

S08_Ep06_Teeth

Dan: Hey there--One theme we've been exploring for years on this show is: We've got more legal rights than most of us know about. And once we know, the question becomes: How can we enforce them?As our story this time shows, it can be -- and, you're gonna see where I'm going with this in a minute -- like pulling teeth.

OK, let's go. Susan Rice was out for a walk in her neighborhood in Atlanta.

Susan Rice: So it was a beautiful day. just a bright blue sky And I was just having a great morning

Dan: Then she was crossing a big street, and saw a car starting to make a turn... in her direction.

Susan Rice: And instead of going around me, he pointed his car right at me and accelerated. And I looked at what would've been his face, but the windshield was tinted. And I was like, you've got to be kidding me. You're trying to kill me. I really thought he was trying to kill me.

Dan: Next thing she knew, she was on the pavement

Susan Rice: I spit out a tooth when I sat up. It's probably still there.

Dan: Do you avoid that route these days when you walk?

Susan Rice: Haven't been by since. I can't. Part of me wants to go find my tooth,

Dan: Of course she's had to get that tooth replaced. Lots of others too.

And here's where things start to get messy. Because you're probably aware: Health insurance generally does not cover our teeth. It's like they're not part of our body -- whatever, that's its own awful thing.

But what Susan needed was supposed to be the exception: As she says, this wasn't the result of poor dental hygiene. Her teeth got knocked out of her mouth by a speeding car. And medical insurance is supposed to cover that. And she knew it.

And she's been fighting for a year and a half to get them to pay attention.

This is An Arm and a Leg, a show about why health care costs so freaking much, and what we can maybe do about it. I'm Dan Weissmann. I'm a reporter, and I like a challenge. So our job on this show is to take one of the most enraging, terrifying, depressing parts of American life, and bring you something entertaining, empowering and useful.

I've gotta say upfront: This is a pretty enraging, terrifying, depressing story. I'm not sure I would say it has a happy ending. For one thing, it's not even over.

But we also learned a LOT along the way: Susan has managed to get her insurance company to reimburse her for \$11,000 so far, and she is working on them for the next \$70,000 or so.

And Susan and I got to consult with one of my very favorite experts on enforcing our legal rights -- Jacqueline Fox. That opened our eyes to a few things.

And just as we thought we were about to wrap up editing this episode, we learned some things that put the whole story in a different light.

It turns out, this may not be just an individual horror story. Now, it looks related to much bigger accusations about one of the biggest players in the Obamacare marketplaces.

And that's knowledge I think could be useful to a lot of people. Back to the beginning: That driver wasn't trying to kill Susan.

Susan Rice: He said he didn't see me. And he probably didn't. He was about 83. and had real roomy looking eyes, you know, probably had glaucoma.

Dan: they went through a process to have his license revoked... and he died not long afterwards. Meanwhile there's Susan, in the hospital.

Susan Rice: this was my introduction to healthcare cuz I have never been to a I've never been in a hospital. I'm just, you know, I've just never had anything,

Dan: She and her husband retired early, and they've got no kids-- so she had fewer distractions than most people, and the full services of what she calls her emotional support husband, as she explored the American health care system.

Susan Rice: Golly, it was way too much at one time.

Dan: I mean, she had multiple injuries, with different medical teams to coordinate.

An ENT is pulling dried blood out of her ear canal -- her jawbone had torn a hole through it -- so she can regain her hearing.

For a minute, there's concern she could lose her vision.

And she's got major injuries to her shoulder and arm, which have to get metal plates implanted.

When we talk on zoom, a year and a half later, she shows me the arm.

Susan Rice: Can you see it?

Dan: Uh oh. Yeah, now I see it. Yeah. So there's like a big scar running from your elbow down

Susan Rice: Seven inches. Yeah, that's right. Don't look so sad.

Dan: This is just so much.

Susan Rice: It's a pity face.

Dan: Yeah, Susan is not a complainer. But it's a lot even before you get to the financial side. I mean, there are car-insurance companies involved too -- the driver's insurance, and some coverage from her policy too. All of it's a lot to sort out.

