

Research on Primary and Secondary School Students' Accident Insurance System of Campus Sports Activities

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Abstract: With the development of Sunshine Sports Campaign in primary and secondary schools, due to students' weak guard consciousness and poor self-protection ability, the accidental injuries of campus sports activities occur frequently, which brings students and parents with tremendous pain caused and put great pressure to the school. In order to avoid accidental injury, some primary and secondary schools limit or cancel the confrontational and risky physical activity, and even some schools reduce the time of physical exercise, while reducing the occurrence of accidents, it also makes the students lose more things, which influence the development of Sunshine Sports Activities in primary and secondary schools, and it also has already become a bottlenecks and the biggest obstacle for one-hour physical exercise daily. This paper adopts the literature, expert interviews, case analysis and other methods to study meaning, characteristics and types of primary and secondary school students' sports injury insurance of campus sports activity and explore the definition, processing procedures and compensation principle of campus sports accidents in primary and secondary school, and it believes that it should establish campus sports accident insurance system in primary and secondary school, improve the awareness of parents to consciously participate in insurance, strengthen sports legislation, build the specialized insurance intermediary, and diversify the types of insurances. It resolves worries for schools and parents when encouraging students to participate in sports, and it also helps students more actively participate in sports and protect the healthy development of campus sports activities.

1. Introduction

With the development of Sunshine Sports Campaign in primary and secondary schools, the one-hour exercise daily has been gradually implemented in majority of primary and secondary schools. But with the increase in time of physical activity, due to students' weak guard consciousness and poor self-protection ability, the accidental injuries of campus sports activities occur frequently, making the parents turn against the school in court, which also bring students and parents the tremendous pain and causes a great pressure to the school. In order to avoid accidental injury, some primary and secondary schools limit or cancel the confrontational and risky physical activities, and even some schools reduce the time of physical exercise, while reducing the occurrence of accidents, it also makes the students lose more things, which influence the development of Sunshine Sports Activities in primary and secondary schools, and it also has already become a bottlenecks and the biggest obstacle for one-hour physical exercise daily. Therefore, the insurance system of sports accidental injury primary and secondary school is imperative, which can take some compensation costs for school and students after accident happens and make up for the loss of parents and schools, providing a degree of protection for the smooth development of Sunshine Sports Activity.

2. Research Methods

2.1 Method of Literature

Through the CNKI, it consulted the journals and dissertations associated with this paper from 1994 to 2014, and also consulted the books relating to this paper, to lay a theoretical foundation for

writing this paper.

2.2 Method of Interview

It interviewed with experts and scholars about the primary and secondary school students' insurance system of

Accidental injury of campus sport for their opinions, in order to ensure the feasibility and science of this paper,

Which can provide the reference for writing this paper.

2.3 Method of Case Analysis

In order to meet the actual research, it used real case study for analysis in the process of research, which provide

The evidence for writing this paper.

3. Result and Analysis

3.1 Definition and Characteristics of Campus Sports Accidental Injury Insurance of Primary and Secondary School Students

3.1.1 Definition of Campus Sports Accidental Injury Insurance of Primary and Secondary School Students

Campus sports injury insurance of Primary and secondary school refers to the life insurance contract that in the physical activities implemented in primary and secondary school, including physical education course, extracurricular activities, sports competitions and after-school sports training, as well as the physical activities implemented in stadiums and other sports facilities which the primary and secondary schools have managerial responsibility, if the insured person suffers the accidental injury in physical activity on campus, resulting in disability and death, the insurer take the liability of paying the insurance money in accordance with the agreement. Campus sports injury insurance regards that the insured person suffers accidental injury, resulting in disability or death in sports activities on campus as the insurance coverage.

