

Lawyer, Judge Get Treatment For Girl

SALUD Told To Pay For Cancer Therapy

BY BRUCE DANIELS

Journal Staff Writer

Thanks to a lawyer who let his fingers do the walking through a phone book and a judge who gave up part of his Memorial Day holiday, a 12-year-old Albuquerque girl is receiving what could be life-saving treatment at a Cincinnati hospital.

Doctors for Teyerra Rael, who was diagnosed last fall with acute myelogenous leukemia, asked Presbyterian's Medicaid managed-care program SALUD last week to pay for a cancer therapy known as CMA-676 at the Children's Medical Center Hospital in Cincinnati.

The request was turned down late Friday because it was "experimental."

The girl, who turned 12 on Tuesday, had been treated with conventional chemotherapy treatments at the University of New Mexico Children's Hospital but has been unable to stay in remission.

According to an emergency petition filed in state District Court by lawyer Michael J. Cadigan, only if Teyerra's leukemia were in sustained remission could she get a needed a stem cell bone marrow transplant.

Meanwhile, according to the petition, doctors at the Ohio hospital offered to provide Teyerra with the "purportedly experimental" treatment that has successfully induced sustained remission at only half the hospital's usual cost, \$39,000.

Teyerra's mother, Nanette Holm, is a single parent, has been unable to work because of her daughter's illness and her sole source of income is Social Security payments, said the petition.

See LEUKEMIA on PAGE A12

Leukemia Patient Gets Help

from PAGE A1

Presbyterian SALUD was asked May 25 to pay for the treatment in Cincinnati, according to the petition.

But the request was turned down at 4:31 p.m. Friday, just 29 minutes before the Memorial Day weekend, wrote Cadigan.

"The timing of the denial, combined with the urgent and critical nature of (Tieyerra's) case made it impossible to take advantage" of Presbyterian SALUD's grievance procedures, the petition said.

The girl is "extremely ill and should have been transported to Cincinnati" on Friday, Cadigan wrote.

"Her leukemia is extremely aggressive, and each hour brings her closer to death," the petition said.

Cadigan said in a telephone interview Thursday he was told of SALUD's denial Sunday afternoon by a social worker at UNM Hospital.

"I don't know any judges personally," said Cadigan, who said he spent Sunday afternoon going through the phone book for judges' home numbers.

Unable to reach any civil-division judges, he finally reached

Judge James F. Blackmer, a criminal-division judge, who was on his way to perform a wedding.

Blackmer agreed to hold an emergency hearing on Memorial Day morning.

After a 2½-hour hearing Monday, Blackmer granted the petition, temporarily restraining Presbyterian SALUD from denying a request for treatment at the Ohio hospital. He ordered SALUD to pay the costs of treatment.

Tieyerra and her mother were immediately flown to Cincinnati.

Holm was reached by phone Thursday in the hospital room where she is staying round-the-clock as her daughter undergoes treatment.

Tieyerra is "still in fair condition," but started her treatment Thursday, said Holm. She said the treatment could last about 30 days.

"We still have a long road ahead," she said. "I'm just praying this treatment will work."

Holm said she was overwhelmed by Blackmer's decision on Monday to allow the treatment.

"I feel he did make the right decision," she said. "I feel personally that (SALUD) should never deny any child treatment, even if it is experimental."

Erika Campos, a spokeswoman for Presbyterian Hospital, said

Thursday, "Of course, we'll do whatever we can as a system to make sure that New Mexicans get the health care they need."

But, she said, under the rules set for Medicaid managed care by the state Human Services Department's medical assistance division, "we are not allowed to pay for experimental treatment."

Cadigan said in an interview Thursday that SALUD's refusal was based on a "misinterpretation" of the state regulations.

"The way this is being applied violates the Americans With Disabilities Act," Cadigan said.

"There is a certain group of children who can only be treated 'experimentally,'" he added.

"What was the day" at Monday's hearing, said Cadigan, was a section of the New Mexico administrative code that "defined 'experimental' differently."

Blackmer agreed and granted a 10-day temporary restraining order, but he also found that SALUD hadn't acted in "bad faith," as Cadigan alleged, by turning down the request just before the Memorial Day weekend.

The case now goes to civil-division Judge Susan Conway, who must hold a hearing in the next week on whether to make the temporary order permanent.