transplant specialist can pursue a variety of tort claims - including negligence, fraud and unfair business practices - against the HMO in a state court rather than submit to Medicare's federal administrative review process. *McCall v. PacifiCare of California Inc*, CA Supreme Court.

A number of suits similar to the *McCall* case have been on hold awaiting Thursday's decision and will move forward, according to Jeffrey Ehrlich of Shernoff Bidart & Darras LLP in Claremont.

"If the court had gone the other way, these people would not have had any claim under California law even if their plans had injured them by withholding care," Ehrlich said. "There is not a flood of litigation, but there are occasionally serious cases and those people should have redress."