3.1.2 Types and Characteristics of Campus Sports Accidental Injury Insurance of Primary and Secondary School Students

(1) Types of Campus Sports Accidental Injury Insurance of Primary and Secondary School Students

At current stage, The China's sports injury insurances in the campus sports activities have the student's school liability insurance and peace accident insurance, while there are very few companies carrying out sports injury insurance only Pacific Insurance, China Life Insurance, Ping An Insurance, China Life Insurance, etc., and there are no domestic specialized sports insurance companies. The beneficiaries of both school liability insurance and student's ping an accident insurance, student safety of both are students.

The reference that school liability insurance is implemented lies in that the Ministry of Education, Ministry of Finance and China Insurance Regulatory Commission jointly issued Notice on implementing the School Liability Insurance to Improve Campus Injury Risk Management Mechanism in April 2008. School liability insurance refers that, in the educational activity implemented by school or school extracurricular activities organized by the school, because the school negligence results in student's personal injury accident, and, according to the law, the school undertakes the responsibility of economic compensation, the insurance company is liable in the compensation among the amount of limitation of liability. The subject matter of the insurance of school liability insurance is the insured person, and the school liability insurance applies "compensation principle" which is generally the balance due liability to pay compensation. School liability insurance is that, only when the insured person undertakes the responsibility of economic compensation for the property losses and personal injury of a third party in accordance with the law,

the insurer can fulfil the liability of compensation. Premiums will be spent from school public funds, which is limited within 5 Yuan per student per year. The limitation of payment will be made by considering school economic affordability, scope of responsibility, the scope of compensation, premium levels and other factors by each place, combined with the actual situation of local economic and social development. School liability insurance emphasizes that the school bears the responsibility for student's injury accident occurred only in specified occasions, and students can apply to the insurance company for claims, otherwise, even the student suffers the injuries in sports activities, he has no right to claim. Limitation of claims occasions narrows the students' scopes and contents of sports activities, and some schools may cancel high-risk sports activities in process of education for security reason.

Quality education proposed diversified requirements for school sports activities, but the sports injury has become a stumbling block on its road ahead. Therefore, in addition to school liability insurance, student's ping an accident insurance is conducive to prevent and properly resolve all kinds of sports injury liability risk of campus sports activities, avoiding or reducing economic disputes, reducing the burden for running the school, and maintaining campus harmony and stability. Student's ping an accident insurance will compensate when the insured person dies, becomes disable, enters the hospital for treatment. For student FPA, regardless of the cause of the accident, if the accidents within the scope of insurance liability result the death and disability of the insured people, the insurer is responsible for compensation. The subject of Students Ping An Insurance is student's own body and life, which can be used in the principle of a fixed payment, while the amount of compensation is calculated for payment in accordance with the provisions of insured person's death or disability degree and compensation standards. Student FPA is 80 yuan per year per student, the maximum compensation limit of each accidental injury is 10,000 Yuan, and the maximum compensation limit for being hospitalized is 80,000 Yuan. For example, the Student Ping An Accident Insurance of Taikang Life promises: when the insured person suffered the accidental injury and died within one hundred and eighty days from the date of accidental injury, according to the insurance amount in the contract to pay the death insurance; when the insured people suffered the disability listed in attached list within one hundred and eighty days from the date of accidental injury, according to the insurance amount and disability degree in the contract to pay the disability insurance. When the insured person suffered the accidental injuries and received the treatment in hospital within five days since the date of the accidental injury, if the treatment costs that insured person paid exceeded 50 Yuan of deductible excess, it will pay the medical insurance premiums according to the treatment costs exceeding 50 Yuan of deductible excess, but the total amount of medical insurance premiums does not exceed 20% of the insurance amount that insurance policy listed; if the insured people entered hospital for treatment within 5 days from the date of suffering the accidental injuries, it makes the payment according to $(\text{the actual number of days in hospital} - 4) \times \text{daily hospitalization allowance}$, while the daily hospitalization allowance is 10 Yuan and each number of hospitalization days is limited by ninety days.