It gives her good reason to read her health insurance policy closely --

Especially when it became clear that there weren't any in-network oral surgeons she could go to.

Susan Rice: And then I keep reading in the contract that none of my out of network expenses will be paid unless they're preauthorized and I couldn't get preauthorizations.

Dan: And there's time pressure to sort out the payments and get on with treatment-- especially with her jaw wired shut.

Susan Rice: I mean, if my mouth is wired together too long, I may not be able to open it ever again cuz the jawbone is healing.

Dan: So she's doing her best to figure out the insurance stuff, at a point when just getting through the day is a struggle.

Susan Rice: I didn't want to eat. I had an exposed root in my mouth. The tooth had shattered in half, so a lot of things were excruciating to eat or drink.

Dan: I've seen the pictures of her in the hospital. They're horrifying.

So all of that is the background when Susan Rice tells me this:

Susan Rice: at times it was worse than the injuries dealing with the insurance company was, was worse than the injuries.

Dan: I mean, ouch. From early on, she kept a lot of records.

Susan Rice: I didn't start that way, but I realized quickly that it was important.

Dan: She's got binders full of correspondence, and there's a lot packed into a 29-page log she kept of every phone call, every email-- sometimes three or four a day.

Susan Rice: my blood pressure's probably pretty high cuz I just read all 29 pages of my communication log and it all came back and I'm just furious again.

Dan: Of course -- it's *intense* reading. She's told many times to call the insurance company's dental-insurance arm,. But this isn't a dental claim. It's medical. Just like her shoulder, and her arm, and her ear and her eyes. And all of those other claims do get paid.

She does occasionally do what she's told, and calls the dental-insurance folks .

They say, "Well, you don't have dental insurance. Bye!"

Susan Rice: I was just so mad, spitting mad. It was so unfair.

Dan: And communication is... difficult.

Susan Rice: Never could find the same person twice.

Dan: For instance, her insurance assigns a case manager. But when she calls-- and calls and calls, over several weeks-- he doesn't answer, and his phone is not set up for voice mail.

Dan: She sends documents via FedEx, signature required.

Susan Rice: my FedEx package was signed by somebody and I don't know where that is.

Dan: Neither does anybody at the insurance company. Nobody she talks to ever admits to having seen it. She files appeals. She complains to the state insurance commissioner -- whose office closes her case without, apparently, reading her file.

Susan Rice: Even the insurance commissioner's office said the dental coverage is limited. I said, limited to what?

Dan: Occasionally something seems to work: By the end of 2021 — eight months after she got hit — insurance has reimbursed her for the first \$11,000 of work on her mouth. But that left at least \$60,000 worth of work ahead.

A couple months later she goes on the company's facebook page to vent, and gets a call the next day from a "care concierge" -- who does seem to get it.

But who doesn't seem to have any power to move things along.

Susan Rice: he probably quit. I think my case manager quit. I know this other woman that I spoke with quit.

Dan: That's another case manager who comes on the scene in June 2022 and quickly -- finally-- gets a pre-authorization approved.

She calls the next day to make sure Susan's seen the approval and, quote "to tell me her last day would be the following day."

After being with the company just over two months, she'd had enough. She told Susan she'd spent a career in health insurance and worked for eight different

companies. She tells Susan "She has never worked for an insurer as broken" as this one.

The treatment takes months. They're re-constructing her mouth. The last entry in the 29 page log is dated September 13 2022. She calls insurance: "My authorization end date was September 7, but treatment has not concluded. Do I need to request an extension?"

They tell her, no. You need to submit a whole new authorization request.

When we talk about it, I tell her: She has been as consistent and organized as anybody I've ever talked with.

Susan Rice: If, if somebody had a job, Dan, there's no way. A job or kids or, I mean, I just had the advantage of my situation, my general situation. It was my time and I was pissed. So, and still, still kind ofam

Dan: That was our first conversation, and there was somebody I wanted Susan to compare notes with. Somebody who we've talked with on this show before-- someone who --as a listener to the show, Susan says she took inspiration from: Law Professor Jacqueline Fox.

