



— PRACTICAL ADVICE FOR —

DOCTORS TREATING FOREIGN WORKERS

Text by Dr Joanna Chan and Dr Dennis Chia

Low- and semi-skilled foreign workers in Singapore who are holding a Work Permit are often involved in manual labour in the shipyard and construction industries. These are the patients who face the highest risk of workplace injuries, yet encounter the greatest barriers to receiving healthcare in our country. They tend to be poorly aware of their rights and may refuse necessary treatment due to misconceptions that they will have to foot the hefty medical bills themselves. To compound the problem, doctors tend to be ignorant about the consequences that our sometimes unthinking actions may have for the worker – for example, the act of giving the medical certificate (MC) to the employer instead of the worker.

In Dr Natarajan Rajaraman's article (see page 16), he examines the limitations of a healthcare system which "pits medical practitioners' financial interest against their ethical obligation" when it comes to prescribing medical leave for foreign workers. In the absence of existing regulatory guidelines on medical treatment of these workers, it is the individual doctor who will either be of great help or hindrance to the ill or injured worker in his healthcare journey, depending on his or her alertness to the issues that these workers face.

This article hopes to address, in part, the question: What can doctors do in everyday practice, while awaiting better systemic safeguards for the workers? Here are some useful pointers, and facts about foreign workers' legal rights, for all doctors to bear in mind while treating this vulnerable group of patients.

Dos and don'ts to observe in daily practice

Document history clearly in consultation notes

Bear in mind that a worker's compensation claim may depend on the documentation at the time of his first presentation. This may be in the A&E or a different context, such as the GP clinic.

It is essential to ask the worker if an injury was sustained during the course of work and document this clearly. It is

equally important to document if the worker comes in alone or accompanied by a supervisor. Versions of the history sometimes diverge during the Work Injury Compensation Act (WICA) claims process, during which the employer may dispute the worker's version of the story. Thus, the first documentation should accurately reflect who gave the history. The worker may be charged with lying (this carries a jail term) if the Ministry of Manpower's (MOM) investigating officers do not believe the worker's account or if it is challenged by other employees. List the name and designation of the accompanying persons and the language in which history is given, as it is possible that history may be taken entirely from a supervisor in a language the patient does not speak.

Document every injury to facilitate any retrospective claims from the worker. Any injury not documented would mean that the worker is not covered for said injury and would not be able to receive adequate compensation. Take a real-life scenario for example: a worker who falls off a ladder may present with both an elbow dislocation and back pain. As the first attending doctor, we may be very excited about the dislocation and document it well but may neglect the back pain. As a result, during the claims process, MOM does not recognise the back pain as having resulted from the injury.

Doctors who are first-line providers should be cognisant of the importance of their documentation as it is their oft-scanty notes which are referred to

- i) When employers or workers file an incident report.
- ii) When doctors fill up the MOM WICA claim incident form.
- iii) If a civil suit is filed by the worker.
- iv) If a court case is brought against the worker for lying.

Give the worker the discharge summary and MC

Non-governmental organisation (NGOs) that help foreign workers report that these workers are sometimes denied access to their MC or medical records.¹

Without being able to refer to their MC, workers may be unaware that they were prescribed light duty rather than medical leave. Absence from their work during a period of light duty means that they will not be paid for their days of rest, as they are only paid for medical leave or hospitalisation leave while off work. The latest edition of the Singapore Medical Council (SMC) Ethical Code and Ethical Guidelines (ECEG) published in 2016 reinforces that "where possible, medical certificates must be handed over only to patients themselves".² A copy may be made for the employer only if the worker gives consent.

Explore the reasons why a foreign worker refuses essential treatment

Foreign workers sometimes refuse life-, limb- or function-saving medical treatment or hospitalisation due to misconceptions or unwillingness on the part of the employer to pay for their treatment. Doctors are sometimes able to address these barriers, which may include

- a) The patient's inability to get a letter of guarantee (LOG) from their employer for hospitalisation (without which they have to pay a thousand-dollar deposit for hospitalisation, which is beyond their capability);
- b) The patient's belief, or the employer's threat, that the hospital bill will become a "debt" to their employer, which they will have to pay off; and
- c) The patient's fear of repatriation when their employer finds out they are injured.

