



Unfair Discrimination and Infringement of Equality of Insured Persons by Limiting the Number of Dialysis Treatment^{*}

Mr. N (the Plaintiff) was diagnosed of having chronic kidney disease and a doctor determined that he had to receive dialysis treatment. He could not afford to pay the medical fees so he as an insured person claimed medical expense reimbursement entitled under the Social Security Act, B.E. 2533. Pursuant to Clause 5 (1) (b) of the Rules, Conditions and Rate of Medical Fees for Renal Replacement Therapy, the annex of the Announcement of the Medical Committee on the Rule and Rate of Benefit Reimbursed from Illness Not Occurring from Work which was issued by the virtue of the Social Security Act, the rate of dialysis fees shall be no more than 1,500 Baht per time and no more than 4,500 Baht per week and an insured person shall be responsible for an excess of the fees. Consequently, Mr. N could not access to medical treatment because he could not afford to pay uncovered fees. He then filed a case with the Administrative Court.

The Supreme Administrative Court held that the limitation of the number of dialysis treatment per week under Clause 5 (1) (b) of the Rules, Conditions and Rate of Medical Fees for Renal Replacement Therapy was different from the benefit provided by the Universal Health Coverage Scheme. It created a burden to an insured person since he or she had to pay an excess of medical expenses. In addition, there was no adequate reason to support the decision to limit the number of treatment weekly to be different from the Universal Health Coverage Scheme. Therefore, Clause 5 (1) (b) of the Rules which provides that “the rate of dialysis fees shall be ... no more than 4,500 Baht per week”, was unfair discrimination and infringement of equality guaranteed by the Constitution of Kingdom of Thailand. Such requirement was unlawful and unfair to an insured person. The Supreme Administrative Court affirmed the decision of the Administrative Court of First Instance to revoke Clause 5 (1) (b) of the Rules, Conditions and Rate of Medical Fees for Renal Replacement Therapy, the annex of the Announcement of the Medical Committee on the Rule and Rate of Benefit Reimbursed from Illness Not Occurring from Work.

(Supreme Administrative Court Judgment No. A. 593/2560)

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