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## Transcript: Negotiating

**Narrator: Robert O’Gorman**

[Anna]

I trust my doctor to look out for my best interests. But, I couldn’t help feeling disappointed that he didn’t think much of a new biologic therapy -- even though he said that he didn’t know a lot about it.

[Anthony]

My doctor’s office contacted my insurance company to get approval for the surgery and chemotherapy treatments we talked about. But, the insurance company told him that they will only pay for the surgery. Now what?

[Nancy]

Before I got cancer, I worked Tuesday through Saturday from 8 in the morning to 4 in the afternoon. After my diagnosis, my cancer doctor said he could give me the drugs as an outpatient in his office -- but that the best time to do so was on Fridays.

[Narrator]

Cancer survivors, which includes anyone diagnosed with cancer, will need to negotiate about many things with a number of people. Welcome to Program 5 in the Cancer Survival Toolbox<sup>®</sup>, about negotiating. A negotiation is a meeting with two or more people in which they discuss an issue and try to reach an agreement. In this program you will learn basic negotiation skills to help you ask for what you need after your cancer diagnosis. For example, you may have to make new arrangements with your family to handle household chores during treatment. You may need to negotiate a change in your work schedule with your boss. The place or type of treatment may have to be negotiated with your insurance company. Or, you may even negotiate your treatment plan with doctors, a radiation therapy department, or a chemotherapy clinic.

[Narrator]

When negotiating anything, it is important to believe that you are an equal to the person you are negotiating with no matter what your background. As Americans, we are proud of our different religious, ethnic, and cultural backgrounds. You should be proud of your background and not be embarrassed to openly share these important personal facts about yourself with your health-care team. If you feel that your doctors and nurses are not dealing with you in the way that you would like, politely let them know what you expect. Their job is to help you and to make you comfortable. By sharing your wishes, you can help them accomplish those goals.

[Narrator]

Several skills will help you be a good negotiator. You must have good communication skills. That means that you need to listen to the information provided to you by other people and then take this information and use it to make your decisions. It also means that you must be sure that everyone in the negotiation clearly understands what you want to tell them. Part of this is identifying and expressing your values, the principles and standards you live by. You must be able to set your personal limits -- the boundaries of behavior you will not cross. And, you must be able to set your emotions aside when negotiating and be willing to look for more than one solution to any problem.

[Narrator]

There are five specific action steps you can take to prepare for any negotiation:

1. Gather the information you think you will need; and,
2. Use that information to plan an agenda for your negotiation discussions.
3. Set limits as to the minimum you would accept as a solution to your needs and what trade-offs you would be willing to make. You need to decide on these before you actually get to the negotiating process.
4. Listen to your inner voice.
5. Try to create win-win situations in which you and the people you are negotiating with are satisfied with the outcome. Let's hear how Joan, an oncology nurse, finds these actions valuable in working with cancer survivors.

## Joan, Oncology Nurse

[Joan]

The first action step in the negotiating process is gathering information. When you negotiate for anything, it is important to be as prepared as possible. This means gathering as much information about the negotiation as you can, as well as answers to questions like: What do you know about the people you are negotiating with? What are their values? What do they hope to gain? What are your needs and rights?

[Joan]

Don't be afraid to ask questions, even during the course of a negotiation. Sometimes people are afraid of "looking dumb" and so they don't ask questions. You really have nothing to lose by asking a question. If you don't know something, you will never get an answer without asking. Pretending to know the answer is usually worse than asking the question.

[Joan]

Check the information you receive. Make sure the information is current and comes from a reliable source. Your health-care team can help you make sure the information you find is reliable.

[Narrator]

If you haven't already done so, you may want to listen to Program 2 in this Cancer Survival Toolbox. That entire program is devoted to finding the information you need. After you have gathered information, the second action step in the negotiation process is to plan your agenda. After you have gathered the information you need, you have to decide what you will be negotiating for. Do this by making an agenda, or a plan of action.

