



**The
Blizzard!**

TIME

SPECIAL INVESTIGATION

What Your Doctor Can't Tell You

An in-depth look
at managed care—
and one woman's
fight to survive





THE SOUL OF AN

Managed care is certainly bringing down America's medical costs, but it is question of whether patients, especially those with severe illnesses, can still



ALAN DEMEURERS and his children Michelle and Jeffrey helped raise money for Christy's treatment

HMO

also raising the trust their doctors

By ERIK LARSON LOS ANGELES

ALAN DEMEURERS RECALLS IT VIVIDLY AS ONE BRIGHT moment in a succession of dark days. "I remember exactly where we were sitting," he says. His wife Christine had by then been found to have metastatic breast cancer and believed her only hope was to undergo a costly new kind of therapy that involves the harvest and retransplant of her own bone marrow—high-wire medicine occupying what one of her physicians calls "the twilight zone between promising and unproven treatments."

It is a measure of just how bleak those days were that this gleaming instant came when Alan at last read the thick contract from their health plan, Health Net of Woodland Hills, California. Like most Americans enrolled in such plans, the couple had never studied the document. Now, however, the specifics had become a matter of vital interest. "Good news," Alan announced from his end of the family sofa in Murietta, California. "It's covered."

And so for the deMeurerses began a three-year encounter with "managed health care" and the powerful forces that are fast reshaping the culture and practice of medicine in America—not just cutting costs but changing in a fundamental way how doctors view patients, and perhaps how patients should now view doctors. In a three-month investigation, *TIME* chronicled Christy deMeurers' journey, but also the parallel, interlocking story of Health

Net, one very prosperous company in the Southern California market, a hotbed of managed care that offers a living demonstration of what's likely to occur everywhere else as the new medicine continues its rapid advance. Taken together, the two stories provide a look deep inside the psyche of a managed-care company that is typical of the hundreds blooming and merging throughout the nation. These organizations have jettisoned the old Marcus Welby-style medicine for something entirely new, in which doctors become "gatekeepers," patients become "covered lives" and remote managers decide who gets treatment and who doesn't.

"It's a paradigm shift," says William Popik, Health Net's chief medical officer.

THE PATIENT



CHRISTY DEMEURERS fought hard for care

"It's a shift that has taken place a lot more quickly than patients are ready for—that's absolutely true. What's shifting is, patients can't drive it anymore; patients can't decide, 'My ear hurts, so I'm going to go to the doctor today.'"

Prodded by large companies fed up with rising medical costs, the new medicine's entrepreneurs have turned health care into a corporate battlefield increasingly governed by the promise of stock

market wealth, incentives that reward minimal care and a brand of aggressive competition alien to front-line doctors for whom dressing for success still means wearing khakis and a lab coat.

No one disputes that managed care has at last put the brakes on medical spending, or that it has proved an effective vehicle for rationing health care, a profoundly sensitive subject in a culture raised on the notion that even the most expensive and esoteric treatments should be available to all. At issue, rather, are the costs of the process itself—the effort and delay inherent in acquiring care and the extent to which considerations other than mere health are brought to bear by corporate managers who must approve even

such minor procedures as blood tests and mammograms. Yet the most fundamental question raised by the new medicine is one largely missing from public debate: Can you still trust your doctor?

"I think this system is robbing physicians of their essential goodness," says Dr. Roy B. Jones, a University of Colorado bone-marrow-transplant specialist who saw Christy deMeurers during her journey. "I think physicians are slanting the opinions they give based upon monetary considerations that in many cases they wouldn't have allowed to influence them before." Vincent Riccardi, a neurologist and expert on "Elephant Man" disease, says the issue of trust in California is already moot. He has gone so far as to establish a company, American Medical Consumers, that plans one day to dispatch "personal medical advocates" to negotiate for care on behalf of patients. People must be willing to confront their doctors, he says. "Since the trust is already gone, why not? You've got nothing to lose."

The matter of trust becomes especially

What you don't know, they don't want you to know."

Alan deMeurers became a Health Net subscriber in February 1989, when he began teaching kindergarten in Lake Elsinore, California, southeast of Los Angeles. Christy, formerly a K Mart manager, also became a teacher there in July 1992 and also chose Health Net, the least expensive of three options. They paid little attention to the nitty-gritty details of the plan. Alan says he did not even receive a copy of the full contract until well after signing. And when it did arrive, he says, "I just threw it in a pile with all the other papers."

In choosing Health Net, the deMeurers selected neither the best health maintenance organization in America nor the worst, at least according to the primitive "report cards" just now becoming available. Indeed, debate within the industry and among consumer advocates rages over how even to define quality, especially since no valid measure yet exists to show which plans actually produce healthier people. Instead, companies tout their ability to satisfy voluntary standards. Last month, for example, Health Net received a one-year accreditation from the National Committee for Quality Assurance, an industry group whose blessings are coveted by health plans around the country.

Last year an N.C.Q.A. report card

in that case awarded the Fox family \$89.1 million, later negotiated down to an undisclosed sum.

