

Excerpt 16: Out-of-Network Expert - - Bring in the General

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I know that you are impressed to the point of awe with your expert-of-choice. You struggled for years with your in-network doctors. You may have been mistreated, misdiagnosed, and misunderstood. Then—either by your own efforts, or by the efforts of an in-network doctor who was willing to buck the system—you find your expert.

Finally, someone who understands every nuance of your disease/condition. He specializes in it, he sees it every day. He has treatments which your in-network doctors know nothing about; he has a game plan.

As far as you are concerned, your expert-of-choice walks on water. As far as Acme Insurance is concerned, he is just another doctor. They have no idea who he is, and they are not planning to look into it.

Purpose

The appeal is a masterpiece of persuasion. Step by step, in the proper order, we teach the insurer about our treatment, and about our disease/condition. We lead them where we want to go. One by one, we close each and every door that they would use to scurry away, we counter every objection with facts.

First, we explain every aspect of our treatment-of-choice. What is involved, how it will give us a good outcome, why it is safer, more effective, and more cost-effective than the standard in-network treatment. Then, we move on to an expose the inappropriate, ineffective, legally questionable treatment which we have received in the network.

Now, it's time for the big reveal. We are going to tell them all about our out-of-network expert.

What does Acme Insurance need to know about Dr. Expert? They need to know how much more qualified he is than the in-network talent, and how able he will be to get you to a good outcome. Let's look at the section from my sample appeal.

DR. SUGARBAKER IS AN EXPERT OFTEN USED BY ACME

Dr. Sugarbaker is the pre-eminent expert

The physician who will perform my Second-Level Review is required by Colorado Revised Statute 10-16-113.5 to have "direct and current clinical experience with the treatment being requested." Therefore, he will be familiar with Dr. Sugarbaker, and will know that he pioneered this treatment, developed the surgical techniques, established patient selection criteria, and created the methods and standards used today all over the world to treat disseminated abdominal cancers.

In case there is any doubt about Dr. Sugarbaker's pre-eminent position in this field, I quote from his curriculum vitae:

“Dr. Paul Sugarbaker is an internationally recognized oncologic surgeon with expertise in gastrointestinal cancers, liver tumors, mesothelioma and soft tissue sarcomas. Currently, he is

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Director of Surgical Oncology at the Washington Cancer Institute of The Washington Hospital Center, Washington D.C. From 1986-89 he was Director of Surgical Oncology at Emory University School of Medicine in Atlanta, Georgia. From 1976 to 1986 Dr. Sugarbaker was at the National Cancer Institute, Bethesda, Maryland where he was a senior investigator in the Surgery Branch as well as Head of the Colorectal Cancer Section.

After graduating from Cornell University Medical College, he spent nine years in surgical training, that included internship, residency, fellowship and basic surgery research at the Massachusetts General and Peter Bent Brigham Hospitals in Boston. He earned an M.A. degree in Immunology from Harvard University in 1983. Dr. Sugarbaker is a member of numerous academic societies that include the American College of Surgeons, Association for Academic Surgery, American Association of Cancer Research and the International Society of Regional Cancer Therapy, of which he is a founding member. He has appointments on numerous editorial boards that include Journal of Hepato Pancreatico Biliary Surgery, European Journal of Surgical Oncology and the International Journal of Surgical Sciences. Dr. Sugarbaker has authored over 700 scientific articles and chapters. He has developed numerous video presentations demonstrating various surgical techniques. As a recipient of numerous distinguished awards, he has delivered the "Burchenal Lecture" at Memorial Sloan-Kettering Cancer Center and received the E.T. Kremetz Award for Best Research Development in Ulm, Germany. In 1999, Dr. Sugarbaker was awarded a Doctor Honoris Causa from the University of Liege, Belgium."

Dr. Sugarbaker offers a comprehensive, curative treatment plan

We know that Acme's expert reviewer, who is tasked with evaluating the clinical benefit of this treatment for me, will want to see Dr. Sugarbaker's treatment plan.

It is comprehensive, detailed, and grounded in the quantifiable science that Dr. Sugarbaker has developed in the course of performing more than 1500 cytoreductive surgeries over a period of twenty-eight years.