[Joan]

When I work with cancer survivors, I suggest that they make a list of the things they want to find out and talk about. It's also helpful to number the list in the order that you want to discuss each item on your list. It is often best to begin with the items you feel the most comfortable with. Decide how much time you want to spend on each item. Be sure everyone agrees on the amount of time to be spent on the negotiation. If you are negotiating with your doctor, let the office staff know as far in advance as possible that there are items you want time to discuss with the doctor. That way, they can set the daily schedule so that the doctor is not rushed and other patients are not kept waiting.

[Narrator]

Step 3 in the negotiation process: set your limits. These limits define what you are willing to give up in order to get what you want, and mark the point at which you are willing to walk away from a negotiation.

[Joan]

You must be willing to stand by your limits. If you don't, they will not be respected, and the other person will be confused about what your true limits are. Before reaching your limit, there is a point, sometimes called a resistance point, where there is still some room for negotiation. When someone comes close to reaching your limit, let them know so that you can both explore other options.

[Joan]

It is helpful to write down your limits before beginning a negotiation. The written record can serve to remind you of your limits and warn you when the other person is getting close to the point at which you will no longer negotiate.

[Narrator]

Step 4 in the negotiation process: be aware of your inner voice.

[Joan]

During a negotiation, you may experience anger, resentment, or worry. These -- and any other strong emotions you may feel -- are a clue that you need to pay attention. Try not to let your emotions get out of control during the negotiating process. Try to analyze what was said right before you became aware of feeling an emotion. This is a clue that something does not feel right about the negotiation. Don't be afraid to stop and ask a question, review some information or just ask for a time-out -- a pause in the negotiation so that you can gather your thoughts.

[Narrator]

Step five in the negotiation process is to create a win-win solution, if you can.

[Joan]

If you are aware of your values and limits and are willing to seek creative solutions, you can generally create a win-win solution to any negotiation. It is important to gather as much information about the values and needs of the person with whom you are negotiating so that you understand what their limits are. Keep your values in mind. Goals can be reached in different ways. The path is not as important as keeping your values as you travel the path.

[Narrator]

You should feel prepared to negotiate about various aspects of your cancer care. For example, you should be able to tell your doctors and nurses if you would like to have other doctors or health-care providers involved in your treatment. Let's hear how Anna, a cancer survivor who wants to try a new treatment, learns how to negotiate with her cancer doctor, who does not initially favor this new treatment.

## Anna, 45 years old: Part I

[Anna]

I read a lot about a new treatment, called biologic therapy, that seems like a good option for my type of cancer, non-Hodgkin's lymphoma. So, at my next appointment with my cancer doctor, I asked him about the new treatment. He said that he didn't know a lot about biologic therapy. But, from what he did know, he didn't think that it might help me. And besides, he said he doesn't feel comfortable with new treatments until doctors have been using them for some time. I trust my doctor to look out for my best interests, but I couldn't help feeling disappointed with his response. I thought this new treatment might be worth a try.

[Anna]

I decided to get more information about biologic therapy on my own and then see if I could convince my doctor to consider it. I went to the library and read through current magazines and health sections of newspapers. I found out which company makes the drug used in the treatment. I even got the names of research doctors who have used this drug and think it is worthwhile. I also found an article about a doctor who works in a hospital in a nearby city who has used the treatment for my type of cancer. I copied the story and made an appointment with my own cancer doctor to see if he could refer me to this other doctor.

[Anna]

My cancer doctor was surprised and impressed by my ability to find good information. But, he was still skeptical. He also asked an important question: would my insurance company pay for a second opinion that involves biologic therapy? So, I left his office this time feeling disappointed and somewhat discouraged.

[Anna]

But, that wasn't going to stop me. The next day, I called my insurance company. I found out that the other doctor is part of my company's plan. But, I would have to get a referral from my own cancer doctor in order for the insurance to cover a visit to the other doctor.

