

# Research on the System of Emergency Rationing Scheme of Medical Resources for Public Health Events

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## Abstract

**With the outbreak of new coronary pneumonia in 2020, the number of infected patients in hospitals has increased sharply, resulting in serious scarcity of medical resources, and a large number of patients seeking medical treatment often lead to some disorder in the distribution of medical resources. Existing laws and regulations make it clear that the central and local governments should improve emergency plans for emergencies, so the prevention and treatment of public health emergencies is a public law act. According to the requirements of "administration by law", it is necessary to clarify the government's functions and powers and formulate emergency rationing plans. In the plan, the principle of utility, the principle of contribution and the principle of fairness should be the main distribution rules to ensure that it is practical.**

## Keywords

**Allocation of medical resources; Priority treatment; Utilitarianism.**

## 1. Origin of the Problem and Related Background

In the early days of the COVID-19 outbreak, medical resources were severely overloaded. However, in the face of the sharp increase in the number of patients and the scarcity of medical resources, the hospital has no specific and feasible response plan, so the allocation of medical resources in an emergency state presents an "irregularity". For example, the "girl knocking gong" incident in Wuhan at the beginning, and the recent news about pregnant women in Xi'an who were rejected for miscarriage, and men with angina pectoris who were refused treatment and died suddenly. These phenomena all reflect the problems existing in the allocation of medical resources after the occurrence of public health events. Hospitals do not have a reasonable standard for allocation of medical resources. Factors such as social concern, patients' social status, and wealth resources are all affecting their relief behavior.

### 1.1. What Is The Emergency Allocation Plan of Medical Resources for Public Health Events

The emergency rationing plan of medical resources for public health events is the sum of the principles and rules that medical institutions should abide by when allocating medical resources in the process of treating patients when medical resources are relatively short, aiming to adjust medical work in the event of public health emergencies. The relationship between rights and obligations formed with patients when allocating medical resources.

According to the "Regulations on Public Health Emergencies" promulgated by the State Council, public health emergencies refer to major infectious disease epidemics, mass diseases of unknown origin, major food and occupational poisoning that occur suddenly and cause or may cause serious damage to public health. and other events that seriously affect public health.

## **1.2. Characteristics of Emergency Rationing Plan for Medical Resources in Public Health Events**

Given the extreme nature of the COVID-19 situation, the formulation of relevant plans needs to take into account the characteristics of public health events and conform to the rule of law logic of public health law.

### **1.2.1. Timeliness**

The public health event itself has the characteristics of suddenness, unknownness, and contagion. In addition, the mobility of the population in today's society is high. After the public health event occurs, the spread is fast and time is tight. Especially when the health system is already overloaded, and the government is under urgent time pressure, they must respond in a timely manner and guide hospitals to rationally allocate medical resources to avoid delays in the treatment of dying patients.

### **1.2.2. Crowd**

When a large number of people were infected in the early stage of Wuhan, the rationing of medical resources can be attributed to the field of "disaster medicine". When a disaster occurs, the government needs to take appropriate measures. Any shortage and waste of disaster relief resources must be borne by the society collectively. In this regard, the rights and positions that have been established in the individual doctor-patient relationship are no longer applicable to the current situation, and priority treatment in an emergency only involves the right to share the scarce medical resources equally. In the special case of priority treatment, medical resources must be used in a way that is beneficial to the collective, so individual patients who are admitted do not enjoy absolute rights.

## **2. Problems with the Emergency Ration Plan of Medical Resources for Public Health Events in My Country**

### **2.1. The Emergency Allocation of Medical Resources for Public Health Events Lacks Operability**

According to the search of existing laws and regulations, it is found that my country already has a corresponding legal system for responding to public health emergencies. There are "Emergency Response Law" at the legal level, "Regulations on Response to Public Health Emergencies" and "Regulations on the Management of Public Health Places" at the administrative level, as well as departmental regulations, local regulations, rules and administrative normative documents. corresponding regulations. However, there are currently no specific regulations on how to allocate scarce medical resources in a state of emergency.

