

# **GUIDELINES FOR MANAGED CARE ORGANISATIONS AND PRIVATE HEALTHCARE FACILITIES AND SERVICES**

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## **1. Introduction**

- 1.1. Managed care organisation (MCO) is an organisation regulated under the provisions in Part XV of the Private Healthcare Facilities and Services Act 1998 [Act 586].
- 1.2. Any MCO having a contract or an arrangement with a licensee or a holder of certificate of registration of any private healthcare facility or services shall be regulated under Part XV of Act 586.
- 1.3. MCO is broadly defined under subsection 82(1) of Act 586 and nature of contracts or arrangements that may result in the contravention of subsection 83(1) of the Act is implicit.
- 1.4. A licensee or a holder of certificate of registration having contract or an arrangement with a MCO and the MCO involved with such contract or agreement shall furnish information relating to such contract or arrangement or the organisation as may be specified or required by the Director General.
- 1.5. This guideline is specifically prepared to ensure adherence to all related provisions under Act 586 by the stakeholders.

## **2. Interpretation**

### Section 82 on interpretation of MCO

“Managed care organisations” means any organisation or body, with whom a private healthcare facility or service makes a contract or has an arrangement or intends to make a contract or have an arrangement to provide specified types or quality or quantity of healthcare within a specified financing system through one or a combination of the following mechanisms:

- (a) delivering or giving healthcare to consumers through the organisation or body’s own healthcare provider or a third party healthcare provider in accordance with the contract or arrangement between all parties concerned;
- (b) administering healthcare services to employees or enrollees on behalf of payers including individuals, employers or financiers in accordance with contractual agreements between all parties concerned,

and the Minister may from time to time by notification in the *Gazette* declare any type of healthcare delivery arrangement other than those specified in the interpretation above.

### **3. Contract or Arrangement**

#### Subsection 83(1) on contracts between private healthcare facility or service and managed care organisation

The licensee of a private healthcare facility or service or the holder of a certificate of registration shall not enter into a contract or make any arrangement with any managed care organisation that results in –

- (a) a change in the powers of the registered medical practitioner or dental practitioner over the medical or dental management of patients as vested in paragraph 78(a), and a change in the powers of the registered medical practitioner or visiting registered medical practitioner over the medical care management of patients as vested in paragraphs 79(a) and 80(a);
- (b) a change in the role and responsibility of the Medical Advisory Committee, or Medical and Dental Advisory Committee as provided under section 78, the Midwifery Care Advisory Committee as provided under section 79 or the Nursing Advisory Committee as provided section 80;
- (c) the contravention of any provisions of this Act and the regulations made under this Act;
- (d) the contravention of the code of ethics of any professional regulatory body of the medical, dental, nursing or midwifery profession or any other healthcare professional regulatory body; or
- (e) the contravention of any other written law.

### **4. Variation of MCOs**

Based on the information furnished by 32 MCOs to the Ministry of Health, the following variations were identified:

- 4.1. Any organisation including insurance companies (via letter of guarantee) or their subsidiaries having a contract or an arrangement with any private healthcare facility or services to provide healthcare services to enrollees or employees.

- 4.2. Any third party or agent for local or overseas-based insurance companies having a contract or an arrangement with any private healthcare facility or services to provide healthcare services to enrollees or employees.
- 4.3. Any third party administrator managing the medical benefits of personnel in a company and having a contract or an arrangement with any private healthcare facility or services to provide healthcare services to the employees.
- 4.4. Any organisation selling membership for clients to take part in any wellness package and enters into a contract or makes an arrangement with selected PHFS to provide healthcare to these members.

## **5. Guideline for Private Healthcare Facilities or Services**

- 5.1. Licensee or holder of certificate of registration of a private healthcare facility or service
  - (a) A licensee or a holder of certificate of registration of a private healthcare facility or service shall ensure that the contract or arrangement with any MCO shall –
    - (i) comply with the standards of professional practice of the medical, dental, nursing or midwifery profession;
    - (ii) not breach the Malaysian Medical Council’s Code of Professional Conduct, its guidelines “Good Medical Practice” and “Confidentiality” and other directives or guidelines issued out by MMC;
    - (iii) prioritise the patients and does not pose a conflict of interest between the practice of registered medical practitioner (RMP) and the provision of healthcare for his patients, before, during and after the term of the agreement;
    - (iv) guard the continuity of patient’s care and treatment;
    - (v) guard patients confidentiality at any times;
    - (vi) monitor from time to time the computing of professional or healthcare facility or services’ charges to ensure adherence to the written policy on quantum of fees to be charged by the private healthcare facilities and services; and
    - (vii) establish a grievance mechanism plan and grievance procedure for addressing any grievance on monetary arrangement or payment or reimbursement of professional or healthcare facility or services’ charges in the contract or arrangement.

