



EU proposal on cross-border health services: Is patient mobility becoming an EU reality?

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Policy Briefing

Patient mobility: the new EU reality?

After a number of false starts, the European Commission has now released its long awaited proposal for a directive on cross-border services or “health tourism” as it is being widely referred to in the media.

The full name of the proposed directive is “*The application of Patient Rights in relation to cross-border healthcare*”. As the title of the directive implies, its objective is to make it easier for EU citizens to have healthcare in other Member States and have their treatment paid for by their country’s healthcare system.

Background

The European Court of Justice has over the last decade ruled many times in favour of patients who obtained healthcare services in another Member State and were then refused reimbursement for that treatment. Up until now, it was not therefore very easy for EU citizens to understand their rights to obtaining healthcare abroad, unless they were particularly good at deciphering court judgements.

In 2004, the European Commission attempted to clarify the right to healthcare abroad within the framework of the “services directive” (Directive 2006/123/EC), which was designed to pave the way for a true EU single market in services including healthcare services. After intense lobbying from health sector organisations, health was excluded from the scope of the services directive.

Following this, the Commission went “back to the drawing board” and 18 months later has come back with a new proposal that is not as broad as what was foreseen in the services directive, but instead focuses on clarifying the rights of EU patients to receive healthcare abroad.

Overview

On Wednesday 2 July European Commissioner for Health Androulla Vassilou announced the new draft directive saying that the proposal would “*clarify how patients can exercise their rights to cross-border health care, while providing legal certainty for Member States and health care providers.*”

Here is a summary of the main provisions, more details of which can be found at the end of this briefing:

- **Right to reimbursement of treatment received abroad** that is provided/reimbursed in the patient's Member State of residence up to the same cost as would have been incurred had the treatment been provided "at home".
- **Removal of the need for prior authorisation for non-hospital care** received abroad that is reimbursed
- **Better European cooperation on healthcare** through the creation of European reference networks for specialised health care.
- Initiative to **improve European cooperation on health technology assessment (HTA)** through the development of a network of national authorities responsible for HTA.
- **Better interoperability of e-health systems** through the development of European shared formats and standards.

Potential Impact

- The directive is likely to impact national healthcare systems/health insurance systems more than anyone else. Member States will no longer be able to refuse to reimburse non-hospital care received abroad and will have to put procedures in place to ensure that citizens can be reimbursed appropriately and in a timely fashion. Member States will have to "prove" detriment to their healthcare system in order to require prior authorisation for (hospital) treatment abroad, which given the current very low level of patient mobility (less than 1% of all healthcare), might prove difficult.
- EU citizens will have one reference piece of legislation that details their rights to obtain healthcare abroad, which should make it easier for them to understand and exercise their rights.
- Patients requiring highly specialist treatment not available in their country of residence should be able to obtain the care they need through a specialist healthcare provider accredited through the European reference network.
- Although Member States fear an increase in patients seeking healthcare abroad, both in terms of people coming to their country for treatment and the reimbursement of their citizens for treatment received abroad, studies repeatedly show that most EU citizens would prefer to be treated at home.

- Although the directive is quite clear that Member States retain the right to decide which healthcare services are provided/reimbursed in their country, the directive proposes many measures that will increase information on treatment and care in other countries. Health activists are inevitably going to use this information to more accurately compare healthcare systems and where appropriate put pressure on countries that do not live up to EU norms of healthcare.
- The plans for increased cooperation in health technology assessment (HTA) are probably of most interest to patient groups and pharmaceutical/health technology companies. Currently, companies face a plethora of different HTA systems, meeting the requirements of all requires considerable resources, often duplicated, while patients cannot understand why one country agrees to reimburse a particular treatment and another rejects the said same treatment.

Next Steps

The directive will now begin its journey through the co-decision procedure, which could last up to three years, given the complexity of the proposal and the fact that there will be a new Commission and Parliament during 2009.