Laws and administrative regulations have put forward some guiding principles, the main content of which is to require people's governments at or above the county level to improve the emergency rescue system to ensure the production and supply of medical resources. Local regulations repeat the principled provisions of higher-level laws and lack operability. In order to ensure the implementation of higher-level laws, local legislation should be further refined and new rules created without conflicting with higher-level laws. However, most local regulations do not have specific implementation plans. The superordinate method is repeated by means of expanding clauses and so on. At the same time, some local laws and regulations have proposed to solve the problem of shortage of emergency materials by increasing enterprise production and emergency requisition and collection, but still have not solved the problem of how to allocate medical resources in emergency situations. A small number of some administrative normative documents involve the distribution of medical supplies, but only the distribution quantity is specified, and the distribution objects and distribution standards are not mentioned. In addition, the relevant laws and regulations such as the Earthquake

Prevention and Disaster Reduction Law of the People's Republic of China and the Regulations on Natural Disaster Relief that can be referred to also do not specify the allocation standards for emergency supplies. Most of them are abstract guiding principles, so they have no reference value.

## **2.2. The Level of Legalization of The Emergency Rationing Plan of Medical Resources for Public Health Events Is Low**

It is an inevitable choice for my country's national conditions to promote the legalization of the emergency rationing plan of medical resources for public health events. On the one hand, the Constitution and laws stipulate that both the central and local governments have the function of managing public health: my country's "Constitution" stipulates in Article 21 that "the state develops medical and health services". The Promotion Law further clarifies in Article 7 that "the State Council and local people's governments at all levels lead the work of medical care and health promotion". At the same time, the treatment of patients in public health incidents belongs to the category of disaster relief. For a long time, this power has been a function of the government, and the government has the main responsibility for public health. Regarding the reserve and dispatch of medical resources, relevant laws and regulations have given local governments certain discretionary powers. Therefore, the legalization of emergency rationing plans is to regulate public law behaviors, and it is also the need for "administration according to law".

On the other hand, in China's medical service system, public hospitals and primary medical and health institutions account for the largest proportion. Judging from the national medical service situation in the past three years according to the statistics of the National Health and Health Commission, the number of patients treated in private hospitals only accounts for about 15% of the number of patients treated in hospitals. Therefore, public hospitals and grass-roots medical and health institutions, as public institutions organized by the government and included in the financial budget management, when responding to public health incidents, their treatment behaviors are public welfare and belong to public law. Public law needs to limit power, and lack of relevant distribution scheme cannot guarantee the rights of citizens when the government allocates medical resources.

## **3. The Three Major Rules of My Country's Public Health Emergency Medical Resource Allocation Plan**

### **3.1. Ethical Basis**

To formulate a plan for the allocation of medical resources in an emergency, first of all, it is necessary to clarify the rationality of priority treatment. Priority treatment can ensure the highest utilization of medical resources to a certain extent, and the final result is beneficial to the majority of people, but at the same time, it also damages the basic equality rights of a small number of people. From an ethical point of view, whether it is reasonable to prioritize treatment is actually a conflict between utilitarianism and the principles of justice in an emergency.

The most typical representative of utilitarianism is Jeremy Bentham. Bentham emphasized that "suffering" and "pleasure" are the most fundamental reasons that affect human behavior. In utilitarianism, avoiding pain and pursuing pleasure is the foundation of human nature. In the field of law, therefore, it is the duty of the legislator to reconcile public and private interests in order to achieve "the greatest happiness of the greatest number." The principle of justice, represented by Rawls's theory of justice, emphasizes that the justice of fairness is a normative principle.

There are essential differences between the two. Utilitarianism is a teleological theory, while the principle of justice is a deontological theory. The main representative of deontology is Kant, who believes that when a person performs an action, he always acts according to a general principle. And this general principle is an absolute imperative that must be followed no matter the situation. Therefore, it is also necessary to establish a universal moral law in social life, which is not only the highest standard of people's moral behavior, but also a legislative principle. But the universal moral law has certain drawbacks: if it follows the universal principles of fairness and justice, then the behavior is not specific, but a type, which needs to be followed no matter what the situation is. As such, it fails to explain the moral conflicts that arise in particular situations. Specifically, according to deontological claims, the moral principles of medical resource allocation should be consistent in ordinary and emergency situations. According to the previous article, the extreme nature of the COVID-19 situation makes the distribution of medical resources fall into the field of "disaster medicine", and the usual rules can no longer solve the problem in this state, and the moral principles of resource allocation in normal times are not apply again. On the contrary, utilitarianism can fully explain the moral facts of various special acts and contingency, because according to teleology, the criterion for judging an act is the good and evil of its end result, not the rules applied in the process.