Who, thirty years ago started a law practice representing people like Susan, who were trying to enforce their rights when dealing with health insurance. It was an unusual practice, and now that she's teaching full-time, I wish somebody else would take it up. Meanwhile, I'm grateful she takes my calls and teaches us stuff.

And I happened to know that Jacqueline Fox had fought this exact same issue -- getting a health insurance company to cover something tooth-related -- for a member of her own family not that long ago.

We'll hear about that-- and we'll hear Susan Rice and Jacqueline Fox compare notes -- right after this.

This episode of An Arm and a Leg is produced in partnership with Kaiser Health News. That's a non-profit newsroom covering health care in America.

KHN is not affiliated with the giant health care player Kaiser Permanente. We'll have more information about KHN at the end of this episode.

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OK, so when I first started talking with Jacqueline Fox, a couple of years ago, she was wrapping up teaching a health policy course. She said, "For the final, I'm actually having my students write an insurance appeal."

And would I like to see a recording of the lecture where she explained the assignment?

I was like, You betcha.

The audio quality isn't great

Jacqueline Fox: This is a case that really happened that my stepdaughter very sweetly is allowing me to use as, as our class thing.

Dan: But as it happens, the subject of the case has a lot in common with Susan's.

Jacqueline Fox: So she was diagnosed with something called a Brody bite. Which is this weird misalignment of your teeth and it's a mess. It's not very common.

Dan: And getting it corrected involves extensive oral surgery.

And getting that surgery paid for by health insurance involves making a case.

Jacqueline walked her students through the basics:

Download the full insurance policy. Not the benefits brochure.

Jacqueline Fox: the actual contract, the actual full declaration of the benefits you're entitled to

Dan: Look through its table of contents, its dozens if not hundreds of pages, looking for what's relevant to your case.

There's more -- this is a full-hour law class-- but you get the idea. Of course, when Jacqueline did this all herself, she had two advantages.

One, even though she wasn't practicing law anymore, she was trained as a lawyer, and specifically a lawyer with a TON of experience getting insurance companies to pay up.

And two, she had time on her side. She knew way in advance that her stepdaughter would need this treatment. She says she started years ahead of time.

When I get her together with Susan, we quickly establish: Susan did everything right.

Jacqueline Fox: And so did you, did you write them and say, I want this to be processed through the medical

Susan Rice: oh, we've done that a zillion times.

Jacqueline Fox: have they ever answered?

Susan Rice: No, they don't respond. No, they don't respond.

Dan: The problem wasn't that she didn't have the law on her side. It wasn't that she didn't KNOW the law was on her side. It wasn't that she didn't pursue her rights under the law in a clear, persistent, organized way, with plenty of follow-up.

It was that she couldn't manage to get anybody on the other side who met the three magic conditions: They were COMPETENT to understand what she was telling them. They were WILLING to listen. And they were AUTHORIZED to do something about it.

And Jacqueline says that unfortunately, getting someone with all three qualities -- especially when you're dealing with something that's not routine -- is pretty much always going to be tough.

Jacqueline Fox: Like they don't do well with the crossover between the dental and the, um, medical. The confusion and the complexity is actually, unfortunately, really normal.

Dan: That's despite the fact that there's no complexity at all, legally.

It says right in Susan's insurance policy --

she downloaded that whole contract, you bet, and she cites the page and the paragraph in her correspondence --

that if your teeth get messed up because of injury, that's covered. But somehow the insurance company allows their staff to get confused.

Jacqueline Fox: And they have no incentive to fix it,. They have cash in hand just by saying no. So, then you've got...

Dan: Susan, you're your, your face just fell with that. You're just like, oh my God.

Susan Rice: It's so twisted.

Dan: Susan may have a legal remedy, at least in concept. Most states allow consumers to complain -- in court-- that an insurance company is dealing with them in bad faith.

Jacqueline Fox: the law generally in most jurisdictions recognizes the imbalance of power between the insurance company and the insured. And so they have obligations. Often they're called, it's called fiduciary obligations to act good faith.

Dan: So dealing in bad faith is actually an affirmative complaint you may be able to bring. That's the good news.

