

Report of the consideration to propose on Policy Recommendations and Suggestions for Improvement of Law

Re: Government policy on “Emergency Claim online (EMCO)”

Introduction

The National Human Rights Commission (NHRC) received the petition from Thai Medical Error Network on 1 April, 2012. The government, in association with the National Health Security Office policy on EMCO encouraging emergency patients to seek treatment at any nearby hospital regardless his/her medical service scheme with free service. The National Health Security Office (NHSO) will bear on that cost. However, many patients and relatives, in practical, have to pay in advance and cannot reimburse fully from such cost. The NHRC hereby agrees to propose the policy recommendations and Suggestions for improvement of law to the parliament or the cabinet and other relevant agencies for further consideration.

Summary

1. The problem cause by the Policy

NHSO has provided guideline for emergency treatment under the Emergency Claim Online : EMCO with the diagnostic means composed of indication of the serious disease or symptoms resulting to fatality or danger to the other persons.; serious and urgent need for operation or risk to death; guideline for receiving the healthcare treatment from the public or private hospitals joined in the EMCO in case of general accident; and from the public or private hospitals joined in the EMCO and in case of car accident and guideline for transferring patient transfer to the hospital under his/her medical service scheme.

In practice, there are some problems:

1.1 General public and medical personnel understand and interpret the meaning of “Emergency illness and injure” differently, emergency injury/illness can be categorized by 3 colors based on crisis and urgency which are green (not seriously injured victims) , yellow (victims with potentially serious injury/illness) and red (victims with life-threatening injury/illness), while the definition of “After crisis period” is in the grey area leaving the private hospital to use its own discretion. For an example, the private hospital does not

transfer the patient to the hospital where the patient has right claim shortly. The patient then bears on its own cost after crisis/period.

1.2 People and the hospitals which are not contractual parties know right claim system and hospital admission process. In case of emergency illness/injure, the patient does not know how to access the petition and right claim from this policy, as well as the list of the hospital which are/are not contractual parties of medical in service schemes.

1.3 The appropriate and reasonable cost of medical services has still been discussed the private hospital has different costs according to the hospital category. Presently, the State has set the cost rate at 10,500 baht per Adjusted Relative Weight : AdjRW. The Private Hospital Association has proposed the new rate to be 25,000 baht per AdjRW, while the National Health Security Office has proposed at the rate of 16,762 baht per AdjRW and 17,000 baht per AdjRW has been proposed by the Social Security Office. Partly, the private hospital does not believe that it would get full amount of reimbursement when the reimbursement information is submitted according to this policy อ้างว่า ไม่เชื่อมั่นว่าเมื่อส่งข้อมูลการเบิกชดเชยแล้วจะได้รับเงินตามจำนวนนั้น; therefore, it tends not to follow with the policy and claim for the medical cost directly from the patient.

1.4 Evaluation of victim with potentially serious injury/illness and victim with life-threatening injury/illness is problematic. It found that a doctor does not diagnose twenty-five symptoms to identify whether or not it should be such kind of injury/illness.

1.5 Medical reimbursement from the public budget is problematic. There is not an additional budget for supporting the policy's implementation, but use the regular budget from each medical insurance fund. At present the National Health Security Office pays in advance for the medical service under emergency injury/illness policy and reimburses later from other medical insurance funds which have not repaid yet.

2. Policy recommendation

2.1 The cabinet through the Ministry of Public Health, the National Health Security Office, the National Institute for Emergency Medicine and other relevant agencies should study, analyze and evaluate the advantage and disadvantaged or challenge in the implementation of this EMCO policy, as well as the budget appropriately for the cost of medical services, The management between the hospital which are and are not contractual parties

with any medical insurance scheme, reimbursement process, medical treatment expense, reimbursement rate, the transfer of patient to the hospital under his/her medical insurance scheme, etc.