Initial reactions of stakeholders

1. The **UK National Health Service** has said that it will “*not pay for health tourism*”. For more information, please see: <http://uk.news.yahoo.com/pressass/20080702/tuk-nhs-will-not-fund-health-tourism-6323e80.html>
2. The **ALDE** (Liberal) group in the European Parliament welcomed the proposal. ALDE Health Spokesperson Jules Maaten MEP said that “*Patients should be entitled to treatment in another EU member state if necessary, with no worry about costs, safety and quality*”. For more information please see: <http://www.alde.eu/index.php?id=alde4patients>
3. The **British Medical Association** expressed concern saying that the proposal must not be allowed to “*must not erode equality in healthcare services*”. For more information, please see: <http://www.bma.org.uk/pressrel.nsf/wlu/DBLD-7G6J7D?OpenDocument&vw=wfmms>

Media coverage

1. The **BBC** has reported the announcement (<http://news.bbc.co.uk/2/hi/europe/7484198.stm>) and set up an on-line debate on the proposal, which can be found at: <http://newsforums.bbc.co.uk/nol/thread.jspa?forumID=5037&edition=2&ttl=20080702171054>
2. **Le Figaro** reports that the Member States “do not want to pay for a Europe of health”, while describing the proposal as giving a “kick start” to health tourism. For more information, please see: <http://www.lefigaro.fr/economie/2008/07/03/04001-20080703ARTFIG00280-les-etats-ne-veulent-pas-payer-pour-l-europe-de-la-sante-.php> (in French)
3. **El Mundo** says that the draft directive will help European patients to execute their right to be treated in other EU Member States and stresses the removal of the need for prior authorisation, which is in line with judgements of the European Court of Justice. For more information, please see: <http://www.elmundo.es/elmundosalud/2008/07/02/medicina/1215012293.html> (in Spanish)

Main provisions

Article 5 states that Member States have responsibility for ensuring that:

- > healthcare meets high quality and safety standards and compliance with standards is monitored
- > healthcare providers provide information to patients on availability, price and outcome
- > healthcare providers have professional liability insurance
- > healthcare providers respect data privacy

Article 6 confirms that Member States decide which healthcare treatments they provide/fund.

Article 7 specifies that where non-hospital treatment is covered by the social security system of a Member State, prior authorisation should not be required for insured people to have the same treatment in another Member State and be reimbursed at least up to the same cost level

Article 8 says that where hospital treatment (requiring an overnight hospital stay) is covered by the social security system of a Member State, a system of prior authorisation is permitted in order to prevent serious problems for the healthcare system e.g. overcapacity or financial imbalance. The prior authorisation system must however be limited to what is “necessary and proportionate” to avoid damaging the healthcare system.

Article 9 requires that administrative procedures and prior authorisation systems are based on objective, non-discriminatory criteria. In addition time limits relating to the request to use cross-border healthcare must take the specific medical condition and the state of health of the patient into account.

Article 11 states that healthcare providers must operate within the legislation of the country in which the treatment is provided.

Article 12 requires Member States to set up “national contact points” which provide information to people seeking to access healthcare in that country.

Article 14 states that all prescriptions issued by a qualified medical professional must be recognised in ALL Member States and that measures should be put in place to assist pharmacists and other health professionals to verify the authenticity of prescriptions. A mechanism should be put in place to identify certain medicines that should be excluded from this on public health grounds.

Article 15 asks Member States to facilitate the development of European Reference Networks in order to realise the potential of European cooperation in healthcare, especially in very specialist areas. The Commission will adopt criteria which European Reference Networks will have to meet in order to be designated as such.

Article 16 says that the Commission will adopt measures to achieve better interoperability of e-health systems.

Article 18 requires Member States to set up a network of national authorities responsible for health technology assessment (HTA) to support cooperation between countries and improve the exchange of information on HTA procedures.

Article 19 establishes an “implementing committee” of Member State representatives, which will assist the Commission in implementing the directive.

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