Nelson Hardiman earns victory over Kaiser in Medicare Part C Administrative Hearing



Administrative Law Judge Sharon Turner ruled in Nelson Hardiman's favor in a Medicare Part C Administrative Hearing against Kaiser Foundation Health Plan before the Office of Medicare Hearing Appeals in Irvine, California. The case involved Kaiser's denial of responsibility for over $300,000 in hospital costs incurred at Cedars-Sinai Medical Center after Kaiser failed to offer a minimally invasive treatment to a patient suffering from severe heart disease who was hospitalized while exploring options at Cedars-Sinai. Although Maximus, the Medicare QIC contractor, had ruled in Kaiser's favor, Judge Turner reversed, holding Kaiser responsible.

In this case, Kaiser had incorrectly advised the patient, who was not an appropriate candidate for open heart surgery, that the only option available was palliative care and that the underlying heart condition was essentially untreatable. The patient subsequently discovered that Kaiser had failed to provide information about the possibility of percutaneous valve replacement, which was being offered at Cedars-Sinai. While the patient was visiting Cedars-Sinai for a consultation, the hospital's Director of Interventional Cardiology and Cardiac Catherterization was concerned and referred the patient to the emergency room, where the patient was diagnosed with a heart attack, leading to hospitalization, angioplasty, and valvuloplasty.

Although Cedars-Sinai physicians saved the patient's life, Kaiser, the Medicare Advantage (Part C) contractor, denied financial responsibility. Maximus, the QIC contractor for Medicare Part C, sided with Kaiser, holding the patient and Cedars-Sinai responsible. Nelson Hardiman then appealed to the Office of Medicare Hearing Appeals, arguing that Kaiser should bear financial responsibility. After a full-day hearing, Administrative Law Judge Sharon Turner agreed. "It is fitting that Kaiser should bear responsibility when its patients are forced to look elsewhere for good care," said Nelson Hardiman managing partner Harry Nelson. "We hope that this case will remind Kaiser that informed consent means patients need to be informed not only of risks and benefits, but of alternatives."