(2) The Characteristics of Campus Sports Injury Insurance of Primary and Secondary School Students

The rate of cost is low and the guarantee is high, while the campus sports accidental injury insurance generally pay a few hundred Yuan each year to get the protection of several hundred thousand Yuan per year from accident; the insuring is simply, while the school collectively insure, and the insurance period is short, and the refreshing time of the campus accident insurance is generally one year; accident insurance is a fixed insurance in principle, and the subject of accident insurance is the physical health of the insured person, when the insured person suffers injury or died, his body interest cannot be measured by money. Therefore, the insurance money that insurer pays to the insured person cannot be reflected equally by body interest of the insured person, so the insurer should pay the insurance money according to the amount regulated in the contract which cannot be free to be changed. Under normal circumstances, the accident insurance contract is a contract with fixed insurance, but in some cases, the accident insurance contract can be agreed upon payment of a non-quota.

3.2 Definition and Compensation of Campus Sports Accidental Injury of Primary and Secondary Students

3.2.1 Definition of Campus Sports Accidental Injury of Primary and Secondary Students

The sports accidental injury of primary and secondary school students refers to the personal injury accident that the sports activities implemented in primary and secondary school, including physical class, extracurricular sports activities, sports competitions and after-school sports training, as well as the sports activities conducted in the stadiums and other sports facilities, which the primary and secondary school takes responsible for, harm the students' personal rights compromised, resulting in the injury, disability or death. The accidental injury identification of campus sports activities is: first, the main body of damage is certain, and the main victims are students at the school to participate in sports activities, including commuting and boarding students in public and private schools. Second, the damage location is specified, and the damage place of student must be on campus and specified place of off-campus sports activities organized by the school. Thirdly, the time of damage is a particular, when the students suffer the damage, it should occur in the physical education class, extracurricular activities, sports competitions and after-school sports training, as well as the sports activities in stadiums and other sports facilities which the primary and secondary schools take responsibility of

Management, except the damage within the time when students leave school or damage caused by the

Non-sports activity on campus.