Jacqueline wants me to mention: people who get insurance from work, which is most of us? Often that insurance is governed by a federal law that pre-empts state insurance laws. And that federal law does not allow suing for bad faith. That's a whole episode we need to do someday.

But Susan bought her insurance on the state Obamacare exchange. State laws, like bad-faith, apply.

Jacqueline Fox: And so if there are damages that are related to them doing a bad job, you may be able to recover those damages.

Dan: That's more good news. But then there's the bad news.

Jacqueline Fox: Usually in a case like this, the damages aren't high enough for an attorney to step in. Usually it's where they've refused to pay for something and someone died as a result of it, that you're gonna see this.

Dan: Which isn't Susan's case. And you know, at least she's alive. And Jacqueline tosses out what she says is a highly-speculative idea.

Jacqueline Fox: this could potentially be a class action.

Dan: Oh

Susan: Oh.

Jacqueline Fox: Right? If you could show, I mean it's just worth looking at. I would, I'm saying this out loud in public or whatever, with all the caveats I just said that I don't practice in Georgia. I don't know any of those sorts of things, yada, yada. I still would be intrigued by that because if there is a pattern of this and you can prove it that, well, that's a really interesting question, right?

Dan: Huh! Pretty interesting. So it was a good conversation. With real affirmation from Jacqueline.

Jacqueline Fox: You've handled this beautifully and I'm super impressed, especially because you were the person who was in the accident.

Dan: But no immediate solutions.

Here's where things stand: Susan went ahead and continued with her treatment. She paid cash and filed a claim for reimbursement in October.

When we talked in December, she was still waiting to hear back. The company gave itself up to 45 business days to respond, and she'd done the math..

Susan: That puts me at December 31.

Dan: , I just so appreciate you sharing this with me. And you're, you're a great example of being, you've been so organized and so persistent and so clear.

Susan Rice: It's a lot of money.

Dan: Right. It's a lot of

Susan Rice: That's a lot of money.

Dan: It's a lot of money.

Susan Rice: And they owe me. That's the other thing. They owe me.

Susan Rice: I will send you an email when I hear from them.

Dan: Well, thank you so much.

Susan Rice: Yeah, you bet.

I hope this helps somebody.

Dan: Me too. Me too.

And then, TWIST: As we were editing and fact-checking this story, we learned a couple of things.

One: Susan is NOT ALONE in fighting with this insurance company, called Ambetter. Not by a long shot.

It turns out, Ambetter plans enroll more people than any other insurer Obamacare Marketplace plans than anybody else, according to our pals at Kaiser Health News.

The company behind them is called Centene.

And as we've been learning, Centene has kind of a reputation. Not a great one.

Our producer Emily Pisacreta has been digging.

Emily: Yeah, so Dan: Centene runs Medicaid managed-care programs in a lot of states.

Dan: And a bunch of those states have said Centene overcharged them, for how it managed drug benefits .

Emily: So they've paid more than half a billion dollars in settlements to those states.

Dan: Well, those are the 12 settlements we know about. Regulatory filings show Centene is looking at a total of 13 such settlements, so apparently there's one more still to be announced. And we should say: Centene hasn't *admitted* wrongdoing in any of these cases.

Emily: But there's also this other thing.

Dan: Yeah, remember how Jacqueline Fox was speculating, "Gee, it sure would be interesting to see if somebody could bring a class action lawsuit against this company?" Well, in August 2022, a law firm in Chicago filed one. And the accusations definitely ring a bell.

Emily: The complaint says that Ambetter plans on ACA marketplaces in 27 states give potential customers false information about which doctors are in their networks.

Dan: So, you go on healthcare dot gov, looking for a plan, you can fill in the names of doctors and providers you see, and it tells you which plans cover those doctors. And this suit says Ambetter is lying about that?

Emily: It says they're advertising provider networks that aren't real. Members would try to make appointments with doctors Ambetter was supposed to cover, only to find out that those doctors didn't take their insurance. And that very few doctors in their area did.

Dan: And this is super-closely related to what happened to Susan: When she needed a provider, she found there were NO in-network providers in her area. Zero.