(Att. x, Dr. Sugarbaker's treatment plan)

DR. SUGARBAKER IS AN EXPERT OFTEN USED BY ACME

Acme routinely funds out-of-network treatment with Dr. Sugarbaker

In my request for this treatment, I presented a number of individual cases where Acme had funded out-of-network treatment with Dr. Sugarbaker. I consider this to be an important fact, since I have the same contract with Acme that these other patients have, and all that I ask is the same benefit which Acme has granted to them.

Acme's response to the list of precedent that I submitted with my request:

"Due to privacy laws, we are unable to comment about individual patients who may have received experimental treatment."

I am not asking you to "comment" about individual patients. I am asking you to take this information into consideration, when Acme decides whether or not to grant me the treatment that they have approved for so many patients before.

HIPPA privacy laws were not designed to allow insurers to pretend that they haven't paid for treatments before.

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Acme states that these patients "may have received treatment." No "may" about it. They did receive treatment. I gathered this information from the patients themselves:

1. Sharon Smith (surgery date 9/06)
Diagnosis: mucinous adenocarcinoma of the appendix
Acme (CA) pays for out-of-network treatment with Dr. Sugarbaker and WHC.
2. Laurie Levy (surgery date 10/06)
Diagnosis: disseminated peritoneal adenomucinosis of appendiceal origin
Acme affiliate We Care Health signs single-case contract with Dr. Sugarbaker and pays WHC.
3. John Jensen (surgery date 10/07)
Diagnosis: adenocarcinoma of the appendix
Kaiser affiliate Group Health Cooperative signs single-case contract with Dr. Sugarbaker and pays WHC.
4. Kristin Kerrigan (surgery date 12/16/08)
Diagnosis: carcinoma of the appendix with peritoneal carcinomatosis
Acme (Portland) signs single-case contract with Dr. Sugarbaker and pays WHC.
5. Matthew Miller (surgery date 4/2/09).
Diagnosis: adenocarcinoma of appendiceal origin with peritoneal spread
Acme (CA) signs single-case contract with Dr. Sugarbaker and pays WHC.
6. Amy Andrews (surgery date 8/4/09)
Diagnosis: mucinous adenocarcinoma of the appendix
Acme (CO) signs single-case contract with Dr. Sugarbaker and pays WHC.

Acme Insurance has funded out-of-network treatment with Dr. Sugarbaker for six appendix cancer patients in the past three years. All I ask is the same fine treatment that Acme has extended to these six patients.

There are three parts to your "introduce Dr. Expert" section:

1. Dr. Expert's qualifications
2. The treatment plan
3. The insurance-specific precedent

Dr. Expert's Qualifications

One of my major points in this particular appeal is that the reviewer who denied my first request for the treatment was not qualified to render an opinion on this treatment. So, I take the opportunity to point out that the reviewer who looks at THIS appeal will of course, be familiar with my expert, know how great he is, etc.:

Since the physician performing my Second-Level Review is required by Colorado Revised Statute 10-16-113.5 to have "direct and current clinical experience with the treatment being requested," he or she will be familiar with Dr. Sugarbaker, and know that he pioneered this treatment, developed the surgical techniques, established patient selection criteria, and created the methods and

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standards used today all over the world to treat disseminated abdominal cancers.

Then, I simply retype Dr. Sugarbaker's curriculum vitae, and drop the information into the appeal:

"Dr. Paul Sugarbaker is an internationally recognized oncologic surgeon with expertise in gastrointestinal cancers, liver tumors, mesothelioma and soft tissue sarcomas. Currently, he is Director of Surgical Oncology at the Washington Cancer Institute of The Washington Hospital Center, Washington D.C. From 1986-89 he was Director of Surgical Oncology at Emory University School of Medicine in Atlanta, Georgia. From 1976 to 1986 Dr. Sugarbaker was at the National Cancer Institute, Bethesda, Maryland where he was a senior investigator in the Surgery Branch as well as Head of the Colorectal Cancer Section.