3.2.2 Processing Procedure of Accidental Injury and Basic Principle of Compensation

(1) Processing Procedure of Campus Sports Accidental Injury

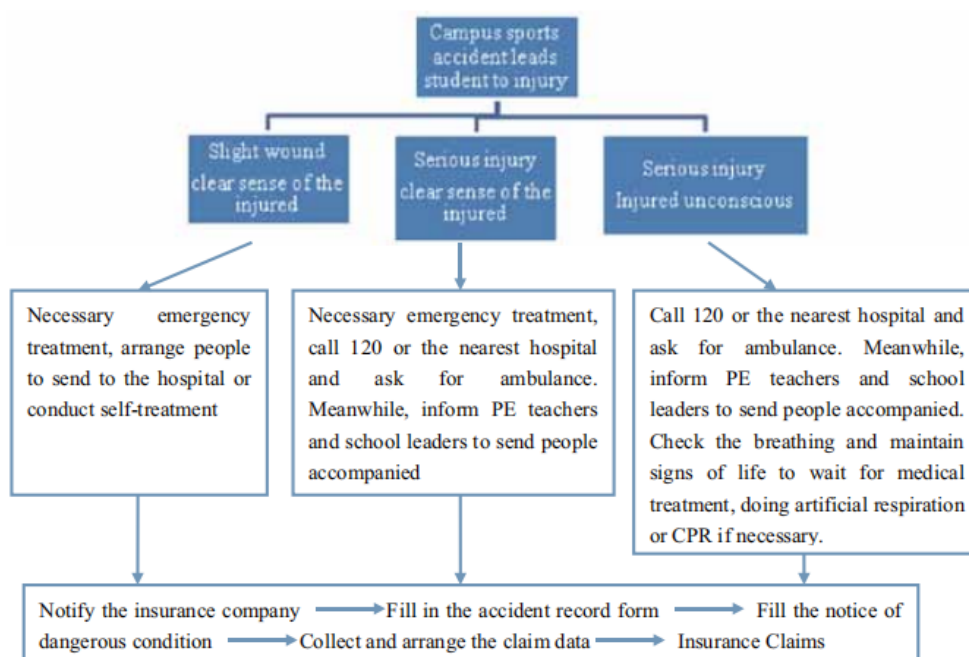


Figure 1 emergency processing flow chart of campus sports accidental injury

(2) Basic Principle of Campus Sports Accidental Injury Compensation

First, Principle of Equitable Liability

It refers to the doctrine of liability fixation that the article only provides the principle provisions, and, in the implementation, the judges will apportion the civil liability to the parties from a fair and reasonable perspective in accordance with the legislative spirit, making a fair judgment consistent with the legislative purpose. Such as condition regulated in the Article 109, Article 132 and Comment 177, 178 and 179 in Civil Code, are all principle provisions for equitable responsibility. Case: in this year, Xiao Ming who is 14-year-old is a student at Grade One in certain high school. In

one morning, Xiao Ming used recess time to play basketball, but fell accidentally, causing fracture of the right arm. Xiao Ming's parents thought that the school bore responsibility for poor management and should bear the medical expenses, return the tuition of schooling suspension and other expenses. School considered that Xiao Ming caused the injury himself by playing basketball, and the school also promptly sent him to the hospital for treatment, so there was no fault liability. In this situation, it can make the compensation according to the principle of equitable liability, and school assumes the principle of equitable liability without fault, namely, each party bears a half. Because sport is a career encouraged by national policy to enhance people's health, while suffering injuries in sports is inevitable, and it cannot be identified as subjective fault just because people engage in sport that may bring damage. Basketball is a group sports activity of freedom, and what the school should do is to teach rather than caring, as long as offering the stadium that meets the standards, it does not bear the fault liability.

Second, the Principle of Liability without Fault Paragraph 3 of Article 106 in Civil Code regulated that: "There is no fault, but the law shall bear civil liability." In accordance with this provision and other relevant provisions in Civil Code, I think that the principle of liability without fault refers to the occurrence of the damage is not caused by either injuring party intentionally, or the victims intentionally, or the third person deliberately, but the law regulates that is a special doctrine of liability which the injuring party bears the civil liability; it is a doctrine of liability based on legally specific infringement act, which aims to protect the legitimate rights and interests of the victim and effectively

Compensate victims' lose due to the special infringement act. Case: Zhang and Liu were the students in third year of middle school, and they played basketball after school, while Zhang collided with Liu during playing, causing Liu to injury his right leg tibia. Zhang immediately sent Liu to the hospital and informed Liu's parents, his own parents and teachers. Although Zhang did not mean to cause Liu to be injured and instantly sent him to hospital after the accident, notifying parents of both sides and teachers, he still should bear a part of Liu's medical expenses.

Third, Principle of Fault Liability

The principle of fault liability is the doctrine of liability fixation that the doer bears the civil liability due to his own fault. It is the basic doctrine of liability of modern tort law, which can be divided into general principle of fault liability and the principle of presumption of fault liability. The former requires the victims to put on evidence to prove that the injuring party has fault and a causal relationship between fault behavior and the damage result. The latter requires the injuring party to put on the evidence to prove that he has no fault and there is no causal relationship between his own behavior and the damage result, otherwise it can presume that the injuring party has a fault. The paragraph 2 of Article 106 in Civil Code regulates that "citizens and legal persons shall bear civil liability if their fault harm the property of the state and group and damage other people's property or body." Case: Zhang and Yang at Grade one of a high school played football in the extra-curricular activities, while Zhang accidentally touched Yang during playing football, and Yang pushed Zhang down in a rage, causing Zhang to get a severe brain concussion. In this case, even though Zhang touched Yang when playing football, the occurrence of collision was inevitable in the football game, Yang pushed Zhang down in a rage to cause Zhang's severe brain concussion due to Yang's touch, so Yang was at fault and, and the principle of fault liability should be taken to require Yang to bear the civil liability.

