



The right to equal access to health care

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Reforms of health care systems and the right to health

In many countries, public health care systems are increasingly coming under pressure because of the rising costs of health care. These cost increases are due to a variety of factors, including an ageing population, perceived inefficiencies and improvements in medical techniques. These countries face a great challenge maintaining their health care system accessible, of good quality and financially sustainable. Amongst others, this challenge originates from their responsibilities concerning human rights and, within this context, the right to health. The right to health is an economic and social right to a number of entitlements relevant to a person's health. This includes access to health care facilities, goods and services that should be available, accessible and affordable for the entire population on an equitable basis. This right has been implemented and enshrined in several national constitutions, international human rights conventions and treaty provisions, which together form the framework for the right to health and health care.

Going Dutch

To deal with the rising costs of health care, market-oriented elements are being implemented or have been proposed in several countries. One of these countries is the Netherlands where a new health care system was implemented in January 2006. This system introduced competition and managed care in the Dutch health care sector. It is directed at creating a health care system with 'socially desirable competition' by combining the positive effects of competition with public criteria of accessibility, quality and affordability.

The role of health care insurers

Within this new health care system, competing risk-bearing health insurers are assigned a central role. As active purchasers of health care, they are an important intermediary between the patient and the provider of health care.

To influence the different elements of the provision of health care, such as efficiency and affordability, and to distinguish themselves from others in attracting enrollees, health care insurers can apply several instruments. They can use selective or preferred contracting and can bargain with health care providers over price, quality, volume and service of the provided health care. In addition, health care insurers have the possibility to channel their insured to preferred providers and are allowed to make special agreements, exclusively for their insured.

Dutch health care insurers and the new health care system

Consequently, since the introduction of this new health care system in the Netherlands, the role of health care insurers is growing in significance. Health care insurers increasingly give meaning to their role. Firstly, insurers are starting to channel insured to preferred providers and selective contracting has been initiated for the first time in 2008. Secondly, different initiatives of making special agreements with health care providers, exclusively for their insured, are introduced. Examples of these special agreements are priority care for certain operations to evade waiting lists, fixed time terms within which the first contact with a specialist and the actual treatment have to take place, special guarantees for the succeeding of operations and extra services.

Is there a problem with the right to equal access to health care?

In the case of special agreements set by health care insurers with health care providers, the distribution of health care may possibly not be merely based on medical criteria and medical need, but also on the insurance contract of patients. It is unclear how this influences the access to health care and how this relates to the right to equal access to health care. Therefore, the main research question of this research is formulated as followed:

"To what extent is equal access to health care influenced by the different available instruments health care insurers can apply to influence health care provision and to distinguish themselves from other insurers? And how does this relate to the right to equal access to health care?"

Research design

The right to equal access to health care is a matter of great importance that consists of different elements. Equal access to health care is about social justice and fairness, grounded on the principles of distributive justice. We will describe this in the first part of this research. The second part of the study will discuss the right to equal treatment, together with its horizontal effect. Furthermore, we outline the right to health care and combine this with the right to equal treatment to

define the right to equal access to health care. The third part of this research will cover an empirical study of the role of health care insurers on the Dutch health care market and the different instruments they use to influence the provision of health care and to distinguish themselves from other insurers. Finally, these elements will be integrated to be able to answer the main research question.