Illness of that magnitude, however, was about the last thing the deMeurers worried about. Like the vast majority of Americans at any one moment, the deMeurers weren't sick and didn't expect to get sick. Alan signed at 27, Christy at 32; their two children were young and healthy. This was insurance, something for a rainy day. They selected a medical practice—the Rancho Canyon Medical Group in Temecula, California—from a roster of those in Health Net's network. "We just wanted some basic protection," Alan says. "We were all very healthy people."

In late August, less than two months after she had signed with Health Net, Christy discovered a lump in her left breast.

Health Net began life as an experiment that worked too well, much to the delight of Roger Greaves, its chief from 1982 until last year. The company was launched in 1979 by Blue Cross of Southern California, which dispatched Greaves, a vice president, to run the company. In his first year Health Net made \$17,000; the next, \$17 million. It was so prosperous that Blue Cross in 1984 tried to seize its bank accounts, forcing Greaves to file a lawsuit in which he proved the company was a free-standing satellite.

THE FOUNDER



ROGER GREAVES favored billboards with slogans such as "Well, Well, Well"

vital for patients such as Christy deMeurers, unlucky enough to find themselves traveling the netherworld of extreme illness, where hope and trust may be all a doctor has to offer. When they're missing, "you feel just strangled," says Christy's mother, Joyce Nesmith, who lives in Oregon. "It's a secret-society type of thing.

The "cancer" that concerned Greaves most was a lawsuit to force a merger: in the end, the deal made him rich

found that 86.7% of Health Net's members rated the plan good to excellent, slightly below the mean for the 21 large plans surveyed. On specific measures that the organization believes reflect a plan's quality, such as how often it provides mammograms, Health Net tended to rank at the mean or just below, but lagged sharply in providing prenatal care for mothers and retinal screens for diabetics—the kind of preventive care at which managed-care companies are supposed to excel. The report card also showed that Health Net spent less on medical care than most of the other plans surveyed and more on marketing, salaries and other administrative expenses. The company is known among California doctors as one of the most aggressively cost conscious in the state, a reputation that stems in part from an earlier attempt to deny a bone-marrow transplant to a subscriber named Nelene Fox, who by coincidence lived just minutes from the deMeurers. The jury

Health Net is typical of "network-model" HMOs that contract with large medical groups and networks of physicians—called Independent Practice Associations—to provide the actual medical care. New subscribers choose or are assigned to a particular medical group, and in turn choose a "primary care provider" or "gatekeeper" who controls access to other services and outside specialists. Even his or her recommendations often must be approved by the group's own utilization-review managers or by Health Net.

Health Net collects premium dollars from employers and reserves money for its own profit, salaries, bonuses, marketing and administrative costs, as well as for two special reserve pools to pay for AIDS care and all transplants, including bone-marrow transplants. Last year alone it collected over \$2 billion in monthly payments from 1.2 million subscribers.

The company pays its medical groups and some hospitals a set monthly fee for

every subscriber assigned to their practices or likely to be admitted to their wards—a system known as capitation. Typically the doctors' groups hold back a percentage of this revenue to cover their operating costs and produce a profit. They in turn pay their primary-care physicians a set capitation fee and further negotiate capitation contracts with an array of specialists, such as cardiologists and ophthalmologists. Every time a capitated doctor performs a service or admits a patient to the hospital, it cuts into his income. If he spends less than the capitated rate, he pockets the difference; if he spends more, he eats the losses or recoups them through "reinsurance" policies sold by Health Net and others.

One result of widespread capitation in California is that specialists, hospitals and research centers have found their incomes slashed—great news for employers such as Chevron and Bank of America. A recent

evolved into something Dr. Ossorio says he had not anticipated. He wound up on the front lines, making coverage decisions on specific, sensitive cases. "I hated that job," he says. "I didn't get hired for that job. I never want to do it again."

Yet one of Health Net's managers, Janice Bosworth, learned firsthand how vigilant Dr. Ossorio could be. She was 31 when she discovered that her breast cancer had spread to her liver. Her oncologist, Gary Davidson, suggested she consider an evaluation at Duke University, a leader in using transplants to fight breast cancer. Even Bosworth, with her insider's knowledge of company policies, believed transplants were covered.

When a coworker invited her upstairs to meet the new associate medical director, she agreed, "so that he would look at me as a person and not just a stat on a piece of paper," she testified, while serving as a witness in the Nelene Fox civil suit. As

urged her to see a leading bone-marrow transplant at the University of Colorado, Roy B. Jones, but the deMeurseres decided to play by the book. They drove to La Jolla the following Monday.

Dr. Gupta, reviewing his notes on the case, says Dr. McMillan agreed Christy was a candidate for a transplant but said she

"It's a Darwinian world," Dr. Hasan told the UCLA doctors, sending shock waves through the august research facility

survey of 376 HMOs found that from 1994 to 1995 the premiums charged by HMOs actually declined, with the number of days members spent in the hospital shrinking nearly 13%, from 315 per 1,000 members to 275. The average last year in Los Angeles was 204, clear evidence of how managed care now dominates the region.

But consumer advocates say the new medicine has replaced the admittedly flawed fee-for-service system with something even more perverse. Capitation by definition places the interests of doctor and patient in conflict, they argue. "Understand, every time a patient comes into the doctor's office it's a liability, not an asset—because he's on a fixed income," says David Robinson, hired in 1989 to serve as a primary-care physician for Rancho Canyon, the deMeurseres' medical group.