3.3 Establishing Campus Sports Accidental Injury Insurance System of Primary and Secondary School Students

3.3.1 Diversification of Insurance Types

In order to guarantee the full implementation of quality education and the smooth development of Sunshine Sport, it should accelerate the improvement of school sports insurance system and promote the diversification of campus sports insurance types. It should establish the campus sports accidental insurance system of primary and secondary school, develop the campus sports additional insurances and combine the new insurance types composed of medical care and various kinds of

funds based on promoting the general school sports insurance type. In addition to ordinary students are insured, the PE teachers who also engage in high-risk and bear the enormous spiritual stress purchase appropriate insurance, which resolve worries for teachers. The insurance for sports venues and equipment is also an important aspect of campus sports insurance of primary and secondary school. At present, for insurance of stadiums and equipment, in addition to the Olympic venues, there is only the introduced “Insurance of Swimming Places”. The diversification of insurance types is the important foundation to smoothly carry out the campus sports activities and ensure the successful development of “Sunshine Sport” and “Quality Education”.

3.3.2 Improving Awareness to Consciously Participate in Insurance

Chinese people lack of sports insurance awareness, lack of knowledge of sports insurance, and even do not know or know a little about sports insurance, which directly affects people’s demand for sports insurance products. Sports insurance awareness is relatively high in developed countries and the types of sports insurance are diversified, so people have already formed the habit of consciously buying sports insurance, while the government has also enacted corresponding laws and regulations of the sports insurance. Therefore, our government should increase propaganda of sports insurance and inform parents and students about the accidental injury existing in school sports activities, and buying insurance can allow students to receive the compensation when suffering injuries, which raises public awareness to consciously participate in sports insurance.

3.3.3 Creating Professional Insurance Intermediary

Insurance intermediary refers to the units or individuals that are specializing in the consulting and recruiting, risk management and arrangements, value measurement and assessment, loss appraisal and adjustment and other intermediary service activities of insurance industry between insurance operational institutions or between insurance operational institutions and technical sponsors, and legally obtain a commission or fee from these services. Sports insurance intermediary generally includes sports insurance agents, sports insurance brokers and sports insurance assessor. There are not many Chinese insurance agencies that engage in sports insurance, the professional sports agency is only Zhong Ti Insurance Economics Co. Ltd that was established in 2004, which is far from meeting the development of sports insurance industry. Therefore, China should establish a access occupation qualification system of talent market of sports insurance intermediary to improve the entry conditions of the sports insurance intermediaries, regularly train the sports insurance agents, and organize the examination, while creating a specialized insurance intermediary is an important aspect for current development of China’s sports insurance.

3.3.4 Enhancing and Improving Sports Legislation

Government should improve the establishment of sports law to provide mandatory protection for school sports insurance that has been quickly established. Under the premise of the full implementation of quality education, the school sports activities should publish the appropriate school sports insurance policy and regulation for processing the sports injury treatment. In June 2002, the Ministry of Education issued a Student Injury Treatment, but this is only an administrative regulation of a department, and the school sports activity should have Sport Insurance Law, School Sports Risk Insurance Act and other such legal weapons. Improving sports law and developing effective sports insurance regulations can make the sports insurance develop towards scientific and legal direction, so as to ensure the smooth development of school sports activities.

4. Conclusion

If it tries to promote the healthy development of student’s sunshine sport, it is necessary to avoid and reduce the maximum occurrence of school sports injury accidents. The starting time of Chinese school sports insurance is short, the people have the weak awareness to participate in the insurance, the insurance law is not perfect, the type of insurance is single, and the system is not perfect enough.

Therefore, if it tries to establish a sound school sports insurance system to resolve worries for schools and parents to encourage students to participate in sport, but also help students more actively participate in sport, ensuring the healthy development of school sport.

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