

Patients' rights in cross-border healthcare

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The purpose of this Communication is to set out a Community framework on the application of patients' rights in cross-border healthcare. It is accompanied by a Commission proposal for a Directive on the application of patients' rights in cross-border healthcare.

The vast majority of EU patients receive healthcare in their own country and prefer to do so. However, in certain cases patients may seek some form of healthcare abroad. Examples include highly specialised care, or in frontier areas where the nearest appropriate facility is on the other side of the border. In recent years a number of cases have been brought to the European Court of Justice that assert patients rights to reimbursement for healthcare provided in other Member States. Since 1998, the ECJ has consistently ruled that patients have the right to have their healthcare costs reimbursed in cases where it has been received abroad even if they could have received the same care at home.

Based on this case law the purpose of this Communication is to ensure a clear and transparent framework for the provision of cross-border healthcare within the EU in cases where the care is provided in a Member State other than the home country. In cases where this does happen, there should be no unjustified obstacles. The care should be safe and of good quality. The procedures for reimbursement of costs be clear and transparent. While respecting principles of universality, access to quality care, equity and solidarity, the objectives of this framework will, therefore be, a) to provide sufficient clarity about reimbursement rights for healthcare provides in another EU Member State and b) to ensure that the necessary requirements for high-quality, safe and efficient healthcare is ensured for cross-border care.

In order to achieve the objectives set out above, the Commission proposes the establishment of a Community framework for cross-border healthcare, as set out in the accompanying proposal for a Directive. As well as setting out relevant legal definitions and general provisions, this is structured around three main areas:

- **common principles in all EU health systems:** as agreed in June 2006 by the Council, setting out which Member State shall be responsible for ensuring compliance with the common principles for healthcare and what those responsibilities include, in order to ensure that there is clarity and confidence with regard to which authorities are setting and monitoring healthcare standards throughout the EU. Further cooperation amongst Member States will be promoted, in particular in upcoming Commission proposals for Communication and a Council Recommendation on Patient Safety and Quality of Health Services and for a Council recommendation on health care associated infections;
- **a specific framework for cross-border healthcare:** the directive will make clear the entitlements of patients to have healthcare in another Member State, including the limits that Member States can place on such healthcare abroad, and the level of financial coverage that is provided for cross-border healthcare, based on the principle that patients are entitled to obtain reimbursement up to the amount that would have been paid had they obtained that treatment at home;
- **European cooperation on healthcare:** the directive establishes a framework for European cooperation in areas such as, European reference networks, health technology assessment, data collection and quality and safety, in order to enable the potential contribution of such cooperation to be put effectively in practice and on a sustained basis.

By providing a clear legal framework regarding rights to reimbursement for cross-border healthcare, the proposal will reduce the inequalities inherent in the current uncertainty regarding the general application of the principles established by the case-law. Citizens will be sure about when they will and will not be

reimbursed for care received in another Member State, and on what basis, and will have clear processes for any decisions or appeals. Member States may also take further steps to address such inequalities, such as through advancing costs, or making arrangements to reimburse healthcare providers directly rather than requiring patients to advance money.

Alongside the proposed directive, the existing framework for coordination of social security schemes would remain in place with all the general principles on which the regulations on coordination of social security schemes are based, including putting the patient receiving healthcare in another Member State on equal footing with the residents of that Member State, and the existing European Health Insurance Card. In terms of patients seeking planned cross-border healthcare, this regulation ensures that if the appropriate care for the patients' condition cannot be provided in their own country without undue delay, then they will be authorised to go abroad, and any additional costs of treatment will be covered by public funds. Whenever the conditions set out in Article 22(2) of Regulation (EC) No 1408/71 are fulfilled, the authorisation shall be granted and the benefits provided in accordance with that Regulation. This is explicitly recognised by the proposed directive. The Regulation (EC) No 1408/71 will therefore continue to provide the general tool and the "safety net" to ensure that any patient who cannot have access to healthcare in their own country within a reasonable time will be authorised to have that healthcare in another Member State.