[Anna]

I felt like I was going around in circles. I brought my problem up at my next support group meeting to see what other people said. A man in the group, who had a similar experience, suggested that I ask the doctors to arrange a telephone meeting. He also recommended that I collect all the information I can from the most reliable and up-to-date sources possible that support biologic therapy and give it to my cancer doctor before he talks with the other doctor.

[Anna]

I took his advice and it worked. My cancer doctor knew some of the names I collected of research doctors who support biologic therapy. In fact, they are people he really respects. So, he called the other doctor to get a sense of how he would handle my treatment. The next day, my cancer doctor called me to say, that though he's still somewhat skeptical, he would give me a referral to see the other doctor.

[Narrator]

As Anna's story shows, sometimes negotiation takes more than one or two conversations. If you feel strongly about something you want to try but your doctor disagrees, follow Anna's example. Find good information and talk it over with your doctor. If your doctor doesn't agree, keep digging for better information and continue to discuss what you find with your doctor.

[Narrator]

Another point that Anna's case shows is that you have control of your healthcare. Seeking second opinions is common and should not upset your doctors. Usually, a second opinion will reassure you that you are doing the right thing. But, it could turn out that the second opinion is different from the first doctor's. You may find this both confusing and difficult. If this happens, it is often best to be honest and ask both doctors why there is a difference. Rarely is one doctor completely right and the other completely wrong. Because cancer is such a complicated disease, you may have several treatment choices. Just make sure you clearly understand the choices your doctors offer.

[Narrator]

If you think you want to follow the advice of the second doctor but also want to continue under the care of the first doctor, find out if the first doctor is willing and able to follow the second opinion. Some doctors may lack the training, understanding, or confidence to do so. This may be like asking a French chef to make Chinese noodles, or asking a modern artist to paint the Mona Lisa. You need to know this and not demand that health-care professionals work in ways they are not trained or comfortable with. After all, you would not want to feel pressured to accept a treatment you don't want. But, you do have the right to make the final decisions about your own treatment, and about the doctors you prefer to provide it. If your doctor feels strongly that a treatment will not help you, listen carefully to his or her reasons, so that you can make a thoughtful, informed choice about your treatment plan.

[Narrator]

While Anna was interested in a new cancer treatment that was being tested by medical researchers, other cancer survivors are interested in using non-conventional cancer treatments. You may also hear these treatments called "alternative" or "complementary" medicine. This can include anything from vitamins and herbs to treatments given only outside the United States.

## Anna, 45 years old: Part II

[Joan]

I've worked with many cancer survivors who did not want to ask about non-traditional treatments out of fear that this question would offend people on their health-care team. Some were even afraid that their cancer doctors would not take care of them any more if they mentioned it at all. I find that the strength of a good health-care team comes from trust in each other, respect, and truthfulness. You can only expect the best care if you have given all the important facts about yourself and your health to your doctor and asked the questions on your mind. Some doctors may not share your interest or excitement for non-conventional or alternative cancer treatments. But, if you are seriously thinking about these kinds of treatments -- and certainly if you are taking any other kind of treatment -- your doctor needs to know. Otherwise, you could be creating serious medical problems for yourself.

[Narrator]

Switching to another topic, insurance and health-care benefits can be very confusing for everyone involved. Your doctors rarely, if ever, take part in writing the specific insurance plan in which you are a member. Doctors will not know what your insurance will pay for unless or until you ask them to help you with a question or problem.

[Joan]

If you find out that your insurance will not pay for a treatment your doctor has recommended, or your insurance will not pay enough of the cost to allow you to have the treatment, discuss this problem with your doctor and the office staff. Your doctor may be able to call or write your insurance company to explain how this treatment might be best for you. You may also want to contact your employer, if your insurance is offered through your job, or your own insurance agent, to ask for their help as well. Your employer or your insurance agent may be able to explain how the insurance company decides what it will pay for and how you can appeal their decision. Your doctor will often be willing to talk to your employer or insurance agent to provide further information once you have taken the first step in contacting them.

