

Brussels, 19 January 2011

## Q&A: Patients' Rights in Cross-Border Healthcare

*An elderly German man with diabetes brings extra prescriptions with him on a trip to Italy but will the pharmacist accept the prescription? A Polish woman would like to receive hip surgery in the country where her grandchildren live and work but how can she organise this from Poland? A Portuguese man seeks cataract surgery from a specialist in Spain but will he be reimbursed? These are just a couple of cases where a patient may need clarity on rights and rules for cross-border healthcare.*

A newly adopted EU law clarifies patients' rights to access safe and good quality treatment across EU borders, and be reimbursed for it. Patients travelling to another EU country for medical care will enjoy equal treatment with the citizens of the country in which they are treated. This new law will benefit EU patients in several other ways. It will make it easier for national health authorities to work closer together and exchange information on quality and safety standards of healthcare. It will help patients who need specialised treatment, for example those who are seeking diagnosis or treatment for a rare disease. It supports the development of "European Reference Networks" bringing together, on a voluntary basis, specialised centres of expertise already recognised in Europe. Health experts across Europe will be able to share best practices on healthcare and provide standards of excellence.

### **What scale are we talking about?**

Patients prefer to receive healthcare in their own country. That is why the demand for cross-border healthcare represents **only around 1% of public spending on healthcare**, which is currently around €10 billion. This estimate includes cross-border healthcare which patients had not planned in advance (such as emergency care). This means less than 1% of the expenditure and movement of patients is for **planned** cross-border healthcare, like hip and knee operations or cataract surgery.

### **What about the existing legislation in this area (Regulations on social security)?**

Citizens needing care (including emergency care) when temporarily abroad will continue to benefit from the existing Regulations scheme and be provided with the care they need.

For planned care, a patient can already apply for prior authorisation. This cannot be refused if he/she cannot be treated within a time limit which is medically justifiable.

## **Why do we need this new legislation then?**

This Directive will not affect the benefits already offered to citizens through existing Regulations on social security. Although the existing rules – which focus on social security agreements, not on patients' rights - have been in place since 1971, clarification was still needed on the rights of EU citizens to receive healthcare in another Member State.

In the case of hospital care, one of the main achievements of this new Directive is that patients will be able to choose their healthcare provider.

For non-hospital care, patients will be able to seek healthcare abroad without prior authorisation or formalities, and claim reimbursement upon their return home. This Directive covers not only public, but also private providers.

For both hospital and non-hospital care, patients will have access to information on the quality and safety of the care they will receive.

This Directive also seeks to address other practical questions: where can I find information on quality standards applied by the hospital? How much will I be reimbursed? The European Court of Justice has confirmed<sup>1</sup> that the right to seek cross-border healthcare already exists in the Treaty. However, this newly adopted Directive sets this out clearly in EU law and provides a uniform and coherent framework for all citizens in Europe.

## **Do I need authorisation from my national authority before going abroad for treatment?**

National authorities can introduce a system of "prior authorisation" in 3 cases:

- 1) For healthcare which involves overnight hospital stay of at least one night;
- 2) for highly specialised and cost-intensive healthcare;
- 3) in serious and specific cases relating to the quality or safety the care provided abroad. In these 3 cases, patients may need to ask for permission in advance from their national health authority in charge of reimbursement.

## **Can this authorisation be refused?**

National health authorities can refuse authorisation if the treatment in question, or the healthcare provider in question, could present a risk for the patient. Also, if appropriate healthcare can be provided at home in good time, authorisation can be refused but Member States will need to explain why such a decision is necessary.

## **What if I am refused authorisation?**

Patients have the right to request a review of any administrative decision on cross-border healthcare for their individual case.

## **How much will I be reimbursed after receiving a treatment abroad?**

Patients will be reimbursed the same amount as they would receive in their own country for the same type of healthcare. Member States where care is free of charge will need to inform patients about their reimbursement tariffs.