The system troubled him, he says. He would request what he believed were necessary tests and referrals, only to have them countermanded by utilization-review managers. He recalls requesting a CAT scan for a boy who had experienced seizures and occasional losses of consciousness, possible warnings of a brain tumor, only to have his request denied. He grew so dissatisfied that he left the practice two years later, resolving to see only fee-for-service patients.

The year Robinson left, Health Net hired a new associate medical director, Dr. Clifford Ossorio, ostensibly to develop quality-control systems. But the job

Bosworth and her colleague waited outside Ossorio's office, they overheard him speaking angrily on the phone. "How did she find out about Duke? I'm going to have to call them... Maybe Gary told her. I'm going to have to call him too."

That he was talking about her case was bad enough. But it was his voice, cold and without compassion, that chilled her. "I was just shaking," she testified. "I was so upset, I was just shaking."

At first things moved quickly for Christine deMeurseres. She endured a radical mastectomy, radiation therapy and a round of chemotherapy that ended in March 1993, the month Health Net proposed five new billboards, including one that showed a young mother holding her child, with the slogan **WHEN YOU'VE GOT YOUR HEALTH NET, YOU'VE GOT EVERYTHING.**

In May, Christy underwent a bone scan, which showed her cancer had spread; her disease was now classified as Stage IV metastatic breast cancer. Given the standard therapies available, it was a death sentence, but her oncologist, Dr. Mahesh Gupta, warmly assured her there was hope. He recommended she consider a bone-marrow transplant and, in a breach of Health Net procedure, skipped the usual channels for making referrals and arranged a consultation with a physician he knew, Dr. Robert McMillan, an oncologist at the Scripps Clinic in La Jolla. Christy's sister, living in Colorado, had



MALIK HASAN, CEO of Health Net's parent, made Greaves an offer he couldn't refuse

would first have to undergo several cycles of chemotherapy to demonstrate that her tumor would respond to the potent drugs used in bone-marrow therapy. In the deMeurseres' eyes, however, it was a deeply troubling encounter. Dr. McMillan declined even to describe what was involved in a bone-marrow transplant or give the family a tour of the Scripps facilities, according to Alan deMeurseres and Christy's mother, Joyce Nesmith. "I believe he was told to send us away, make it as discouraging as possible," Alan says. He found the doctor's reluctance to provide even basic information "just unbelievable."

Dr. McMillan, in a written reply to questions faxed to him by TIME, stated that rules governing patient-doctor confidentiality barred him from discussing specifics of the encounter. He wrote, "At no time, either prior to her visit or following her visit, did I discuss her case with Health Net."

Whether justified or not in their fears, the deMeurseres by now had grown deeply distrustful. They were keenly aware that Christy was dying and that every day wast-

ed was one more day in which the cancer cells in her body could divide and spread. Just hours after their appointment with Dr. McMillan, they flew to Denver; they saw Dr. Roy B. Jones the next day.

It is here in the realm of leading-edge medical technology that the culture clash between the new medicine and the old becomes most evident. The new medicine, by its nature, abhors complexity and innovation. Health Net, for example, won't cover any treatment it deems to be experimental or investigative, even though its contract with MediCal, California's Medicaid program, does cover visits to acupuncturists

didn't like having to give that advice, but it's another rock and a hard place."

The company fears too that in a market such as California, spending on research would create a competitive disadvantage. "One thing I have to insist on as a company is a level playing field," says Health Net's Dr. Popik. "I can't afford to pay for it if my competitors won't pay for it. If you want to do it through a tax, that's fine."

Under the old medicine, research hospitals paid for clinical research through billing surpluses; grants from the National Institutes of Health tended to pay only for big-ticket basic science. Colorado's Dr. Jones accuses HMOs of placing medicine in a double bind. "Is it reasonable," he asks, "for an insurer to demand the gold standard of proof and simultaneously refuse to pay for patients to enter a trial to get that level of proof?" Dr. Jones is convinced that women who once would have come to him for a transplant aren't coming because their doctors, operating under tight managed-care

probably become "prevailing practice among practitioners, providers and payers."

Dr. Knapp told TAG's project director, Janna Lee Smithey, he was "very disappointed" in the report, she testified in the 1993 civil trial. When she asked him why, he replied, "Because you didn't tell me it was experimental." He said it in a joking way, but in fact the report had perturbed Dr. Knapp, who stated in his own deposition that the report's data did not support its conclusions; he recalled raising "a little hell about it." The report apparently was never circulated very widely. In depositions last year, both Dr. Ossorio and Dr. Sam Ho, by then Health Net's medical director, stated that they had never seen it and knew nothing of its findings.

On June 8, 1993, the day the deMeurers met with Dr. Jones in Denver, Health Net, with Dr. Ossorio's support, formally decided the company would not cover a transplant for Christy on grounds that it was excluded under the investigational clause of her contract.

THE MEDICAL DIRECTOR



WILLIAM POPIK, Health Net's medical director, leads the drive to cut costs

and faith healers. Like other HMOs, it spends nothing on research to hunt for new treatments for disease. In fact, it feels bound by law and competition to avoid such research.

