Introduction of No-Fault Obstetric Compensation

Country: Japan
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Survey no: (14) 2009
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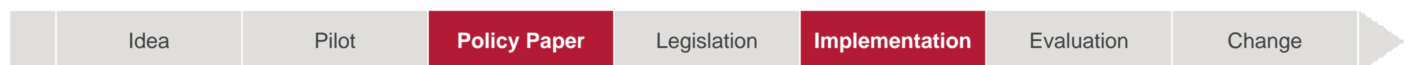
Health Policy Issues: Funding / Pooling, Remuneration / Payment
Current Process Stages



1. Abstract

The Japan Obstetric Compensation System for Cerebral Palsy was established in January 2009 with collaboration of the government and obstetricians. It aims to help children having delivery-related disabilities and their parents to promote urgent settlements of disputes in relation to delivery, and to improve the quality of maternity care. The system is essentially based on a private insurance scheme and operated by an independent body in cooperation with private insurance companies.

2. Purpose of health policy or idea

Around six hundred and thirty babies have cerebral palsy every year in Japan. Those babies and their parents confront emotional and economic difficulties. One of the most critical issues is disputes between parents and healthcare providers on identification of medical malpractice. This may be brought by the fact that causes of brain injuries are technically so difficult to identify. Furthermore, since it has been difficult for complainants to win medical malpractice suits, many parents of the babies face financial difficulties to care for them.

The government, seriously concerned with the issue, collaborated with the Japan Medical Association and successfully established a compensation system for the babies and their families, the Japan Obstetric Compensation System for Cerebral Palsy. Its purposes are:

- to quickly provide monetary compensation (regardless of malpractice or not) for babies who develop cerebral palsy related to brain injuries during childbirth;
- to lessen the economic burden on the family; and
- to strive for the prevention and early detection of problems.

This system also aims at improving the quality of maternity care, analyzing the causes of accidents, and providing beneficial information in order to prevent similar cases in the future.

The Japan Obstetric Compensation System for Cerebral Palsy

The compensation system is essentially based on a private insurance scheme and managed by an independent body, the Japan Council for Quality Health Care (JCQHC). The organization is a non-profit organization originally established to implement third party accreditation of hospitals in 1995. Its endowment was provided by the Japan

Medical Association, the Ministry of Health, Labour and Welfare, and other healthcare organizations.

The role of the JCQHC in the system is to contract with private insurance companies. The JCQHC collects insurance premiums from individual childbirth facilities (hospital department and maternity clinics) which register as participants of the compensation system, while registered childbirth facilities collect the same amount of money as the premiums from expectant mothers as a part of childbirth expenses. Finally, public health insurers provide the same amount of benefits to re-fund mothers by increasing the lump sum payment for childbirth.

Parents whose children have severe cerebral palsy can demand compensation from the system by submitting the necessary documents to the childbirth facility where delivery took place. Eligibility for compensation will be judged by the operating organization within the JCQHC. The organization will authorize compensation according to the compensation system criteria.

The operating organization shall analyze cases of cerebral palsy to examine the root causes of them. A causal analysis committee, consisting of obstetrical experts and academic experts, has been set up within the organization. The results of its analyses will provide the general public with notifications to a wide audience.

Main objectives

The main objectives of the system are:

- to help children suffering from delivery-related disabilities and their parents;
- to promote quick solutions for disputes in relation to delivery; and
- to improve the quality of maternity care.

Type of incentives

Financial incentives:

- Increase a subsidy to mothers having a baby, which can cover an expence to the premium of the compensation system.

Non-financial incentives:

- The Japan Council for Quality Health Care will probably publish scientific analyses on maternity care which are expected to improve the quality of maternity care.

Groups affected

Parents with a child with cerebral palsy related to brain injuries during childbirth, expectant mothers, obstetricians, childbirth facilities, public insurers, private insurance companies

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3. Characteristics of this policy

Degree of Innovation	traditional					■	innovative
Degree of Controversy	consensual			■			highly controversial
Structural or Systemic Impact	marginal				■		fundamental
Public Visibility	very low				■		very high

Transferability strongly system-dependent [scale] system-neutral

This policy is evaluated as innovative and of rather fundamental systemic impact because this is the first scheme in Japan to compensate medical adverse events which result in disabilities regardless of malpractice.

