EUROPEAN COMMISSION
HEALTH & FOOD SAFETY DIRECTORATE-GENERAL

Health systems, medical products and innovation
Cross border healthcare and Tobacco Control

Brussels, 16 November 2021

CROSS-BORDER HEALTHCARE EXPERT GROUP MEETING

16 NOVEMBER, 09:30-13:00
MEETING VIA TEAMS

CHAIR:

ANDRZEJ RYS, DIRECTOR OF HEALTH SYSTEMS AND PRODUCTS, DG SANTE (B)

PARTICIPANTS:

Present: Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Lithuania, Luxembourg, Malta, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, Norway

No apologies received.

1. WELCOME AND INTRODUCTORY REMARKS

DG SANTE gave a short introduction on the agenda of the meeting and welcomed new members to the CBHC expert group.

2. ENHANCING IMPLEMENTATION OF THE CROSS-BORDER HEALTHCARE DIRECTIVE

DG SANTE recalled the aim of the Commission-funded study on *Enhancing Implementation of the CBHC Directive to ensure patient rights in the EU c*arried out by Ecorys/Spark Legal Network, including a task to map the prior authorisation systems, the administrative requirements for prior authorisation and cross-border healthcare cost reimbursement. This mapping led to the development of Guiding Principles for information provision on prior authorisation systems across Member States.

2.1. **Guiding Principles on the provision of information on prior authorisation for patients and related implementation issues**, presentation by DG SANTE (attached to the minutes) followed by request to approve the draft Guiding Principles for information provision on prior authorisation systems across Member States.

DG SANTE recalled that the Guiding Principles cover the following areas:

- Transparency of prior authorisation systems
- Clarity and consistency of prior authorisation procedures
- Understandable information on prior authorisation

These principles are based on legal provisions in the Directive and aim to enhance the transparency of the prior authorisation systems and the information provision to patients on how to access cross-border healthcare.

Guiding Principles were approved, with the following changes:

The last sentence before "Methodology" on p. 7 amended accordingly: "The Guiding Principles leave room for the existing organisational differences between EU countries **(including countries with a single prior authorization procedure pursuant to the Directive and the Regulations)**".

The third sentence in the Introduction in Part 2 on p. 15 amended accordingly: "In addition, information provided by other parties, such as healthcare providers and patient organisations**, should be in line with information provided by the NCPs and health insurance institutions**".

2.2. **EU mapping of administrative procedures for prior authorisation and reimbursement,** presentation by Spark Legal Network, followed by Q&A

Spark Legal Network recalled that the study has been conducted in view of:

- Collecting information for all MS and EEA EFTA countries, on the administrative procedures for prior authorisation and reimbursement of costs of cross-border healthcare under Directive 2011/24/EU; and

- Analysing whether certain administrative procedures/requirements identified may be regarded as creating potentially unjustified obstacles for patients seeking cross-border healthcare under the Directive (in light of Article 7 and Article 9 of the Directive).

The outcome of the mapping is 30 National Country Reports and an Analytical Report on the mapping and analysis of administrative procedures.

The results of the mapping exercise on administrative procedures for prior authorisation under the Directive informed the drafting of the Guiding Principles for information provision on prior authorisation systems across Member States. The Commission will publish the final report in January as part of the study "enhancing better implementation of the Directive 2011/24/EU".

The **Q&A** highlighted that:

The presentation focused on procedures related to prior authorisation, however **the reimbursement procedures are equally included in the draft final report**.

The reimbursement systems are moving towards **digitalisation**. Many countries seem to provide possibilities of electronic submission of requests for cross-border healthcare. Some countries allow submission via email. In other countries, patients have access to their own healthcare page/portal for reimbursement. No common practices yet.

2.3. **Conformity checks and Court rulings**, presentation by DG SANTE

DG SANTE informed on the current state of play regarding conformity checks on the implementation of the Directive in Member States. DG SANTE also informed of two recent judgements of the CJEU:

- Judgment of 6 October 2021 in Case TS, C-538/19 (RO), related to the reimbursement refusal without prior authorisation. Doctors' referrals issued in other Member States could be used for the purposes of prior authorisation under the Regulation on the coordination of social security systems.
- Judgment of 28 October 2021 in Case Y, C-636/19 (NL), related to the personal scope of the Directive (pensioner living abroad). Pensioners residing in another Member State and having the right to the benefits on the territory of this Member State at the expense of the competent Member State, are insured persons within the meaning of the Directive. They

have the rights to cross-border healthcare costs reimbursed under Article 7 of the Directive without being affiliated with compulsory sickness insurance scheme of the competent Member State.