The LOG is a guarantee from the employer that the company will cover the worker's hospital expenses and it is required for the admission of foreigners. For a non-workplace injury, if the employer is reluctant to issue the LOG, a letter from the doctor stating that hospitalisation is "**immediately and medically necessary**" may help to facilitate the process.

Admissions for all work pass holders can still proceed without the LOG at many restructured hospitals (you could check with your Business Office to see

if this applies to your institution). If a worker presents outside office hours with a medical condition which requires hospitalisation (eg, appendicitis) but their human resource (HR) personnel cannot be contacted outside office hours to provide the LOG, the patient can still be admitted to the hospital, though they should inform their employer that they are proceeding with the hospitalisation. The Business Office will then contact the employer/HR in the morning to sort out the LOG. If the employer declines to pay for the hospitalisation, the Business Office will lodge a complaint with MOM.

However, if the worker does not personally agree to stay in hospital, doctors cannot keep him in the hospital against his will if he has capacity.

Be aware of resources outside the hospital

If you fear that a patient is being prevented from accessing treatment and may require a social worker to follow up for the patient's safety, you may refer him to HealthServe, an NGO that employs case workers to aid foreign workers in navigating around barriers they may face in obtaining healthcare. The foreign worker can call the general office number, 6743 9774, and the staff will assess their need and refer them to a HealthServe case worker or another suitable NGO.

Do not under-prescribe MC

When a foreign worker is given an MC for a duration of four days or more (whether consecutive or not) for an injury

sustained at the workplace or due to work exposure, the employer will have to submit a mandatory incident report to the MOM within ten days. Employers may thus request for fewer days of MC to be prescribed to avoid reporting a worksite accident. The SMC has issued repeated circulars to remind doctors not to be influenced by third parties in this matter. The 2016 ECEG also includes the reminder that "Medical certificates must be issued to patients only on proper medical grounds arrived at through good clinical assessment. You must not take into consideration extraneous factors such as who pays for the consultation, what benefits the patients may receive, or what the employers' preferences may be."²

Summary of the Dos and Don'ts in Daily Practice

1. Document the following

- a) Whether or not the injury sustained was a workplace injury.
- b) Who accompanied the patient (eg, colleague, site supervisor, safety officer).
- c) Who gave the account of events leading to the presentation.
- d) All injuries (however minute) to ensure that the patient has a basis for future claims.

2. Provision of MCs

- a) All copies should be given to patients.
- b) Provide copies to employers only if the patient is agreeable.
- c) Check in advance whether the patient has to submit the original copy of their MC to their employer and, if so, consider furnishing a copy for that purpose.
- d) Do not under-prescribe MC/light duties (especially at the request of the patient's employers unless the patient is agreeable).
- e) Before prescribing light duties, verify with the patient or employer that the company is able to make provisions for the patient and document in the notes. Otherwise, please consider giving medical leave instead.

3. Discharges against medical advice/refusal of treatment

- a) Explore the underlying concerns and try to address them. This will often require discussions with the patient and his employer.

4. Available resources

- a) HealthServe (NGO) available at 6743 9774
- b) Report suspected breach of work-pass conditions to MOM:
 - Email: mom_fmmd@mom.gov.sg
 - Tel: 6438 5122/6317 1111
 - MOM website: <http://www.mom.gov.sg/eservices/services/reportan-infringement>
- c) Report under-prescription of MC:
 - To MOM: mom_oshd@mom.gov.sg
 - To SMC: enquiries@smc.gov.sg / 6372 3141

Frequently Asked Questions

1. Who bears the medical costs incurred for non-workplace illnesses and injuries?

The employers are obliged to pay for the medical costs for all non-work-related illnesses and injuries incurred by their foreign workers. This is mandated by law, as stated under the Employment of Foreign Manpower Act (Chapter 91A), under the Employment of Foreign Manpower (Work Passes) Regulations 2012.³

The employer shall be responsible for and bear the costs of the foreign employee's upkeep and maintenance in Singapore. This includes the provision of medical treatment.