4. Political and economic background

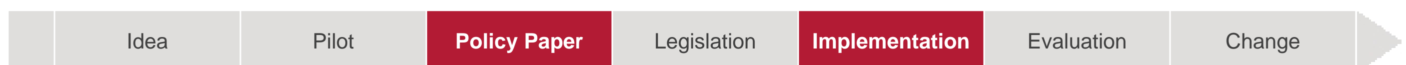
Maternity care in Japan have been far from ideal for doctors as well as parents and babies. A critical issue has been the serious shortage of obstetricians. The number of obstetricians decreased from 12,340 to 9,592 between 1994 and 2006, whereas the number of all medical doctors increased from 220,853 to 277,927 in the same period. In addition, more than forty percent of obstetricians are aged more than 60 years and almost retired. Thus, it is becoming difficult for childbirth facilities to have enough specialists to maintain quality of care and patient safety.

One reason for the decrease in the number of obstetricians seems to be that an increasing number of lawsuits over perinatal care has put medical students off to become obstetricians. In fact, obstetricians face the highest risk of lawsuits: the number of cases brought against obstetricians, surgeons and internists in 2007 were 14.5, 9.5 and 3.6 respectively.

Althought the government has increased the fees for maternity care and placed additional quotas of students on medical schools to increase the number of obstetricians, the shortage is likely to last.

Meanwhile, the government has been concerned with the declining birthrate and has developed policy measures to support new and expecting parents as well as their babies and children.

5. Purpose and process analysis



Origins of health policy idea

In June 2006, the Japan Medical Association established an institutional committee for considering a "disability compensation system for birth-related cerebral palsy". In September 2006, the committee issued a draft on a system to compensate babies with cerebral palsy suffered in delivery regardless of doctor's malpractice.

In response to the draft, in November 2006, a committee of the Liberal Democratic Party issued a policy document, "A framework of a no-fault compensation system in medical practice of obstetrics". The document set the following objectives of the system: to help children suffering from delivery-related disabilities, to promote urgent settlement of disputes, and to improve the quality of maternity care.

Based on this framework, the JCQHC came to take the preparation of the system, in response to strong requests by obstetricians. In February 2007, the JCQHC set up a preparatory committee for establishing a compensation system in the practice of obstetrics. This committee discussed how to manage the planned compensation system for obstetrics in detail. The Ministry of Health, Labour and Welfare (MHLW) supported its work financially by granting a subsidy to the JCQHC.

In April 2007, a committee for examining the planned compensation system in the practice of obstetrics from a medical point of view was held along with the preparatory committee. In August 2007, the committee issued an investigation report for designing the compensation system in the practice of obstetrics. This report established the

basis for discussion about the standard of eligibility etc. The details of the system, however, were repeatedly amended.

The preparatory committee called twelve meetings and carried on complicated discussions. Finally, the preparatory committee released a report on the details of the compensation system on 23 January 2008. The MHLW and health professionals related with obstetrics examined the contents of the report repeatedly. Eventually, the Japan Obstetrics Compensation System for Cerebral Palsy was founded on 1 January 2009.

Initiators of idea/main actors

- Government: Goverment of the previous leading party, Liberal Democratic Party
- Providers

Approach of idea

The approach of the idea is described as: new: This is the first scheme in Japan to compensate medical adverse events which result in disabilities regardless of malpractice.

Stakeholder positions

Almost all stakeholders agreed with the necessity of this non-fault compensation system. However, there is a discussion within the stakeholders whether private companies are allowed to make a profit through this system or a new public insurance body should be established to manage the fund.

Actors and positions

Description of actors and their positions

Government

Ministry of Health, Labour and Welfare — very supportive strongly opposed

Providers

Japan Medical Association — very supportive strongly opposed

Japan Society of Gynecology and Obstetrics — very supportive strongly opposed

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Influences in policy making and legislation

A Cabinet Order was issued on 5 December 2008 in order to increase the lump-sum birth allowance to cover the money charged by childbirth facilities to expected mothers, which is supposed to be used as the premium on the compensation system.