Recently, for instance, Health Net rejected a proposal to set aside money to study ovarian cancer, arguing that such an investment might leave the company vulnerable to a charge under the Americans with Disabilities Act that it was discriminating against people with other diseases. "If we put money into ovarian-cancer research and word gets out, then it isn't going to be long before AIDS groups or prostate-cancer groups start having a field day," says Lyle Swallow, Health Net's cheerful associate vice president for legal services. "I

Health Net refuses to finance cutting-edge cancer research. "I can't pay for it if my competitors won't pay for it," says Popik

cost guidelines, aren't telling them that transplants are a medical option. "You put yourself in a position where you don't discuss it, or else discuss it and, worse yet, indicate that all the data is negative or that there is not a significant amount of data about this, I think you've irreparably damaged the very thing that makes you as a physician so valuable to patients."

Dr. Popik sees it a bit differently. "What should happen," he says, "is that a physician shouldn't create an expectation for a patient. Because once that expectation is completed, you start a process that is extremely difficult to change." He adds, "There are other ways to give people hope. And that's the paradigm shift."

When Dr. Jones examined Christy deMeurers, he believed a transplant could help her. "The available proof for its efficacy in breast cancer was at least equivalent to many other procedures that we do every day," he says. As early as 1990, even Health Net had found evidence that bone-marrow transplants might become a standard weapon against breast cancer. That year the company's then chief medical officer, Dr. Leonard Knapp, ordered a study by Technology Assessment Group of San Francisco to evaluate the treatment. The report, however, didn't reach the conclusion he had hoped for. It found that 3 out of 4 insurers paid for such treatments and, moreover, that by 1991 transplants would

A week later, Christy, accompanied by her mother, returned to Dr. Gupta, whom they still viewed as a beacon of warmth. "There's lots of hope, lots of things to do," Nesmith recalls his saying. Christy, dissatisfied with her reception at Scripps and reluctant to undergo months of treatment away from home, wanted a referral for a second local evaluation, this time at UCLA. Dr. Gupta agreed to make such a recommendation in writing, says Nesmith. He told Christy and her mother to go somewhere for lunch and then come back; the letter would be ready.

They returned to find a very different man. Suddenly, Nesmith recalls, "we were like a piece of rock. There was a total 180° turn." Dr. Gupta, his demeanor gone cold, now said he was not qualified to make recommendations for a transplant.

Christy insisted that he explain his change of heart. "And he became very incensed and got up and walked out of the office without further commenting or anything," Alan deMeurers said in a deposition last May. Says Nesmith: "It was just such a devastating thing to know that he'd said yes, this was the way to go, then two hours later have him change his mind."

Dr. Gupta confirms he saw Christy that day but says he does not recall this aspect of their encounter. He did not in fact have the authority to make such referrals, he says; these can only be made by a patient's

primary-care physician. Asked why, then, he felt empowered to make the first referral to Dr. McMillan at Scripps, he says, "I knew those people one-to-one."

Christy petitioned her medical group, Rancho Canyon, for a different oncologist. By now the deMeurers had decided to get the treatment any way they could. They made plans to begin raising money through appeals to friends and the public. "As grateful as we were," Alan says, "it was absolutely humiliating to have to ask for it."

Roger Greaves, Health Net's chief executive, was fighting a battle of his own against what he calls the "cancer" of a tactical lawsuit. His company had drawn the attention of Dr. Malik M. Hasan, founder and chief executive officer of QualMed, a Pueblo, Colorado, managed-care company that owned an HMO that competed against Health Net in Northern California. To best grasp Hasan's delight in bold business maneuvers, one need only know that as a young medical student in Pakistan in the late 1950s he made roughly \$10 million selling land along the anticipated rights of way of new highways revealed to him by a patient who happened to be a public-works surveyor. Dr. Hasan, a neurologist, says he was once "rabidly anti-managed care." He built his first HMO to counter a health plan that moved into Pueblo and sapped revenue from the city's specialists. But suddenly he saw opportunity in the new medicine. Over the next few years he created a robust managed-care empire by acquiring ailing

fornia. After all, Dr. Hasan himself was willing to bid far more.

Dr. Hasan, in his Pueblo office—a cavern of polished wood, purple curtains and gleaming chandeliers—concedes that his primary motivation was to force Greaves into a merger, but second, if Greaves still refused, to force Health Net to pay far more into its shadow foundation and thereby reduce the capital it could deploy against QualMed's own California operations. As long as Dr. Hasan pressed the lawsuit, Greaves knew, Health Net had no hope of going public. "It was devastating to us," Greaves says. "My name was in the paper every day as a bad guy, a villain."

Figuring he at least should hear Dr. Hasan's pitch, Greaves met him in April 1993. Health Net was thriving. The year before, Greaves had made a base salary of \$658,713 and a bonus of \$815,000. Additional pay, including nearly \$300,000 from a long-term incentive plan, boosted his total compensation to \$1.9 million.

Yet Greaves began to like Hasan's plan. For one thing, it would allow Health Net to go public instantly, using the already public QualMed as a vehicle. The merger would also create an eight-state network and give both companies an edge in the rush toward consolidation, a fundamental imperative of the new medicine.

