



SINGAPORE MEDICAL COUNCIL

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SMC 14.2.1

8 September 2016

Dr Wong Tien Hua
President
Singapore Medical Association
2 College Road, Level 2
Alumni Medical Centre
Singapore 169850

Dear Dr Wong,

RE: FEES CHARGED BY MANAGED CARE COMPANIES AND THIRD PARTY ADMINISTRATORS

1. We refer to the letters of the Singapore Medical Association (SMA) dated 23 February 2016 and 22 March 2016.
2. The role of the Singapore Medical Council (SMC) under the Medical Registration Act is to regulate the doctors' professional standards and behaviour.
3. In an earlier draft of the revised SMC Ethical Code and Ethical Guidelines (ECEG), the Working Committee for the review of the ECEG had labelled such percentage fees as "fee splitting" and was of the view that it should not be allowed. What followed in the first consultation was feedback from stakeholders, including SMA members that SMC should not to interfere with business arrangements, especially when such fees are not deemed to be "fee splitting" in some jurisdictions (extracts of SMA members' collated feedback are appended below).

Date	Name	Feedback
28 Nov 2014	SMA (collated responses from individual members of SMA)	<p>It is better to state the broad ethical dilemma of fee splitting</p> <p>Private medical service providers do make it a business to source for patients and refer doctors. How can SMC tackle such behaviour if they have no jurisdiction to control these for-profit companies?</p> <p>The business methods and ways of charging can vary and there are many ways of creatively side stepping any rules that SMC may impose.</p> <p><i>Does SMC have any idea how the Managed Care systems and the Insurers and Third Party Administrator system works? Almost all</i></p>

Date	Name	Feedback
		<p><i>insurance claims have to be through TPA who charges an administrative fee as a percentage of the total fees. If SMC is to make this work, SMC would have to work with the insurers and TPAs to sort out this issue, and ban such administrative fees imposed on the doctors. Otherwise, such agreements will always exist, doctors will be tempted and "PUT THEM AT RISK OF UNETHICAL BEHAVIOUR"</i></p>
28 Nov 2014	SMA (collated responses from individual members of SMA)	<p><u>Summary points, bullet 2:</u> <i>"If you have decision-making responsibilities in your practice or company or benefit directly from such disallowed dealings, you will be held professionally accountable."</i> Intruding on Companies Act.</p>
28 Nov 2014	SMA (collated responses from individual members of SMA)	<p><u>Summary points, bullet 4:</u> <i>"Administrative fees of amounts commensurate with the real cost of administration may be paid to third parties such as managed care organisations, but it must not be based on a proportion of fees, charges or bill size as this would be fee sharing."</i></p> <p><i>Managed healthcare organisations perform bill collection on behalf of panel doctors. They routinely charge percentage of doctors' bills as administrative costs.</i></p> <p><i>While this can be termed as fee splitting, it has been an exempted from the general ban on fee splitting in the State of Illinois.</i></p> <p><i>It is a convenient system which allows doctors the leeway to keep their fees low if they wish, as the admin fee will be proportionately low. The system is not perfect but it is logical. Usually charges are already capped by the managed healthcare organisation so risk of overcharging is low and the range of admin fees is limited.</i></p> <p><i>The alternative would be to charge a fixed administrative fee, but this has its own moral hazards. If this fee is set too high it will encourage the doctor to overservice the patient and charge more in order to recover back the costs.</i></p> <p>http://virtualmentor.ama-assn.org/2009/05/hlaw1-0905.html</p> <p>http://dermatologytimes.modernmedicine.com/dermatology-times/news/modernmedicine/modern-medicine-now/can-outsourced-billing-be-considered-illeg?page=full</p>
28 Nov 2014	SMA (collated responses from individual members of SMA)	<p><i>i) You shall not share your fees (sometimes called 'fee sharing' or 'fee splitting'), make payments or offer gifts or any other consideration for patients referred to you from any source.</i></p> <p>This statement is too general. But I agree we should prohibit paying percentage referral fee to licensed clinics and agents. These sources do not place a restriction on doctors' charges and the temptation is to over service and overcharge the patient in order to recover the referral fee. The referral fee has no upper limits and bears no correlation to the amount of work done by the referring source.</p>

Date	Name	Feedback
28 Nov 2014	SMA (collated responses from individual members of SMA)	<p><u>Para (iv):</u> <i>"While you are allowed to engage marketing services on a service retainer basis, payments for such services must be pre-determined and appropriate to the marketing services provided and must not be on a per-patient basis or number of patients and must not be based on a percentage or proportion of fees, charges or bill size."</i></p> <p>As this is well entrenched, any changes cannot happen overnight. 3rd party payers should be engaged in the discussion. In the meantime, we should not pre-judge them.</p>

4. The SMC agrees with you that the regulation of these managed care companies and third party administrators (TPAs) does not come under the ambit of SMC. Neither can SMC identify business patterns that are of such high risk to professionalism that they ought to be prohibited on grounds of medical ethics, since the range of options is wide and there will always be creative ways to circumvent specific prohibitions.

5. The approach and SMC's stand on this are as follows:

- (a) Doctors who participate in managed care or TPA contracts must not allow any financial constraints or pressures inherent in such schemes to influence the objectivity of their clinical judgment in managing patients, such that the required standard of care is not provided. Should doctors be challenged as to whether they provided appropriate care, it is not a defence that the contracts they have entered into did not allow them to provide the necessary standard of care. Patients should not get differential treatments just because they are from companies which are involved in such contracts with doctors.
- (b) Paying of fees is in and of itself not necessarily disallowed, provided in general, the sums reflect the actual work of the managed care companies or TPAs in handling and processing patients and that such fees must not be based primarily on the services doctors provide or the fees they collect from patients. SMC would deem unethical the sharing or splitting of fees with a referring doctor, merely for the privilege of being referred a patient, with no commensurate work done justifying such fees. Both doctors would then have behaved unethically. If a doctor splits fees with a third party who is not a doctor and has done nothing commensurate with the payment, the doctor would be deemed to have behaved unethically.
- (c) Doctors must not pay fees that are so high as to constitute "fee splitting" or "fee sharing", or which impact their ability to provide the required level of care. Therefore doctors need to give due consideration to any contract before signing. Where the boundary is between a reasonable fee and "fee splitting" is a matter for judgment.
- (d) If doctors pass such fees onto patients, doctors ought to be transparent about this with their patients and disclose this to them.

6. SMC is of the view that patients' best interests are compromised when:
- (a) Patients are sent to doctors inappropriate to their needs, due to the doctors agreeing to pay fees to managed care companies or TPAs;
 - (b) Doctors under-treat patients due to financial pressures;
 - (c) Doctors over-treat patients to make higher revenues to cover the fees they must pay; and
 - (d) Doctors grossly over-charge patients in order to redeem high business costs due to such fees.
7. SMC understands why SMA prefers a "fixed fee", but is of the view that however fees are constructed, what is important is that the fee paid must not be based primarily on the services doctors provide or the fees they collect from patients. We believe this addresses the problem sufficiently without a need to specify how the fee should be derived.
8. We encourage SMA, as the profession's advocate, to engage the industry to bring about fairer practices as well as engage and educate doctors on how to handle such contracts without breaching their obligations to patients.

Thank you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tan', with a horizontal line extending to the right and a vertical line extending downwards from the end of the signature.

PROF TAN SER KIAT
PRESIDENT
SINGAPORE MEDICAL COUNCIL