[Narrator]

Other members of the health-care team who can assist you in negotiating with your insurance company include the social worker and the case manager. They are specialists who often negotiate with insurance companies on behalf of cancer survivors to obtain treatment, home healthcare, or skilled nursing care.

[Narrator]

You should be aware that there is no law guaranteeing that all cancer survivors will be able to buy adequate, affordable health insurance. Some laws, however, help survivors buy and keep insurance. Every state regulates the companies that sell insurance in their states. These laws cover rules, such as what type of cancer treatments a plan must pay for, how long you may be denied insurance if your cancer is a pre-existing condition, and whether you have a right to convert a group plan to an individual plan. Information about these laws is available from each state's insurance department. Again, these laws are changing constantly and you should be sure to get the most up-to-date information.

[Narrator]

If you did not have health insurance when you were first diagnosed with cancer, you are not likely to find affordable individual health insurance. You may, however, buy health insurance through a group plan. Many state laws can help you buy health insurance if you can't find a plan because of high costs or because of your medical history. Those laws change often, so check with your state insurance department to learn about your rights.

[Narrator]

You can take several steps to increase your chances of buying a good health plan. First, look for an open enrollment period that lets you buy insurance even though you have cancer. Second, look for a policy that gives you the right to renew it every year. Third, make sure that you understand what kinds of cancer treatments the policy will cover. For example, can you choose your doctor or hospital? Do you have to wait several months to be covered because your cancer is a pre-existing condition? Fourth, shop for a group plan through your work, or if you're married, through your spouse's work, or through a professional, social, or religious organization.

[Narrator]

If you have health insurance, four federal laws, in addition to some state laws, can help you keep your health insurance. See the booklet that comes with this program in the Cancer Survival Toolbox for details on these laws. They're called the Americans with Disabilities Act, ERISA, COBRA and the Health Insurance Portability and Accountability Act.

[Joan]

If you have health insurance, be certain that you receive all the benefits you are entitled to under your plan. To make sure that your claims are paid fairly, file your medical claims promptly, keep copies of all claims and letters, and appeal every time the company does not pay a health claim covered by the policy. Many claims are not paid because of simple mistakes, such as failing to complete all parts of the claim form. So make sure you fill out each form completely and accurately. Also, make sure that you follow the insurance company's rules, such as whether you must call a toll-free number before you go to the hospital.

[Narrator]

If your insurance company refuses to pay your claim, or does not pay as much as you think it should, you do not have to take "no" for an answer. Send the claim back with a note explaining why you think the insurance company made a mistake. If necessary, include a letter from your doctor explaining why the treatment was the best one for you and why your doctor's charges were reasonable. If the company rejects your claim again, ask that a doctor, instead of a clerk, look at your claim. Send it back with a letter that says, "I would like to request a review of this denial of coverage by the peer review physicians."

[Narrator]

When negotiating with an insurance company, it is important to talk to someone who has the authority to make decisions. You can ask directly, for example, "Who can authorize payment for a bone marrow transplant in my case?" Be sure to get that person's name, job title, and direct phone number. Write this information down in a notebook where you keep all your insurance information. Don't give up. If the company still rejects your claim and you believe they are wrong, get the help of a state or federal agency, social worker, cancer support group, or an attorney.

[Narrator]

Now, let's look at an example of how one man handled some of these issues. Anthony is a 55-year old man who was diagnosed with colon cancer. His brother died from colon cancer that had been treated, but came back and attacked his liver two years after his cancer surgery. You can see how Anthony uses the skills we've covered to get what he needs for the cancer treatment he has chosen.

## Anthony, 55 years old

[Anthony]

My cancer doctor told me that I had a large tumor in my colon, and that it could be treated in more than one way. One option is surgery to remove the tumor and the part of the colon near the tumor. If I chose that, I would have a permanent colostomy, or opening in my side, for the discharge of stool. Another option, to reduce the size of the tumor, is radiation treatments before having surgery. This might give the surgeon a way to prevent a permanent colostomy by making a temporary colostomy and then later re-attaching the parts of the colon that remain.

