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Rapport van de commissie Medische  
zorg voor (dreigend) uitgedeelde  
asielzoekers en illegale vreemdelingen

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Doctors have been warning their professional organisations about points of friction in the medical treatment of rejected asylum seekers (threatened with expulsion) and illegal immigrants.

When providing care for asylum seekers doctors are faced with problems of continuity and of transfer of care in asylum seekers' centres and in cases of (threatened) expulsion. The provision of medical advice in the context of legal asylum procedures leads to areas of friction in care. And doctors are involved in problems related to the quality of care in detention centres for immigrants.

In the practical situation of care given to illegal immigrants there is a lack of clarity regarding the extent of care defined as 'medically necessary care' (*'medisch noodzakelijke zorg'*) to be provided by doctors. The commission has elaborated this concept somewhat further and presents practical recommendations.

## AIM

Prior to starting work, the commission formulated the following three aims:

- 1 The analysis from a medical viewpoint of the existing procedures and the concepts of 'medical emergency situation' (*'medische noodsituatie'*) and 'medically necessary care' (*'medisch noodzakelijke zorg'*), as these are laid down in legislation and regulations applicable to failed asylum seekers threatened with expulsion and to illegal immigrants, and the drawing up of recommendations and guidelines with regard to professional medical activities in such situations.
- 2 The drawing up of guidelines and codes of conduct for situations where policy on immigrants conflicts with the doctors' duty to provide care and their responsibility for the continuity of care. This affects not just the medical care given to asylum seekers and to immigrants that are to be repatriated but also the medical care given to illegal immigrants.
- 3 The drawing up of recommendations and guidelines regarding the placement and medical treatment of sick immigrants in government-established reception centres or detention centres for immigrants, based on guaranteeing the quality and continuity of care.

## ASSESSMENT

The basic foundations of the work carried out by doctors are laid down in the Hippocratic oath, in rules of conduct and in legislation. These are translated into various guidelines according to which doctors are bound to apply their knowledge and skills to improve the health and well-being of the patient, to offer qualitative care – thereby respecting the patient's right to self-determination – and to act in the interests of public health. Doctors must treat patients

equally in equal situations and may not accept any orders conflicting with generally accepted medical-ethical opinions.

Every individual in the Netherlands has access to the care that he or she needs. The doctor takes the health of and care for the patient as starting point. This leads to the concept of ‘appropriate care’ (*‘passende zorg’*) formulated by the professional medical group, further defined as ‘care indicated according to professional guidelines or standards for a health problem. The indication comes about on the basis of a thorough analysis of the health problem and of insight into the (cost) effectiveness of existing possibilities of intervention’ (*‘zorg die volgens professionele richtlijnen of standaarden geïndiceerd is bij een gezondheidsprobleem. De indicatie komt tot stand op basis van een gedegen analyse van het gezondheidsprobleem en inzicht in de (kosten)effectiviteit van bestaande interventiemogelijkheden’*). This basic assumption leads to the following recommendations and guidelines.

## RECOMMENDATIONS AND GUIDELINES FOR DOCTORS AND OTHERS INVOLVED

*Recommendations and guidelines concerning the care of asylum seekers and illegal immigrants in detention and medical advice in policy towards immigrants*

- 1 Those implementing government immigration policy must weigh medical aspects when taking decisions regarding the reception of asylum seekers and the detention of illegal immigrants. Doctors should request that attention be paid to these matters.
- 2 The framework of immigration policy creates tension with regard to the professional responsibility of the medical advisers of the IND (Immigration and Naturalisation Service). The commission thus advises those implementing immigration policy to take the following aspects into consideration when determining whether sick asylum seekers and other immigrants can or cannot be repatriated to their country of origin:
  - a increase transparency regarding the working methods of the medical advisers and regarding the content of the concept of ‘short-term medical emergency situation’ (*‘medische noodsituatie op korte termijn’*);
  - b carry out an assessment of the actual access to and continuity of care in the country to which the patient is being returned, taking the treatment given in the Netherlands as starting point;
  - c it is impossible for a doctor in the Netherlands to state what possibilities for treatment at the level of the individual are available in the country of origin, meaning that this assessment should not be the function of doctors;
  - d consult internationally recognised sources of information when determining the possibilities of treatment and actual access to care in a particular country;
  - e follow up the outcome of medical advice given in the context of immigration