The merger also promised a more personal benefit. Under the old medicine, says Dr. Hasan, "the idea was, you don't go into the health-care business to get rich. But that system was very inefficient." Now the reverse is true, he argues. When he took his company public, his holdings became

Christy's lawyer had a personal interest: Health Net also denied a transplant to his sister, for which he won a huge settlement

health plans—one company paid him \$2.5 million to take a plan off its hands—and, through tightfisted management, quickly turning them into cash machines.

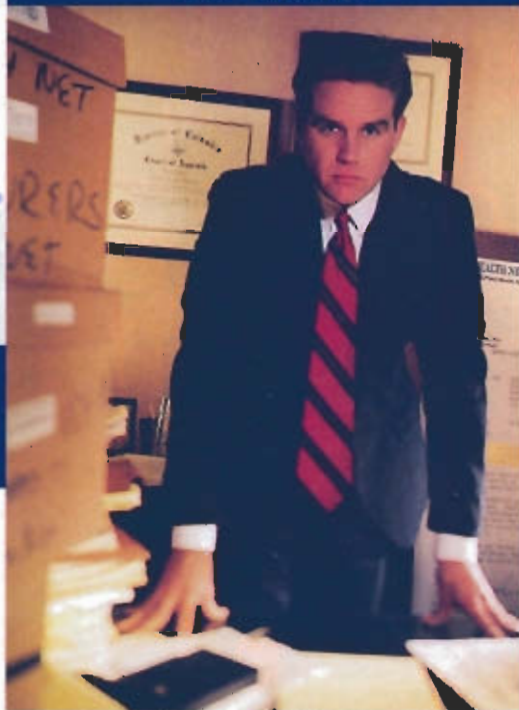
Dr. Hasan offered to acquire Health Net, but Greaves wasn't interested. He was about to convert Health Net into a for-profit company, a process that under California law required Health Net to establish an independent, nonprofit foundation and fund it with an amount equal to the company's fair market value—a way of paying back the state for all the taxes the company had avoided as a nonprofit. Conversion would pave the way for going public. In a tactical maneuver, Dr. Hasan filed a lawsuit to block the conversion, charging that Greaves had undervalued the company's net worth and cheated the people of Cali-

worth \$150 million. "We all got very rich," he says, his delight bubbling out in a chuckle. The prospect of such wealth, Dr. Hasan argues, helped managed-care companies draw the best executives, who in turn applied corporate stratagems to compel doctors to become more efficient. "It's no longer a gentleman's club," he says. "And I see that as a very positive development." A merger with QualMed would make Greaves a very wealthy man.

Christy deMeurers at last won approval to see a new oncologist, Stanley Schinke, and met him for the first time on June 21, 1993. She liked him instantly. "He and Dr. Jones were the only physicians up to this point who made us feel welcome," Alan deMeurers says.

Like virtually every doctor in California, Dr. Schinke has seen his practice change rapidly. In 1990 he didn't have a single capitated contract with an HMO. Today capitation governs half his practice. So far, he says, he has not felt pressed to scrimp on care but is worried that managed care is eroding satisfaction with the process of medicine, especially among patients with complex and emotionally wrenching diseases such as cancer. The inability to get things done quickly can be "horrendous," he says. Recently he needed three or four weeks of effort—"I'm calling every few days, my receptionist is calling, the family is getting nervous"—just to get a leukemia patient an evaluation at an advanced research center. "That's a big difference now," he says. "Patients five years ago didn't have to jump up and down and scream and say, 'I really want this treatment, please get me this referral, what's taking so long?' That never happened. You had a patient advocate in your doctor when you hit the doctor's door."

THE LAWYER



MARK HIEPLER became Christy's fiercest advocate, using the law to force treatment

Dr. Schinke examined Christy and agreed she ought to consider a bone-marrow transplant. At the least it might provide a period free of disease and debilitating chemotherapy. He suggested she get an evaluation at the UCLA Medical Center. To Dr. Schinke, whether Health Net would pay was a side issue. "When the patient comes to me, I'm still going to tell them

about what I think may help," he says. "That's the ethical thing to do."

Health Net's Dr. Ho called Dr. Schinke, who in a deposition and interview says he found the call coercive. "I didn't understand an administrator calling up and in an abrupt tone saying, 'Why in the world, what was your thinking, why are you recommending this patient consider such an option?'" But Dr. Ho, now with another HMO, says the call was "simply to remind him" that a transplant in a case like deMeurers' "is not indicated."

The deMeurerses, meanwhile, had grown so distrustful that they decided not to tell UCLA that Christy was a Health Net subscriber. Says Alan: "We wanted to find out what your average citizen would learn without insurance." Christy got an appointment to see Dr. John Glaspy, an oncologist who prides himself on being a fierce patient advocate. "They were suspicious, and they were in pain. Psychic pain," says Dr. Glaspy. Still, he says, "the first step in our relationship was a lie. There really isn't any other way to put it."

Glaspy had voted in favor of coverage but nonetheless had agreed to uphold the committee guidelines.

The old medicine and the new were locked on a collision course.