Legislative outcome

success

Actors and influence

Description of actors and their influence

Government

Ministry of Health, Labour and Welfare — very strong none

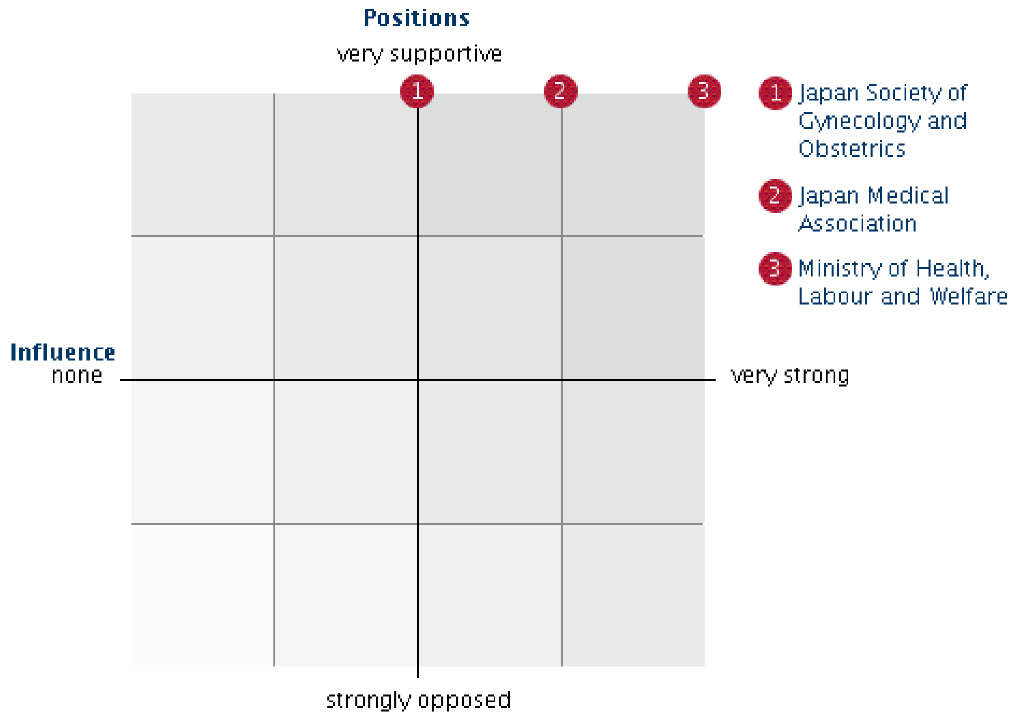
Providers

Japan Medical Association — very strong none

Japan Society of Gynecology and Obstetrics

very strong none

Positions and Influences at a glance



Adoption and implementation

- Participation of childbirth facilities is the key to successful implementation because it is essentially voluntary to participate in this scheme, and the amount of participation affects the total amount of premiums collected to care for the disabled babies.
- In fact, as of 18 November 2009, 99.5% (3301/3318) of childbirth facilities in Japan have joined to this scheme.

Monitoring and evaluation

This system will be reviewed in five years after the implementation in terms of eligibility criteria, the standerd of the compensation,the amount of the compensation and the management of the system.

Review mechanisms

Mid-term review or evaluation

Dimensions of evaluation

Structure, Outcome

Results of evaluation

This scheme was implemented on January 2009 and so far just the first three cases were approved for compensation . Thus, it is too early to evaluate results of this policy.

6. Expected outcome

The primary expected outcome is a reduction of the number of lawsuits against obstetricians relating to celebral palsy.

Moreover, this policy will provide empirical evidence on how implementation of the no-fault compensation system affects costs and management of maternity care as well as behaviors of doctors and patients. Such findings will probably lead to further discussion on compensation for healthcare-related injuries.

Quality of Health Care Services marginal fundamental

Level of Equity system less equitable system more equitable

Cost Efficiency very low very high

This scheme was just implemented on January 2009 and only the first three cases were approved for compensation so far. Thus, it is too early to rate the impact of this policy.

7. References

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Suggested citation for this online article

Tomizuka, Taro and Ryozo Matsuda. "Introduction of No-Fault Obstetric Compensation". *Health Policy Monitor*, October 2009. Available at

http://www.hpm.org/survey/jp/a14/4