- policy, both in the procedures and with regard to the continuity of care.
- 3 Doctors responsible for providing care, should provide lawyers and medical advisers exclusively with factual treatment information. In addition they have the duty to make efforts to pass on medical information to the future supplier(s) of treatment. If transfer of such information fails and there is doubt concerning the continuity of care, the doctor should make this known to the authorities.
  - 4 Doctors provide asylum seekers in detention or immigrants with appropriate and responsible care, for which the relevant authorities provide the doctors with sufficient room for manoeuvre.
  - 5 Doctors working in an environment linked to immigration policy should train themselves in the duties and responsibilities of doctors in this complex situation.
  - 6 Consultations between professional medical organisations and those implementing immigration policy can contribute to reducing areas of friction and dilemmas confronting doctors.

*Recommendations and guidelines regarding care given to illegal immigrants without healthcare insurance*

- 1 ‘Medically necessary care’ (*‘medisch noodzakelijke zorg’*) should, in the commission’s opinion, be defined as ‘responsible and appropriate medical care’ (*‘verantwoorde en passende medische zorg’*). Such care is effective and targeted, is given in a patient-oriented manner and is fine-tuned to the patient’s actual needs. In this the doctor bases the indication on a thorough analysis of the health problems and indicates in accordance with the standards of the profession and in a cost-effective manner. When different interventions turn out to be equally effective, arguments based on safety and effectiveness determine the decisions.
- 2 Doctors are often unable to predict how long illegal immigrants will remain in the Netherlands. In the case of care that can be postponed in combination with the expectation of a short stay in the country, they can limit the care or provide none at all. However if the duration of the stay in the Netherlands is unclear or long-term, continuity of appropriate medical care is more important and the care given should be the same as the regular basic care given to those carrying health insurance.
- 3 Doctors provide appropriate and responsible care by applying the same guidelines, protocols, standards and codes of conduct, as defined by the medical and scientific professions, that they would use in regular health care.
- 4 In the provision of care, doctors and care institutions should primarily focus on medical and care aspects and not on financing arrangements. The possible deleterious consequences for access to and quality of care brought about by financing arrangements should be expressly recognised.
- 5 Doctors need to be aware of the cost aspect without it becoming the major factor. In the medical care given to uninsured immigrants it is appropriate that

financial arguments should play a role in the choice of treatment provided that the relevant guidelines leave room for this.

- 6 Doctors and care institutions should draw up agreements and procedures so that the working method used in the case of uninsured illegal immigrants is transparent to and can be tested by all those involved. Here the principal aspect is that the care requirements should be appropriately dealt with by doctors; in addition agreements need to be reached regarding possibilities of payment.
- 7 The commission recommends that government and the care institutions should monitor the care given to uninsured immigrants as regards its nature and extent and as regards problems in access to care.
- 8 Targeted information is required for doctors, care institutions, intermediaries and illegal immigrants regarding rights, duties, regulations and procedures, partly with an eye to the new financing arrangements.
- 9 Professional medical organisations and government should make efforts within a European context to draw up guidelines for the care of illegal immigrants.

The commission regards it advisable that doctors experiencing problems in the situations described here should fall back on their professional organisation for advice and assistance. The professional organisations should monitor such signals and draw up guidelines.

It is the commission's opinion that doctors should follow the recommendations and guidelines in this report and that other non-medical parties should respect them and apply them to their own actions, thereby giving doctors room to act accordingly.