One index of the angst stirred in California by the rapid advance of managed care is the fact that a March 1995 visit to UCLA by Dr. Hasan has since become legend, embellished with accounts of Dr. Hasan's pulling up in a vast white limousine. The doctor insists that he arranged the visit merely to get acquainted. But given that he controls the flow of 1.2 million patients, or "covered lives," throughout California, perhaps UCLA officials can be forgiven for reading between the lines.

With many hospitals in Southern California now losing money and desperate for patients, HMOs possess great power, direct and implied, to dictate rates and treatment policies. Health Net's contracts reinforce this sense of vulnerability. The stated term of virtually all their contracts is one year. The contracts do contain automatic-renewal clauses, but Health Net can also cancel them at will simply by giving 90 to 120 days' notice. If Health Net does decide to cancel a contract, it can exercise another clause that allows it to reduce sharply the flow of capitation revenue well before the notice period ends.

In reality, says Andrew B. Leeka, chief

and the new for-profit incarnation of Blue Cross of California. The merger collapsed last month.)

"I said it with a smile," he says mildly. "It wasn't meant as a threat." He simply hoped to convey his belief that the center could be far more efficient. He told the group he did not buy UCLA's argument that because it must train new doctors and handle more severe cases it should be paid more than other hospitals. Perhaps, he mused, the center really ought to receive less, given its pool of cheap labor: its interns and residents. "This is a Darwinian world," he said. "Don't forget it." The meeting, especially the Darwin remark, sent shock waves through UCLA.

Dr. Hasan offers a contrite smile. "Maybe I should make it clearer to them how patently I am devoted to those centers of excellence." And by the way, he notes, "it was a Lincoln Town Car."

Nonetheless, within two months of Dr. Hasan's meeting, depositions taken in the deMeurerses' legal battle against Health Net would raise the question, Just how much power does the company truly possess? In the new medicine, can a big HMO dictate medical decisions even at an institution as lofty as UCLA?

When Dr. Glaspy met Christy for the first time on June 25, 1993, he found a woman in reasonably good physical shape, except

Running afoul of a health plan can be costly. Says Leeka: "We have lost contracts because we act as the patient's advocate"

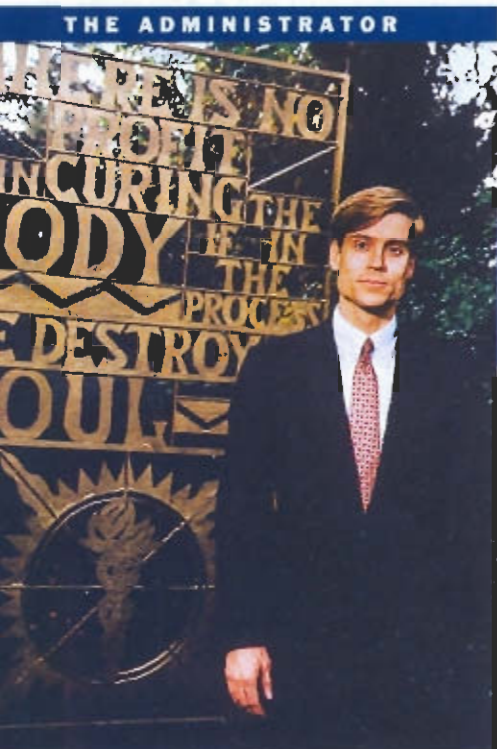
operating officer at City of Hope, a major cancer center outside Los Angeles, "contracts with managed-care companies aren't for a year or two years, they're for 30 days or 60 days." Running afoul of a health plan's guidelines can be costly but necessary, he says. "I can tell you from experience we have lost contracts because we act as the patient's advocate."

Contract cancellations are rare—last year Health Net canceled only two contracts with medical groups—but they stand as warnings to maverick providers. On occasion UCLA has absorbed the cost of major treatments disputed by an HMO simply to preserve contractual relations, says Francine Chapman, in charge of negotiating its managed-care contracts. It could not have been very reassuring, therefore, when one of Dr. Hasan's first remarks at the UCLA meeting was, "I came here intending to give you hell, but I am in too good a mood." (He attributed his mood to the then planned merger of Health Net

for the fact that she was dying of breast cancer. The deMeurerses, in turn, saw Dr. Glaspy as warm, confident and low key, and—unlike Dr. McMillan at Scripps—open with information.

Dr. Glaspy, still unaware that Christy was a Health Net subscriber, agreed that a transplant was an option. If she wanted it, he said, she could have it. "In the part of medicine where there are uncertainties," Dr. Glaspy says, "I think we have a sacred responsibility to explain those uncertainties to patients, and we also should allow them to use their values and where they're coming from to pick among the treatment options that are rational." He could not wholeheartedly recommend a transplant in her case, he says, but a transplant "was on the rational list." First, however, she had to undergo the initial chemotherapy to test the responsiveness of her cancer. Dr. Schinke, using drugs recommended by Dr. Glaspy, began the cycle.