[Anthony]

A third option is to have either of those two surgeries followed by a period of chemotherapy. Since my brother had colon cancer that came back after two years, my doctor felt surgery followed by chemotherapy would give me a better chance of remaining cancer-free after the surgery. He explained that this is a fairly new way of treating colon cancer where there is a risk of the cancer returning. There is no way to know for sure whether my colon cancer would return if I did not have the chemotherapy. My doctor told me that many cancer survivors do live without their cancer coming back after having surgery and no other treatment. But, he thought this approach made sense for me, because my brother's cancer had come back, so might mine.

[Anthony]

So, I collected a lot of information on my three treatment options and talked to my family about them. When I met with my cancer doctor again, we both agreed that surgery and chemotherapy would be best for me. We needed to do everything possible to remove any trace of colon cancer from my body.

[Anthony]

My doctor's office contacted my insurance company to get approval for the surgery and chemotherapy treatments. But, the insurance company told him that they will only pay for the surgery. They didn't feel chemotherapy was needed and they wouldn't pay for it. My doctor's office staff suggested that I talk with my employer, since they pay for my insurance policy.

[Anthony]

My supervisor at work sent me to talk to someone called a benefits manager in the personnel office. The benefits manager gave me a copy of the insurance policy, which is much larger than the benefits book they gave me before. Together, we looked for anything that would help. The benefits manager also told me to write a letter to the insurance company and ask for the reason why they will not pay for chemotherapy. He said that knowing why a claim is rejected can help when negotiating to get it covered. The insurance company wrote back that the standard treatment for colon cancer is surgery alone. They said that they do not pay for experimental treatments, like the chemotherapy after surgery.

[Anthony]

So, now I needed help from my cancer doctor to convince the insurance company that chemotherapy for colon cancer in cases like mine is not experimental. I also needed to find out what I had to do to appeal the decision of the insurance company.

[Narrator]

We can see that Anthony successfully gathered the information he needed, and worked closely with his cancer doctor and his employer to negotiate the treatment he – and his doctor – felt was best.

[Narrator]

Anthony's case brings up another important topic: your employment rights as a cancer survivor. Nearly one-half of all cancer survivors are working-aged adults. Most employers treat cancer survivors fairly and legally. Some employers, however, treat survivors differently from other employees in ways that may violate your legal rights.

[Narrator]

Under federal and state laws, an employer cannot treat you differently from other workers in job-related activities because you have or had cancer, as long as you are able to do the job. To be protected by these laws, you must show that: you have the necessary skills, experience, education, and ability to do the essential duties of the job in question, and your employer treated you differently from other workers in job-related activities because either you have a disability from your cancer treatment or your employer believes your cancer is disabling.

[Narrator]

The Americans with Disabilities Act, also known as the "ADA," makes some types of job discrimination by employers against people who have or have had cancer illegal. The ADA covers private employers with 15 or more employees, state and local governments, employment agencies, and labor unions. The ADA and most state laws provide cancer survivors with several rights in looking for and keeping a job. Let's listen to how a 43-year old woman, Nancy, who has bladder cancer, negotiates with her employer to continue working daily during her cancer treatment.

## Nancy, 43 years old

[Nancy]

I work as a bank teller -- I need my job for the income and the health insurance. I also like the friendship of the people I work with. Before I got cancer, I worked Tuesday through Saturday from 8 in the morning to 4 in the afternoon. But, after my diagnosis, my cancer doctor suggested I take chemotherapy once every three weeks for six cycles. He said he could give me the drugs as an outpatient in his office. The best day to do this, he said, was on Fridays, and it would take the whole afternoon.