The foreign worker may be made to bear part of any medical costs in excess of the minimum mandatory coverage only if

- a) The foreign employee's agreement to pay part of any medical costs is stated explicitly in the employment contract; and
- b) The part of the medical costs paid by the foreign employee does not form more than 10% of his fixed salary every month.

Part of the medical costs incurred is offset by compulsory insurance coverage, as mandated by law. Foreign workers are currently covered by work injury insurance for an amount up to the compensation limits under the WICA and non-workplace medical insurance of up to S\$15,000.

2. When can a foreign worker claim for compensation under the WICA?

A foreign worker may claim compensation under the WICA⁴ if

- a) He is presently under employment;
- b) Suffers personal injury; and
- c) The injury arises out of and in the course of his employment.

The WICA sets out some situations in which a foreign worker is deemed to be injured in the course of his employment. This includes injury sustained while going to or back from work, or due to an accident that occurs on a transport operated by his employers.

The WICA also makes it clear that employers are not liable in certain situations, such as if it is proven that an injury was due to the employee having been under the influence of alcohol or a drug not prescribed by a medical practitioner, or an injury was sustained in a fight or attempted assault, unless for instance, in self-defence.

3. In the event of a dispute over whether the injury is a workplace injury, what can a foreign worker do?

In the event a foreign worker sustains injury in the course of his employment but the employer refuses to permit him to see a doctor, to bear the medical expenses of the worker, or to pay medical leave wages, the foreign worker may lodge a report with MOM via its website.

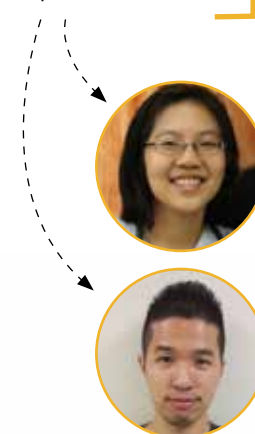
MOM may investigate the matter and take appropriate action, including requiring the employer to bear the foreign worker's medical expenses, if the injury was found to have occurred in the course of his employment.

Doctors who suspect coercion of the worker or obstruction of his access to care by the employer may email mom_fmmd@mom.gov.sg to report suspected breach of work-pass conditions.

References

1. Zhu, M. Too injured to work: Migrant workers fight for medical leave, compensation. *Channel NewsAsia* 21 May 2016. Available at: <http://www.channelnewsasia.com/news/singapore/too-injured-to-work/2778272.html?cid=fbia>.
2. Singapore Medical Council Ethical Code and Ethical Guidelines (2016 edition). 13 September 2016. Available at: http://www.healthprofessionals.gov.sg/content/hprof/smc/en/topnav/guidelines/ethical_code_and_ethical_guidelines.html.
3. Ministry of Manpower. Employment of Foreign Manpower Act (Chapter 91A). Employment of Foreign Manpower (Work Passes) Regulations 2012. Available at: <http://www.mom.gov.sg/legislation/employment-of-foreign-manpower-act>.
4. Ministry of Manpower. Work injury compensation insurance. Available at: <http://www.mom.gov.sg/workplace-safety-and-health/work-injury-compensation/work-injury-compensation-insurance>.

Dr Joanna Chan Shi-En and Dr Dennis Chia are emergency medicine senior residents under SingHealth and National University Health System, respectively. They have witnessed many foreign workers refusing medical treatment during the course of their practice and decided to find out and share some answers to the questions they had regarding how doctors can make a difference for this group of patients.



Acknowledgement

We would like to thank Colin Chia and Jeff Chua from HealthServe and Christine Pelly from Transient Workers Count Too for providing input. ◆