By now the deMeurerses had hired an



ANDREW LEEKA, of City of Hope cancer center, bristles at some contract provisions

Christy, in turn, had no way of knowing that Dr. Glaspy was a member of a Health Net committee convened earlier that year to decide once and for all when bone-marrow transplants would be covered—or that this committee already had voted to deny payments for patients with Christy's level of disease. Or that Dr.

attorney, Mark Hiepler, then preparing for trial against Health Net on behalf of his client Nelene Fox—his sister. For the deMeurerses, he mailed a detailed appeal to Health Net urging the company to reconsider its denial and presenting evidence that the treatment was widely accepted by cancer experts.

The appeal wound up on the desk of Dr. Ossorio, who again denied coverage. The deMeurerses, committed now to getting the transplant by any means necessary, launched a two-pronged attack: they authorized Hiepler to pursue an injunction to compel Health Net to pay for the treatment; and they began fund raising in earnest. Christy's sister organized a formal dinner in Boulder, Colorado; friends and colleagues arranged a school talent show. The deMeurerses' daughter Michelle, then eight years old, took a piece of loose-leaf

learned that Christy was a Health Net subscriber, found himself walking the fault line between the old medicine and the new. The dimensions of his conflict became clear on Thursday, Sept. 9.

That morning, in his old-medicine role as advocate, he signed a legal declaration "in support" of Christy's fight for an injunction. At 3 o'clock that afternoon, wearing his new-medicine hat, he and two UCLA colleagues met with other oncologists and Health Net officials at the Hyatt Hotel near Los Angeles International Airport for another meeting of the company's bone-marrow committee.

A tape recording of the meeting shows the extent to which business and medicine have become entangled in California, and raises the question, When does a patient's insurer determine the range of options a patient is allowed to consider? The ques-

want to be clear about this. This is not a Utopian society that everybody can be everything to all people and paid for by somebody else. We have fiduciary responsibilities to our employers to the tune of about \$1.5 billion worth of premiums paid to us every year to manage their health-

By not mentioning Health Net, Dr. Glaspy felt, Christy had deceived him. "The first step in our relationship was a lie"

paper and with shaky precision wrote her own advertisement for a yard sale. The sign said, MONEY GOES TO A MOTHER WITH BREAST CANCER.

On Aug. 28, Health Net's Greaves and QualMed's Hasan formally agreed to merge their companies. The merger triggered a "termination agreement" under which Greaves would receive a lump-sum payment of \$1.1 million because technically he had been terminated from his former positions—even though he became co-chairman and co-chief executive of the parent of the merged companies, Health Systems International, a job that paid a base salary of \$865,000. "I gave up my sole authority as president, chairman and CEO," says Greaves, "and my contract said if that happens you get paid out your contract. So as any businessman would—anybody would—I exercised my rights." In 1994, when the merger took effect, his income, including the termination payment, bonuses and base salary, would total \$3.2 million.

One week after the merger pact was signed, after a bone scan found that Christy had indeed responded to the initial chemotherapy, the deMeurerses signed an agreement of their own with UCLA, promising to pay up front the full cost of the treatment: \$92,000, an amount equal to 0.08% of the \$11.7 million that Health Net had accumulated in its transplant pool by the end of 1993.

Suddenly Dr. Glaspy, who by now had

tion was asked directly by one of Dr. Glaspy's colleagues, Dr. Peter Rosen. "I guess I'm not quite understanding something," he said, as the meeting gained heat. "If you know someone's a Health Net patient, do you talk to them differently than if they're somebody else?"

The talk at the meeting quickly turned to the matter of patient deception. "The biggest problem," Glaspy told the Health Net officials present, "is when they come to a center and they don't come with a pre-call from you, so we don't know who they are, and we don't know they're from Health Net." Alluding to Christine deMeurers, he said, "We had one of those where that was the problem."

Ossorio argued that the best way to avoid the problem was to make sure all Health Net oncologists received the "grid" that set out specifically what the network would and would not cover. Most of the network's doctors were "pretty comfortable" with it, he said.

But the fact was, some oncologists at the meeting had done transplants for advanced breast cancer. "We have a protocol to treat breast cancer," UCLA's Rosen said. The panel, he cautioned, had agreed only that such transplants should not be covered as a general rule. "That didn't mean we necessarily have all agreed that this is a worthless thing to be doing," he said. "I think that could be a real problem."

At one point, Health Net's Dr. Ho seemed to lose patience with the doctors' ambivalence. "Each of these issues—I just



JOHN GLASPY, a UCLA oncologist, found himself caught between two obligations

care premium dollars responsibly ... because in general, insurance and payers and physicians have been ineffective in holding that fiduciary responsibility."

But some doctors in the room clearly had been placed in an uncomfortable position. "You must understand," Rosen said, "if insurance companies can differ on this, and doctors can differ, and I can differ even when I look at the data itself ... I can't see how anybody can say, 'I've got it all figured out: this is investigational; this is not investigational.'" An impassioned Glaspy pointed one by one to other doctors in the room. "How can something that he does, and he does, and he does, and he does be unreasonable?" Neither Rosen's nor Glaspy's remarks were recorded in the official minutes of the meeting.

Soon afterward, Health Net's Ossorio telephoned Glaspy's boss, Dr. Dennis Slamon, the division chief of oncology at UCLA, in what the deMeurerses say was an effort to influence whether the center would perform Christy's transplant. Health Net's Lyle Swallow disputes this charge: "The idea that Health Net could somehow mus-

cle UCLA into doing anything, given their size, given their reputation, given their budget, is really kind of laughable."

