

2003: Consumer-Defined Health Care Benefits

2003 Texas Legislature:

Health Reimbursement Accounts for
Public School Teachers

2004: Ensuring Access by Preserving Affordability

The Futility Of Medical Necessity

Evolution of Health Insurance

From

Unlimited Benefits

To

Just What's "Medically Necessary"

Problems with "Medical Necessity"

- Conceptually Elusive
- Legally Vague
- Clinically Artificial
- Unreliable
- Restrictive

How many times per month

(per week? per day?)

is

VIAGRA

medically necessary?

Conceptually Elusive

- "Essential to reach a goal of improving or curing a disease"
- "Safe and effective, not experimental, and appropriate"
- "Sufficiently accepted within the medical community"

Legally Vague

- "Contra Proferentem:
Contractual ambiguities are construed against the drafter
- When even reasonable limits on health care are unenforceable, health plans cannot distribute resources reasonably, or plan for future needs

Clinically Artificial

- Most interventions are not "necessary" or "unnecessary" ("essential" or "worthless")
- Rather, there are usually various options, each with advantages, disadvantages
- Cost considerations are neither irrelevant nor unethical nor rare

Unreliable

- Definitions of "medically necessary" can shift covertly, leaving beneficiaries with less than they believed they would receive

Restrictive

- A judgment that an intervention is "necessary" leaves a health plan with little alternative but to cover it--and subscribers or taxpayers to pay for it--regardless whether it is a wise or medically optimal use of resources
- Example: Rush Prudential v. Moran

Guidelines-Based Health Plans

- From: "Everything You 'Need'"
- To: "If You Have This Plan,
Here Is What You'll Get"

Alexander v. Choate
105 S.Ct. 712 (1985)

Alexander v. Choate

105 S.Ct. 712 (1985)

"Medicaid programs do not guarantee that each recipient will receive that level of health care precisely tailored to his or her particular needs. Instead, the benefit provided through Medicaid is a particular package of health care services, such as 14 days of inpatient coverage. That package of services has the general aim of assuring that individuals will receive necessary medical care, but the benefit provided remains the individual services offered--not 'adequate health care.'"

105 S.Ct. 722