Emily: And Susan lives in Atlanta. It's one of the ten biggest metro areas in the United States.

Dan: I mean it's not like Susan picked Ambetter because she was looking for an oral surgeon. But it does seem like her experience and this accusation line up.

Emily: Yep. And another part of the filing calls Susan's case to mind. Quote "Ambetter plans routinely refuse to pay for medical services and medications that the plan purportedly covers."

Dan: The complaint cites seven different lawsuits against Centene and at least one subsidiary for this very thing. They all seem to have been filed by medical practices.

Emily: And it says not-paying is a reason the networks Ambetter does have are so small. It says providers don't want to work with them.

Dan: I mean these are accusations, not a finding by a court -- and I don't know how often *other* insurers get sued over this sort of thing. -- But geez, it sure sounds like Centene and Ambetter get accused kind of a lot of not paying things they're supposed to pay.

Emily: the complaint says Ambetter targets low-income consumers with its plans -- and I guess it would be easier to offer low premiums if, as alleged, they're not actually paying for medical care.

And about how Susan said: She couldn't have put up this kind of fight if she didn't have time and energy and resources for it. She retired early and has no kids. That does not describe most folks with modest incomes.

And here's one last thing we learned. While we were editing this story, I got an email from Susan with a picture of a rejection she just received from Ambetter. They're refusing to pay 27,000. She figures this means they'll refuse to pay the rest too.

I emailed back. I let her know about the class action,

She replied, "Juicy!"

She says she's got a lot to think about.

and when Susan said she hopes this story can be of use to somebody, here's where I say: Maybe it can. And if you're listening, I think you can help.

Because if I were buying insurance on the Obamacare marketplaces for 2023, I might want to know what we're learning about Ambetter.

Emily: Susan's story is relevant to a LOT of people.

Dan: I said at the top, this stuff we learned put the story in a whole new light. It went from looking like an individual horror story, to looking like an example of

what's alleged to be widespread abuse by a huge player in the Obamacare marketplace.

As we get ready to release this episode, open enrollment has just closed for Obamacare plans that start January first.

But even if you've already signed up, you've got until January 15 to switch to a different plan that would start in February.

So given what we're learning about Ambetter insurance plans -- which are on the market in more than half the states-- it's a really good time to let folks know:

Whatever doctors and providers your plan SAID you'd have access to? Call their offices and make extra sure. Maybe especially if you've signed up with Ambetter.

This is where I say: We've asked Ambetter and Centene about what Susan Rice has told us. They haven't responded. News stories about the state settlements and the class action quote company statements to the effect of: "We've done nothing wrong."

We'll keep digging on Ambetter. If we learn more, we'll share on social media, maybe an extra newsletter. I hope you'll help us pass it around.

I'd love to see how far it can go. This is a project we're all doing together. And yes, this is where I mention: We rely on you to make all of it happen, including financially,

and I'm asking for your help now, at the end of the year, because your giving actually counts for double right now. NewsMatch, from the Institute for Nonprofit News, matches every donation, up to 15 thousand dollars.

You know what's cool? You've given us that 15 thousand

And you know what's really cool? A small crew of super-donors is putting up money to match the NEXT ten thousand.

So now is the time when you can really pitch in, and be matched by your fellow listeners.

We've got big plans for the coming year. Some big stories, and plans to bring our information to even more people. And you can help make that happen.

The place to go is arm and a leg show dot com, slash, support.

That's arm and a leg show dot com, slash, support.

Thank you! I'll catch you soon.

Till then, take care of yourself.

This episode of An Arm and a Leg was produced by me, Dan Weissmann,

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They share an ancestor: The 20th century industrialist Henry J Kaiser.

When he died, he left half his money to the foundation that later created Kaiser health news.

You can learn more about him and Kaiser health news at [arm and a leg show dot com slash Kaiser](http://armandalegshow.com/kaiser).

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-- they are editorial liaisons to this show.

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And thanks to everybody who supports this show financially.

In fact, it's time to shout out some of the people who have made new donations or increased their gift in the last few weeks.

[names redacted]