But last October an arbitration panel chosen by Health Net and the deMeurers found nothing to laugh at. Here is what happened next, as reconstructed from depositions, court documents and direct interviews:

Ossorio identified himself to Slamon and with little preamble asked whether UCLA was still in accord with Health Net's guidelines. Slamon said yes. Then why, Ossorio asked, was UCLA going to transplant a Health Net subscriber named deMeurers?

The call struck Slamon as unusual. For one thing, he had never spoken to Ossorio before. For another, he was not Christy's doctor, a fact Ossorio must have known, given that Gaspy sat on Health Net's bone-marrow committee. Slamon said he knew nothing about Christy's case, but he offered to look into it. The following Friday, Slamon told Gaspy he had decided UCLA should pay for the treatment.

"I got outraged," Gaspy recalls. He believed he still had room to work the system and persuade Health Net to pay for the treatment. He felt guilty about costing the unit so much money and resented Slamon's interference in an area where he, Gaspy, was the expert. That night he wrote a letter of resignation. Later, however, he reconsidered. "It took me four or five days to cool off."

But Slamon says he made the decision to pay for the transplant after discovering that Christy by then had already undergone the initial marrow harvest. "We should not have taken her halfway into the stream without being prepared to take her all the way across," he says. He insists that the decision was his alone, and not the result of any coercion from Health Net.

Says Ossorio: "My intention was clearly that I wanted UCLA to follow the policy we agreed to. Was that pressure? Yes. To fulfill an obligation we had mutually agreed to." But he adds, "I swear to God, he volunteered to pay for it."

Things got still more complicated when, a few days later, on Wednesday, Sept. 22, Gaspy, at the request of Health Net's lawyers, signed a second formal declaration, this time opposing Christy's motion for an injunction. "I didn't view it as

being against her," he said, in a deposition last April. "They were all truths in that declaration that I had already told Christine." And yet he knew, he said, that "this declaration could be used legally to stand between her and the transplant."

The second declaration stunned the deMeurers, who saw it as one more violation of the doctor-patient relationship. "It felt like the same thing we had gone through with Dr. Gupta," Alan says. Suddenly he and his wife believed they had a new worry: Would UCLA really come through on its offer? And would the care be as good as if someone else were paying? "Our first inclination after we heard about Dr. Gaspy



was, maybe we ought to go back to Denver," Alan says.

At the last minute, UCLA put its promise to pay in writing, thus ending the need for an injunction. On Sept. 23 Christy entered the medical center to begin treatment. Whether the treatment worked or not depends on who is speaking. Health Net officials are quick to point out how soon Christy "expired" after the procedure. Gaspy says the transplant may actually have shortened her life relative to what she might have expected with standard therapy. But Alan deMeurers recalls how the day before she entered UCLA, she could barely carry a sewing box from one room of their home to another. Within several weeks of her discharge, Alan returned home from work to find her mowing the lawn. She had four apparently disease-free months. "As hard as it was to go through all that, it was worth it," Alan says. "That's one thing Health Net never took into consideration at all, was quality of life."

By spring 1994, she had fallen ill again. That summer the family took a cross-country camping trip expressly with the goal of

building happy memories for the children. A friend arranged a behind-the-scenes tour of the White House, and the kids got to play with Socks, the Clintons' cat. Christy deMeurers spent one more Christmas with her family. She died on Friday afternoon, March 10, 1995.

Soon afterward, most of Health Net's top executives left the company, seeing little future for themselves in the coming merger with the WellPoint Health Network. But in the new medicine, even leaving a company can prove immensely profitable.

On March 31 Greaves signed a new severance deal that paid him a lump sum of \$2.8 million, plus assorted other payments, and guaranteed him and his wife health care for the rest of their lives. The agreement also called for Health Systems International to buy back as much as half of his common stock, which brought him another \$13.3 million. And Greaves signed a generous three-year consulting deal. All told, his exit brought him \$18.1 million, equivalent to the average monthly premiums paid by nearly 134,000 subscribers.

Last October the arbitration panel hearing Christy's case determined that Health Net should indeed have paid for the transplant. It also found

the company had crossed the line in interfering with the doctor-patient relationship, specifically when Health Net officials phoned Christy's local oncologist and UCLA's Slamon. The latter call "was more heavy-handed" than either man was willing to admit, the panel concluded, and had been made to "influence or intimidate" UCLA and its doctors. Two of the three panelists further saw this interference as constituting "intentional infliction of emotional distress" on the deMeurers because it triggered Gaspy's second declaration opposing Christy's injunction. The panel awarded Alan deMeurers \$1.02 million.

It also declared that Health Net's interference in the doctor-patient relationship fit the legal definition of "extreme and outrageous behavior exceeding all bounds usually tolerated in a civilized society."

Or maybe it's just medicine on the far side of the paradigm shift. Says Dr. Ho: "I'm sorry the panel didn't see that Health Net was doing what was best for the patient, which was to deny the treatment as investigational, and which in the end was proven the right decision." ■