[Nancy]

I found out that the ADA, the Americans with Disabilities Act, gives me the right to a "reasonable accommodation," such as a change in my working hours, to allow me to see my doctor. So, I worked out a plan. I asked a co-worker to switch days with me during the six weeks I will receive treatment. I then asked my boss if I could work on Mondays instead of Saturdays and leave early on Fridays every third week until my treatment was finished. I also gave my boss a letter from my cancer doctor explaining that I should feel well enough after the Friday treatments to return to work the next Tuesday. The doctor's letter also pointed out that I would probably need to receive treatment six times, but after that I could probably return to work on my regular schedule. The way I planned it, switching my schedule with my co-worker, I could get the medical care I needed without losing my job, and the bank would not have to waste money hiring and training a new teller. I was able to create a win-win situation that my boss agreed to.

[Narrator]

Another federal law, the Family and Medical Leave Act, requires employers with 50 or more employees to provide up to 12 weeks of unpaid, job-protected leave. Employees can use the time to take care of their own serious illness or to care for a seriously ill child, parent, spouse, a healthy newborn, or a newly adopted child. Employers must continue to provide benefits -- including health insurance -- during the leave period.

[Narrator]

State and federal anti-discrimination laws help cancer survivors in two ways. First, they discourage discrimination. Second, they offer remedies when discrimination does occur. But, you should sue for protection under these laws only when all else fails. Lawsuits can cost a lot of money, take months or years to decide, and do not always bring fair results. Try to avoid discrimination in the first place. If that fails, try to reason with your employer. If that doesn't work, you may have to file a lawsuit. Let's hear from Charles, a professional cancer-care advocate.

## Charles, cancer care advocate

[Charles]

When you're looking for a new job, I recommend the following approaches to protect yourself from discrimination: First: If you are not asked about your cancer, do not volunteer information about it unless your health would prevent you from doing the job. An employer has the right -- under accepted business practices and most state and federal laws -- to only ask if you can perform the essential duties of the job.

[Charles]

Second: Do not lie on a job or insurance application. If you are hired and your employer later learns that you lied, you may be fired for your dishonesty, and insurance companies may refuse to pay benefits or may cancel your coverage.

[Charles]

Third: Keep the focus on your current ability to do the job. Employers may not ask how often you missed work in past jobs, but they can ask if you can meet the employer's current attendance rules.

[Charles]

Fourth: If you have to explain a long period of unemployment during cancer treatment, if possible, explain it in a way that shows your illness is past, and that you are now in good health and expect to remain healthy.

[Charles]

Fifth: Offer your employer a letter from your doctor that explains your current health and ability to work. Be prepared to help the interviewer understand your cancer and why cancer often does not result in death or disability.

[Charles]

Sixth: Seek help from a job counselor about resume preparation and job interviewing skills. Practice answers to expected questions such as, "Why did you miss a year of work," or "Why did you leave your last job?" Answer honestly, but stress your ability to do the job and not any past problems resulting from your cancer.

[Charles]

Seventh: Do not ask about health insurance until after you receive a job offer. Then ask to see the benefits package.

[Narrator]

These steps may help you avoid discrimination. If you do face discrimination, however, try reaching an informal solution before leaping into a lawsuit. Follow your employer's system for settling employment issues. If you need some kind of accommodation, such as flexible working hours to make doctor's appointments, suggest several options to your employer. If your employer offers you accommodations, do not turn them down lightly. Additionally, you should do what you can to educate employers and co-workers who might believe that people cannot survive cancer and remain productive workers.

## Conclusion

[Narrator]

In summary, learning good negotiating skills is an important part of dealing with cancer. These skills can help you to get the medical care you prefer, clear up disagreements with insurers, and protect your legal rights. Those skills include information gathering, effective communication, holding to your values, setting personal limits, controlling your emotions, and a willingness to see more than one solution to any problem. Review this program to sharpen your negotiation skills. These skills will lead to successful negotiations not only with your cancer concerns, but in every area of your life.

[Narrator]

This is the end of Program 5 in the Cancer Survival Toolbox, entitled Negotiating.