After graduating from Cornell University Medical College, he spent nine years in surgical training, that included internship, residency, fellowship and basic surgery research at the Massachusetts General and Peter Bent Brigham Hospitals in Boston. He earned an M.A. degree in Immunology from Harvard University in 1983. Dr. Sugarbaker is a member of numerous academic societies that include the American College of Surgeons, Association for Academic Surgery, American Association of Cancer Research and the International Society of Regional Cancer Therapy, of which he is a founding member. He has appointments on numerous editorial boards that include Journal of Hepato Pancreatic Biliary Surgery, European Journal of Surgical Oncology and the International Journal of Surgical Sciences. Dr. Sugarbaker has authored over 700 scientific articles and chapters. He has developed numerous video presentations demonstrating various surgical techniques. As a recipient of numerous distinguished awards, he has delivered the "Burchenal Lecture" at Memorial Sloan-Kettering Cancer Center and received the E.T. Kremenz Award for Best Research Development in Ulm, Germany. In 1999, Dr. Sugarbaker was awarded a Doctor Honoris Causa from the University of Liege, Belgium."

Where to find the resume

Whenever I visit a new doctor—or whenever anyone else goes to a doctor—I take a look at their curriculum vitae (resume).

People often ask me, "Where do you find all of these doctors' resumes?"

Nowadays, most doctors have a resume residing on their medical center website. In order to find it, all I have to know is the doctor's name (last name only will do, if it is an uncommon name), and the city where he is located.

Let's say that I am looking for Dr. Gregory Graham in Cincinnati. I simply do a Google search for "dr gregory graham cincinnati." Usually, a search result will pop up that leads me directly to his resume.

What if I don't find him that way? I proceed to my favorite business database website—www.zoominfo.com. I do a People Search for "gregory graham." Then, I browse through the list of Gregory Grahams, until I find my guy.

Zoominfo lists Web references for business people. Where they find these Web references, I do not know. However, I find more resumes, contact phone and fax numbers, and useful information there about doctors and insurance company executives than anywhere else.

What if I don't find him that way? I call the doctor's office, introduce myself politely as a prospective patient, and ask if they would be kind enough to fax me a copy of his curriculum vitae—today.

Your expert's publications

If your doctor's published body of work is impressive—and most of his papers are about the treatment which you are requesting—you may want to include a list of his peer-reviewed medical

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journal articles at this point in your appeal. (See Chapter 8, page 55 for where and how to find medical journal articles.)

I used to do this for my Dr. Sugarbaker appeals. He has published 452 studies and papers, most of them about cytoreductive surgery and HIPEC. The print-out from the NIH medical article database was sixty pages long.

That was probably overkill. Nobody was ever going to look at that much paper, or even to consider it. I find it more effective nowadays to make mention of his "452 peer-reviewed medical journal articles—all through the appeal, over and over again, whenever I can fit it in.

Whatever you do, do not attach full-text articles. First, they aren't going to read them. Second, your goal is to dazzle Acme Insurance with YOUR persuasive prose, not somebody else's. Read the articles, pull out the best quotes, and put them in your appeal.

The Treatment Plan

You must get a treatment plan from your expert-of-choice, and include it in your appeal.

The treatment plan is Dr. Expert's explanation to the insurance company of what he plans to do to you, and what he expects to achieve. The treatment plan is the official document that Acme Insurance considers, when they make a determination about your case.

Of course, I never miss a chance both to call for a qualified reviewer, and to describe my expert's greatness:

Dr. Sugarbaker offers a comprehensive, curative treatment plan

We know that Acme's Expert Reviewer, who is tasked with evaluating the clinical benefit of this treatment for me, will want to see Dr. Sugarbaker's treatment plan. It is comprehensive, detailed, and grounded in the quantifiable science that Dr. Sugarbaker has developed over the past sixteen hundred cytoreductive surgeries that he has performed over the past twenty-eight years.

(Att. x, Dr. Sugarbaker's treatment plan)

Precedent, Round 1

What is precedent? Precedent is cases where insurance companies have paid before.

Precedent is one of the most powerful kinds of proof that you can put in your appeal. If they are claiming that your requested treatment is "Experimental/ Investigational," and you can prove that they have paid for it sixteen times before— sort of shoots a giant hole in that objection, doesn't it.

Same deal if they are denying your treatment because it is out of network, or "Not Medically Necessary." If you can demonstrate with names, dates, and diagnoses that they have paid for the same treatment many times before—you have pretty much taken the wind out of their sails.

It's a matter of contract law. You have a contract with Acme Insurance. It is your responsibility to pay your monthly premiums. Once you have fulfilled your responsibility, it is Acme Insurance's responsibility to provide adequate and appropriate treatment should you become ill.

Those other sixteen people who got the treatment? They have the same contract with Acme Insurance that you do. Acme paid for it for them, now they need to pay for it for you.

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