- (b) A licensee or a holder of certificate of registration of a private healthcare facility or service shall ensure any monetary arrangement or payment or reimbursement of professional or healthcare facility or services' charges in the contract or arrangement shall not –
  - (i) compromise professional healthcare; or
  - (ii) breach any professional code of ethics.

5.2. RMPs engaged or privileged to practice

- (a) Irrespective of whichever health care delivery system a RMP practises in, he shall always place the best interests of the patients first;
- (b) Good clinical practice shall be the basis of efficiency rather than enticement with financial incentive or disincentives;
- (c) Informed written consent shall be obtained, without coercion from the patient before any information is disclosed to a third party, including insurance companies, MCOs or employers; and
- (d) A RMP shall –
  - (i) not participate in schemes that encourage or require him to practise below his professional standards or beyond his competence;
  - (ii) avoid actions or commitments which can endanger the doctor-patient relationship, breach of patients' confidentiality or involve the RMP either directly or indirectly to advertising;
  - (iii) not engage in any fee-splitting or kick-back arrangement when referring patients to another colleague;
  - (iv) adhere and honour any obligation contained in any contractual agreement entered into by the RMP with any licensee or holder of certificate of registration which is made with his consent and in accordance with related provisions in Act 586 and its regulations and the MMC's Code of Professional Conduct;
  - (v) not discriminate between "fee for service" "cashless" and "pay and file" patients in computing his professional fees; and
  - (vi) at all times, in any contract or arrangement with MCOs, comply with the MMC's Code of Professional Conduct, its guidelines "Good Medical Practice" and "Confidentiality" and other directives or guidelines issued out by MMC.

## **6. Guideline for MCOs**

- 6.1. All MCOs shall be transparent and ensure that all enrollees and employees have access to information regarding the offers, non-offers, limitations, maximum coverage and exclusions of the medical benefit packages purchased.
- 6.2. All MCOs shall not remove any RMP from the “cashless” benefits without establishing and adhering to an orderly and adequate procedure that is applicable uniformly in all cases which shall include reminder and opportunity for his defence.
- 6.3. All MCOs shall ensure that their actions shall not allow for or cause or compel any RMP to breach the MMC’s Code of Professional Conduct and other directives or guidelines issued out by MMC.
- 6.4. All MCOs shall respect the confidentiality of the doctor-patient relationship.
- 6.5. An informed written consent shall be obtained from all patients before any patient’s information can be divulged to any third party including insurance companies, MCOs or employers and the consent may be in the forms used by the MCOs to indicate attendance at a clinic or hospital and shall be limited to matters related to payment or reimbursement of professional or healthcare facility or services’ charges.
- 6.6. All MCOs shall ensure that the listing of providers shall be limited to the purpose of selection of provider by the enrollees and employees and done in accordance with the MMC and the Medical Advertising Board’s (MAB) guidelines on advertisement.
- 6.7. All MCOs shall not, at all times, interfere with the management of any patient by the RMP which include the rights to refer a patient to any other suitable RMP to assist in the provision of healthcare to the patient.
- 6.8. All MCOs shall ensure that their Management Boards shall appoint, as far as possible, an independent panel consisting of at least two RMPs to provide the clinical leadership and guidance on related issues including medical practice, payment and reimbursement.
- 6.9. All MCOs shall ensure that all visits or auditing shall be conducted on scheduled and appointment basis and limited to matters related to payment or reimbursement of professional or healthcare facility or services’ charges.
- 6.10. All MCOs shall comply with the following:

- (a) The written policy on the quantum of fees to be charged by any private healthcare facility or services, subject to the Thirteenth Schedule of the Private Healthcare Facilities and Services Regulations (Private Hospitals and Other Private Healthcare Facilities) Regulations 2006;
- (b) The written policy on the quantum of fees to be charged by any private medical clinic or private dental clinic, subject to the Seventh Schedule of the Private Healthcare Facilities and Services Regulations 2006;
- (c) Any guidelines or directive issued under the Director General or the Minister in the exercise or the performance of any power, duty or function conferred or imposed on the Director General or the Minister under Act 586;
- (d) Any related provision under Act 586 and its regulations;
- (e) Any guidelines issued by the Bank Negara Malaysia and the Insurance Control Department;
- (f) Any related legislation, directive and guideline issued by the Ministry of Domestic Trade and Consumer Affairs;
- (g) Any guidelines issued by the Life Insurance Association of Malaysia (LIAM) or General Insurance Association of Malaysia (PIAM); and
- (h) The Personal Data Protection Act 2010.