3. EVALUATION OF THE CBHC DIRECTIVE

DG SANTE introduced the study by Tetra Tech supporting the evaluation of the Directive.

Evaluation of the Cross-border Healthcare Directive, presentation of evaluation findings by Tetra Tech, followed by the **feedback from CBHC expert group (*tour de table*)**.

The Chair asked the participants to reflect on the possible outcomes of the evaluation and the study findings.

The participants generally agreed with the study findings, however, expressed disappointment regarding the low number of public consultation respondent (193 replies received). The following key messages came out of the discussion:

- **Telemedicine**: this is a new issue and several participants expressed the view that it is important to discuss, at national and EU level, how to make better use of telemedicine.

- **Digitalisation**, including digital invoicing: the digitisation of reimbursement processes for cross-border healthcare costs has to be explored.

- **Information to patients**: NCPs are important in improving patients' awareness of their rights in cross-border healthcare. However, NCPs cannot work alone – healthcare providers and patient organisations should also be involved in the process. Information provision and cooperation are particularly important in border regions. Some participants questioned the extent to which information about e.g. the two legal routes for cross-border healthcare or procedures for appeal and redress should be provided to patients. It could be more efficient to share certain information on a case-by-case basis, over the phone, rather than aiming to explain all the available options on the websites.

- **Financial burden**: this is considered as a restriction for patients, however, the well-functioning of national systems should also be not overlooked. For cross-border healthcare

patients can use, and indeed prefer, the Regulations on the coordination of social security systems.

- **Translation costs**: it is not feasible for the Member States to provide help for translations related to cross-border healthcare. Digitalisation of translations could represent part of the solution e.g. with respect to patient medical records. Some work on this is already being done within the eHealth network. The European Commission has a good platform for translations and Member States alluded to the fact that health insurance providers could be given access to this platform.

- **ERNs**: represent a high added value of the Directive, high interest of Member States in future cooperation in the field. On the other hand, ERNs do not fully function yet. In addition, there are obstacles related to their further development (integration of ERNs in the national systems, reimbursement for the doctor's work on the international panels).

- **Transparency on patients' rights**: ES noted that the Directive has generally brought about more transparency on patients' rights.

Conclusions:

1. Tetra Tech is finalising the evaluation study by December. The evaluation of the CBHC Directive is reaching its final stages.

2. DG SANTE will share information on the Commission's e-translation tool whjch is available to public authorities.

4. PATIENT MOBILITY DATA 2020, PRESENTATION BY OLSSON CONSULTING

Olsson Consulting presented the draft patient mobility data report for 2020.

Actions:

CBHC Expert Group are requested to provide any comments to the Commission and/or contractor **by 30 November 2021**.

5. CLOSING OF MEETING

The Chair reminded that the Commission's report on the operation of the directive including the Staff Working Document on the evaluation of the Directive is planned for adoption in April 2022. Therefore the next meeting will take place in June 2022 to present the final evaluation and follow-up actions. The Chair closed the meeting, thanking the experts for their contribution

Annex I: List of participants

European Commission:

DG SANTE B	Andrzej Jan Rys
DG SANTE B2	Caroline Hager
	Ruta Janeckaite
	Michela Raimo
	Anna Murdock

Member States:

Austria	(Federal Ministry of Health and Women's Affairs)
Belgium	(Federal Public Service Health, food Chain Safety and Environment.
	RIZIV, National Institute for Health and Disability Insurance)
Croatia	(Ministry of Health)
Czech Republic	(EU Specialist of the Health Insurance Bureau
	Ministry of Health, Health insurance Supervision
	Ministry of Health, EU Department)
Denmark	(Ministry of Health)
Estonia	(Estonian Health Insurance Fund)
Finland	(Ministry of Social Affairs and Health)
France	(Ministry of Social Affairs and Health)
Germany	(Federal Ministry of Health
	Deutsche Verbindungsstelle Krankenversicherung - Ausland [DVKA])
Ireland	(Health Service Executive [HSE]
	Department of Health (Ministry))
Italy	(Ministry of Health)

Latvia	(National Health Service)
Lithuania	(International Affairs Division of the National Health Insurance Fund)
Luxembourg	(Caisse nationale de santé [CNS])
Malta	(Ministry of Energy and Health)
Poland	(Ministry of Health)
Romania	(National Health Insurance House NHIH)
Slovakia	(Ministry of Health)
Slovenia	(Ministry of Health)
Spain	(Ministry of Health, Social Services and Equity)
Sweden	(National Board of Health and Welfare Swedish Social Insurance Agency)
EFTA: Norway	(Ministry of Health and Care Services, Norwegian Directorate of Health)