Therefore, from the comparison of the above two, when society is in a state of emergency, utilitarianism takes precedence over the principle of justice, whether as a moral principle or as a social choice principle.

### 3.2. The First Rule - The Principle of Utility

General Secretary Xi Jinping mentioned in his important speech at the National Commendation Conference for Combating the New Coronary Pneumonia Epidemic: "The people

We put life first and protect people's lives and health at all costs. Therefore, saving the most lives is a rational choice to protect people's life safety and physical health. In view of this, it is recommended to stipulate in the emergency rationing plan of medical resources for public health events: "In the event of a public health emergency, medical work should be The person should make a prediction based on the patient's vital signs, social benefits and other relevant conditions to save the patient's life to the greatest extent. (1) Scientifically evaluate the medical expectations of patients, and patients with good medical expectations and no underlying diseases, young patients, and pregnant women should be given priority for treatment. (2) It is necessary to give priority to the protection of key personnel, that is, medical resources such as nucleic acid tests, PPE, masks, ventilators, and even intensive care beds and vaccines, etc., should be given priority to medical staff and other personnel who take care of patients. In addition, other support infrastructure, such as the operation of water and electricity, high-risk groups who may be exposed to infected people, and key personnel that are difficult to replace, should be given priority for protection. (3) In order to prevent the risk of infection from increasing, patients shall not be transferred; those whose permanent residence or household registration is consistent with the hospital can be given priority for treatment. (4) During the treatment process, medical staff can reallocate medical resources according to the patient's vital signs. "

In the utility principle, the word "utility" has two meanings. The first should be to ensure the highest utilization rate of limited medical resources; the second should be to maximize the overall benefits of society. In order to achieve the highest utilization rate of medical resources, patients with mild illnesses that only need to be isolated and patients with severe illnesses who have little hope of being cured are not the priority treatment targets; ensuring that key personnel can enable the society to operate in an emergency state, reflecting the overall impact of the society. Consideration of interests; using the place of permanent residence and household registration as the distribution standard can not only ensure the implementation of the third

rule, but also prevent patients from tending to the best medical resources and causing medical runs.

### **3.3. The Second Rule - The Principle of Contribution**

The second allocation rule in the medical resource allocation plan for public health events should be as follows: "In the event of a public health emergency, if it does not contravene the first rule, the following people can receive priority assistance: (1) Organ donation (2) Academicians and other scientific research workers; (3) Persons engaged in high-risk occupations; (4) Children of martyrs; (5) Retired soldiers who have achieved second-class merit during their service or have been awarded honorary titles by units above the theater; (6) Other persons who have made outstanding contributions to society as stipulated by laws and regulations."

The principle of contribution is that those who have had special skills, knowledge or made special contributions to society can be given priority to be treated. It allocates scarce medical resources according to the standards of individual ability and contribution ratio.

### **3.4. The Third Rule - The Principle of Fairness**

The third allocation rule in the medical resource allocation plan for public health events should be as follows: "Public health events

In the event of an emergency, medical workers should implement the principle of fair distribution and ensure that all patients have equal right to relief, provided that the patient complies with the first and second rules at the same time. The health administrative department shall delineate an area for multiple hospitals, and patients whose place of residence or household registration is located in this area can choose one of the multiple hospitals to register for treatment. If the number of registered patients in the hospital does not exceed its patient capacity, it will be accepted in full; if it exceeds the patient capacity, the number of places will be allocated by computer lottery. hospital for treatment conditions. "

The third rule is the embodiment of the principle of justice. In the state of large-scale outbreaks of the epidemic, medical resources are extremely scarce, and it is obviously too ideal to achieve absolute fairness and protect the rights and interests of all people. Therefore, the principle of fairness and equality is more about justice through procedures. The author believes that the method of randomly selecting the treatment object is better than the method of first-come-first-treatment. Because of the first-come-first-treatment method, people have different opportunities to obtain treatment because of their social status, wealth and resources. Often those with more information have closer access to medical resources, which is not fair.

## **4. Conclusion**

Taking the disorder of medical resource allocation during the COVID-19 period as an entry point, this paper establishes three principles of utility, contribution and fairness in the emergency ration plan for public health events by studying the existing domestic laws and regulations and the relevant ethical principles of resource allocation. distribution rules. The three distribution rules listed at the end still need to be further improved and elaborated from the perspective of legalization based on the social reality of our country.

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