

# Access to healthcare in cross-border situations



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Cross-border Healthcare Expert Group, Meeting of National Contact Points (NCPs) for Cross-border  
Healthcare

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## Explore legal paths to cross-border healthcare

-  *Access of EU mobile nationals to the healthcare system in a **new residence** Member State*
-  *Access to healthcare **in another Member State** than the Member State of insurance*

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# Introductory remarks



## Health

- *The right to health*
- *The right to (highest attainable) healthcare?*

## Cross-border healthcare

- *When?*
  
- *Legal grounds?*
  - *Bilateral and multilateral agreements*
  - *Purely national law*
  - *EU law: Regulation (EC) 883/2004, Directive 2011/24/EU, ...*
  
- *More options – more complexity – NCPs*

# Affiliation to national hc system

## Division of competences

## *Healthcare in the MS of residence*

### *At national level*

- *habitual residence, permanent residence, permanent stay, legal or lawful residence, lawful presence, permanent establishment*

### *At EU level*

- *Habitual residence: centre of interests - Art. 11 of Regulation (EC) 987/2009*
- *Legal residence: comprehensive sickness insurance cover and sufficient income - Directive 2004/38/EC*

## Economically active persons

- *No major issues detected.*
- *Financing does not affect affiliation*
- *Residence based systems insure non-resident workers*
- *Some insurance based systems set income threshold for affiliation: it may affect poor migrant workers*
- *Healthcare as a social advantage?*
  - *Regulation (EU)492/2011*


## Economically inactive persons

-  *Pensioners*





-  *Students*

-  *Other inactive persons when healthcare is only granted to legal residents:*

-  *Similar debate “sufficient resources”*

-  *“Comprehensive sickness insurance” requires clarification*

## National facilitating measures/practices

-  *Administrative intervention*
-  *Smooth affiliation procedures*
-  *Information to citizens*
-  *Specific measures for maternity benefits in kind*



## Various legal routes

- *Interaction between them?*
  
- *No simultaneous application?*
  - *EHIC + reimbursement?*
  - *No double reimbursement*
  
- *Exclusive application of*
  - *Regulation (EC) 883/2004 or Directive 2011/24/EU*
  - *Free choice?*

## *Distinction unplanned - planned healthcare*

- *Intention of the insured person (under the Reg.)?*
  - *Only initial intention?*
  
- *No distinction under the Directive*
  - *Advantages, but also*
  - *paradox situations, e.g. unplanned hospital treatment?*

## Regulations

- *Chronic interpretation problems of legal concepts*
  - *Temporary stay (I v HSE, C-255/13), Necessary treatment*
- *Co-payments and extra costs*

## Directive

- *Clearer rules*
  - *Intention and length of the stay are irrelevant*
  - *Treatments are paid upfront and co-payments reimbursed*
- *Problematic application to unplanned healthcare*

## National law (and Petroni principle?)

## Regulations



- Ex-post facto authorization
  - Patients need urgent treatment (cannot apply in time)
  - Patients apply and fulfil the requirements but cannot wait for the answer
  - Authorisation denial is overruled

## Directive

- Six MS do not apply prior authorisation
- Others do: planning requirements(?) or safety issues

## National law

## Recommendations

-  Establish thresholds
  - EU-wide maximum waiting times
  - EU-wide maximum response time in admin. proceedings
  
-  Implement rules
  - Standardized European invoice
  - Most favourable national (public) tariff rule

- Annex III of Reg. 883/04 should be repealed
  - *No reasons for differential treatment of family members in 4 MS*
- Ad-hoc treatment under the Directive
  - Rights to cross-border healthcare in the competent MS
- Article 7(2) b of the Directive needs clarification

## Mix of public and private healthcare providers

- Various possibilities for providing healthcare
  - Public providers
  - Contracted/conventioned private providers
  - Purely private providers
  - Combinations

## Asymmetry of information

- Steering mobile patients (hybrid providers)?
- Free and informed choice?
  - Public patient or
  - Private consumer of healthcare

## Equal or different pricing?



- Supervision mechanisms
- Private gatekeeper in another MS?
- Reverse discrimination or better law approach?
  - *National patients and access to purely private hc?*
  - *EU cross-border healthcare legislation aims to ensure equal treatment of mobile with national patients (but not national with mobile patients?)-Q of reference group*

 Who is providing information?

 ... and to whom?

 Which channel is used?

 Quality of information

## *Preferred sources of information on cross-border healthcare*



Competent healthcare institutions	AT, BE, CH, CY, DK, EE, EL, FI, FR, HR, HU, IS, IT, LI, LT, LU, LV, MT, NL, PL, PT, SK, UK
National Contact Point(s)	AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IE, IS, IT, LT, LU, LV, MT, NL, NO, PL, PT, RO, SE, SI, SK, UK
Healthcare providers	EE, IE, LV
NGOs	RO







*Sources of information on cross-border healthcare*

FROM \ TO	Healthcare authorities	Healthcare providers	Patients
Healthcare authorities	Cooperation with other healthcare authorities within the country and in other Member States	Financial information related to reimbursement under the Regulation	Financial information related to reimbursement under the Directive
Healthcare providers	Information on different aspects of cross-border healthcare provision, especially on their obligations	Not mentioned by the Regulation or the Directive, but existing: professional organisations at national level and at EU level (e.g. Standing Committee of European Doctors - CPME, European Hospital and Healthcare Federation - HOPE)	Presenting proof of entitlement, such as an EHIC, PRC, PD S2, authorisation under the Directive or a medical referral in lack of an authorisation where applicable
Patients	Information on different aspects of cross-border healthcare provision, especially on their rights and entitlements	Relevant information to help patients to make an informed choice	Not mentioned by the Regulation or the Directive, but existing: patient organisations, NGOs at national and EU level (e.g. European Patients' Forum)

*Means of spreading information on cross-border healthcare reportedly used in different Member States*

Website of ministry of health	AT, CY, IT, MT, PT, SK
Website of competent healthcare institutions	AT, BE, CH, DK, EE, EL, FI, FR, HR, HU, IS, IT, LI, LT, LV, MT, NL, PL, PT, SK, UK
Website of National Contact Point(s)	AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, MT, NL, PL, RO, SE, SI, SK, UK
E-mail	CY, DE, ES, HR, HU, SI
Phone	CY, DE, ES, FI, HR, HU, LV, MT, PL, SI, SK
Smartphone application	CZ
Mass media	LT
Personal consultation	CY, DE, ES, FI, HU, LV, MT, SI, SK
Leaflets / information letter / posters	HU, IT, LT, LU, MT, PL, RO, SI
Videos	PL
Thematised seminars	MT
E-learning course	PL

## Quality (substance) of information

-  Easy to find
-  Not too general
-  Aware of the interaction between various legal paths to cross-border healthcare
-  Responsibility?

## Coordination of NCP with EU and national institutions

-  *Standardized websites*




-  *Minimum content, Multiple languages, Common structure*

-  *Perhaps an EU Contact Point*

## Training (also of healthcare providers)

## Control and monitoring

## Various possibilities of accessing cross-border healthcare

-  *Too complex for patients (and administrations and healthcare providers)?*
-  *Legislative and non-legislative measures to solve it*
-  *Timely and reliable information is paramount!*

## Guaranteeing equal and equitable (geographical, timely, econ., inform. and procedural) access to hc to all Union citizens (moving or not within the EU)