

全民健康保險醫療費用核減之定性與救濟

The Legal Nature and Remedies of Medical Expense Reductions under National Health Insurance

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摘要

特約醫事服務機構申報全民健康保險醫療費用時，若審查結果不符全民健康保險醫療費用申報與核付及醫療服務審查辦法第19條之支付要件，保險人得不予支付；依同辦法第22條，隨機抽樣之案件審查後如未符合支付要件，則不僅該案件不予支付，尚可能因比例回推而遭核減倍數之點數。本文討論依此規定核減醫療費用之法律性質、其與依全民健康保險醫事服務機構特約及管理辦法第37條扣減10倍醫療費用之關聯、以及醫事機構不服醫療費用核定時之法律救濟途徑。

When a contracted medical service institution claims National Health Insurance (NHI) medical expenses, if

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the review results do not meet the payment requirements stipulated in Article 19 of the Regulations Governing the Application, Payment, and Review of Medical Services for the National Health Insurance, the insurer may refuse payment. According to Article 22 of the same Regulations, if a randomly sampled case fails to meet the payment requirements upon review, not only will that specific case be denied payment, but a point deduction based on a “proportional extrapolation” may also be applied. This article discusses the legal nature of medical expense reductions under these provisions and their correlation with the deduction of 10 times the medical expenses under Article 37 of the Regulations Governing the Contracting and Management of National Health Insurance Medical Service Institutions. Furthermore, it examines the legal remedies available to medical institutions when they disagree with the determination of medical expenses.

壹、前言

中央健康保險署（下稱健保署）為控管健保財務，特約醫事服務機構申報全民健康保險醫療費用時，若審查結果不符全民健康保險醫療費用申報與核付及醫療服務審查辦法（下稱審查辦法）第19條之支付要件，保險人得不予支付；依同辦法第22條，隨機抽樣之案件審查後如未符合支付要件，則不僅該案件不予支付，尚可能因比例回推而遭核減倍數之點數。隨機抽樣與比例回推之制度在我國運作已久，惟核減醫療費用之法律性質，學說與實務似乎仍未有一致之見解，本文擬對此問題進行討論，並分析定性後之法律救濟途徑。又因其等比例回推之特性，使經審查不符支付要件之個案可能遭放大核減數倍或數

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