2.2 The cabinet through the Ministry of Public Health, the National Health Security Office, the National Institute for Emergency Medicine and other relevant agencies should disseminate the EMCO policy to the public and patient with emergency illness/injury particularly criteria of potentially services injury/illness of life-threatening illness/injury, provide accessible and 24 hour advise service, provide assistance and remedy for the damage caused by the policy.

2.3 The cabinet through the Ministry of Public Health, the National Health Security Office and other relevant agencies should apply this EMCO policy without increasing any troubles to the private hospital including the hospital which is not contractual party with medical insurance scheme; provide guideline for preventing and solving problems possibly caused by private or other hospitals where giving medical services for example not inform patients with emergency illness/injury or their relations about the right relevant to EMCO, induce patients or their relatives to sign in the contract for payment, charge with high service fee, and not allow patient leave the hospital, unless they pay for the fee etc. The hospital's medical personnel should be trained about providing service under EMCO policy.

2.4 The cabinet through the Ministry of Public Health (the Office of the Permanent Secretary for Public Health), the National Health Security Office, the Ministry of Finance (the Comptroller General's Department), the Ministry of Labor (the Social Security Office) and other relevant agencies should provide measure and allocate the budget for this policy implementation adequately without causing any burdens to the patient.

2.5 The cabinet through the Ministry of Public Health, the National Health Security Office, the Ministry of Commerce, the Ministry of Finance, the Office of Insurance Commission and other relevant agencies should provide the medical reimbursement method for the patient or injured person from road accident according to this EMCO and the effective system for payment should be established such as assigning the key agency to reimburse the medical expense from car accident or setting the rate of primary compensation according to the car accident covering the actual medical service fee, etc.

2.6 The cabinet through the Ministry of Public Health, the National Health Security Office, the Prime Minister's Office (the Office of The Consumer Protection Board), the Ministry of Commerce and other relevant agencies should provide measure price control for the medical service fee of the private hospital including the alternative hospital and the Fee - for - Service Hospital. The restricted price could be either a product or service.

2.7 The cabinet through the Ministry of Public Health, the National Health Security Office, the Ministry of Finance (the Comptroller General's Department), the Bureau of the Budget and other relevant agencies should provide measure to assist and remedy the injured person due to this policy implementation as follows:

1) Short-term measure

Establish measures and procedures for providing in practical assistance and remedy for the injured person due to this policy implementation, for examples, the NHSO should takes part in the lawsuit where the victim are sued involving with medical expense by the hospital, or the NHSO should compensate the medical service fee, etc.

2) Long-term measure

Establish enduring measures and procedures for providing assistance and remedy for the injured person due to this policy implementation particularly incentive measures. For Example: The private hospitals agreeing to be contractual party or cooperate under EMCO can receive tax reduction, The responsible agency and the private hospitals should find solution on the suitable ceiling rate of medical service fee under EMCO. This will prevent medical service provides from being prosecute to the court.

3. Legal recommendation

3.1 The cabinet through the Ministry of Public Health (the Department of Health Service Support) and other relevant agencies should amend Section 36 paragraph 1 of the Sanatorium Act B.E. 2541 (1998). Stating that “Sanatorium’s owner and manager shall have charge for providing the medical treatment for the patient who is in the injury and need immediately medical treatment in order to safe him from danger based on the professional ethic relating to the type of such sanatorium”. Such additional statement should be “The sanatorium shall inform the right relate to EMCO the injured person or relatives and get medical service fee from the National Health Security Office”.

3.2 The cabinet through the Ministry of Finance, the Office of Insurance Commission and other relevant agencies should exclude amend the Ministerial Regulations on Damage, Primary Compensation, Request and Payment for Primary Compensation BE 2552 (2009). Article 3 stating “the actual cost but not exceeding 30,000 baht for the physical damage according to Article 2 (1)”. The term to be excluded from the Article is “but not exceeding 30,000 baht”.

Recommendation

The NHRC requests the Prime Minister to propose to the cabinet for further consideration and to assign the relevant agencies following with this recommendation for the promotion and protection of people’s rights.