6.11. All MCOs shall establish a grievance mechanism plan and grievance procedure for addressing any grievance on monetary arrangement or payment or reimbursement of professional or healthcare facility or services' charges in the contract or arrangement.

6.12. Any grievance pertaining fees shall be first submitted by the MCO to the private healthcare facility or services concerned and in the case where the reply is not to the full satisfaction of the MCO, the MCO may then refer the matter to the Director General in writing.

## **7. Furnishing of Information by the MCO**

7.1. Furnishing of information in the form of application can be made online or manually by downloading the application forms from the website: **[www://medpcs.moh.gov.my](http://www://medpcs.moh.gov.my)**.

- 7.2. Information regarding the total number of enrolees and medical care or healthcare providers having contract or arrangement with the MCO(s) shall be updated at the end of June and December each year using Appendix A and shall be submitted online or manually to the Director General to the following address:

Medical Practice Division (Bahagian Amalan Perubatan)  
Ministry of Health  
Level 3, Block E1, Complex E  
Federal Government Administrative Centre  
62590 PUTRAJAYA

Phone No.: +603-8883 1286, +603-88831302

Fax No.: +603-8883 1328

Email: [jdrzabedah.moh@1govuc.gov.my](mailto:jdrzabedah.moh@1govuc.gov.my), [harshinderjeet@gmail.com](mailto:harshinderjeet@gmail.com)

## 8. Updating of Information by MCO

The MCO shall inform the Director General on any change to any details in the form, as deemed necessary, from time to time.

## 9. Offence and Penalty

- 9.1. A licensee or a holder of a certificate of registration or a MCO who enters into a contract or makes any arrangements that contravenes subsection 83(1), Act 586 shall be liable on conviction –

- (a) under subsection 83(2) Act 586:

- Sole Proprietor – to a fine ≤RM 100 000 or/and ≤2 years imprisonment;
- Body Corporate/Partnership/Society – to a fine ≤RM 300 000; and
- MCO – to a fine ≤RM 500 000;

- (b) under subsection 83(3) Act 586, where an offence is committed by a body corporate, a partnership or a society or a MCO-

- Person Responsible of a Body Corporate/Every Partner of the Partnership/Office Bearers of a Society also commits an offence and may be liable – to a fine ≤RM 100 000 or/and ≤2 years imprisonment.

- 9.2. A licensee or a holder of certificate of registration who refuses or fails to furnish the information or furnishes false or misleading information regarding an MCO that contravenes subsection 84(1) of Act 586 shall be liable on conviction –

- (a) under subsection 84(2) Act 586:

- Sole proprietor – to a fine ≤RM 10 000 or/and ≤3 months imprisonment; or
  - Body Corporate/Partnership or Society – to a fine ≤RM 50 000;
- (b) under subsection 84(3) Act 586, where an offense is committed by a body corporate, a partnership or society-
- Person Responsible of a Body Corporate/Every Partner of the Partnership/Office Bearers of a Society – to a fine ≤RM 10 000 or/and ≤3 months imprisonment.
- 9.3. A MCO or the owner of a MCO who refuses to furnish the information relating to the organisation having contract or an arrangement with a licensee of a private healthcare facility or services as may be required by the Director General that contravenes subsection 85(1) of Act 586 shall be liable on conviction –
- (a) under subsection 85(2):
- Sole Proprietor – to a fine ≤RM 100 000; or
  - Body Corporate/Partnership/Society – to a fine ≤RM 300 000;
- (b) under subsection 85(3) ,where the offense is committed by the MCO or the owner of the MCO which is a body corporate, a partnership or a society-
- Person Responsible of a Body Corporate/Every Partner of the Partnership/Office Bearers of a Society – to a fine ≤RM 100 000 or/and ≤2 years imprisonment.

Prepared by,

Medical Practice Division  
Ministry of Health Malaysia  
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