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<sup>1</sup> *Kohll and Decker (1998); Ferlini (2000); Geraets-Smits and Peerbooms (2001); Vanbraekel (2001); Inizan (2003); Müller Fauré and Van Riet (2003); Leichtle (2004); Watts (2006); Stamatelaki (2007); Elchinov (2010).*

### **Can I seek healthcare abroad if the treatment is not available in my country?**

Yes, if a treatment is unavailable in a Member State, the national health authorities cannot refuse authorisation to a patient seeking it in another EU country. However, patients will be reimbursed for such treatment provided it corresponds to the national "health benefits package".

Usually, public benefit packages are defined rather generally, but if more precise lists exist (such as detailed medical billing codes), these must be used for the purpose of cross-border reimbursement.

### **Do I need to pay for cross-border treatment upfront?**

Yes, generally the patient pays upfront and would then be reimbursed by their national authority as quickly as possible. The law also foresees that Member States can choose to confirm the amount of reimbursement in writing upfront, on the basis of an estimate presented by the patient.

### **Where can I find more information about my rights to healthcare abroad?**

This new law foresees the **establishment of a contact point in each Member State to provide information on patients' rights** to healthcare across Europe. These centres will exchange information between them and will be able to provide practical information to patients on conditions and levels of reimbursement, possible treatments, providers, procedures for redress, etc. Patients will consequently have a clearer idea on the quality and safety of healthcare provided abroad, which will lead to more informed decisions on cross-border healthcare.

### **Can I transfer my medical data to the Member State where I will be treated?**

The country of origin will ensure that the healthcare provider in the country of treatment can have access to the patient's written or electronic medical records, in conformity with the Directives on data protection. Enhanced cooperation on eHealth between Member States will ensure that this data is fully readable and understandable. In other words, Health IT systems will be able to "talk to each other". This can be of great benefit not only to patient safety but also to the sustainability of health systems.

### **What should I do if something goes wrong whilst receiving treatment abroad?**

The new law sets out both the country of treatment and the country of reimbursement's responsibilities with regard to complaints and redress. National contact points will provide patients with the information they need in this respect.

### **How can I be sure that the treatment I received abroad will be followed up properly on my return home?**

Several measures are foreseen to ensure continuity of care. The country of treatment will ensure that patients have access to their written or electronic medical records related to the treatment they received. The home country will ensure the medical follow-up is of the same quality regardless of where in the EU the treatment took place.

Will my prescription be recognised in another EU Member State?

A prescription issued in another EU country will be recognised in a patient's country of residence and vice versa. This ensures that the healthcare provided in another EU country is properly followed-up on the patient's return home. The patient is entitled to obtain the prescribed medicine provided that the medicine in question is authorised for sale and available in the country where he or she wishes to have the product dispensed.

Prescriptions should already be recognised EU-wide, in principle. Nevertheless, it is not always the case in practice. This new Directive will give pharmacists the necessary tools to understand cross-border prescriptions (such as to better identify the prescribed medicine and the doctors and patients in question).

### **What are the benefits of the network on Health Technology Assessment (HTA)?**

The network of national authorities or bodies responsible for health technology assessment will lead to a permanent EU structure of cooperation in this field. The added value of HTA is to help decision-makers to make the right decisions on health investment and spending. The purpose of the cooperation on HTA is to provide objective and reliable information on the efficacy and effectiveness of health technologies. This represents a concrete action that further strengthens informed decision making by health authorities.

### **What remains to be done?**

At national level, Member States will establish **at least one national contact point** that provides all relevant information to patients. They will ensure that their reference centres participate in the European reference network.

They need to ensure that administrative procedures on the use of cross-border healthcare and on reimbursement of costs are in place, including complaint procedures as well as mechanisms to calculate costs.

The Commission will set up networks to foster EU cooperation on health technology assessment and eHealth. It will also help facilitate the recognition of cross-border prescriptions.

### **When will this law come into effect?**

National governments have 30 months to integrate these measures into national legislation.

### **For further information:**

[http://ec.europa.eu/health/cross\\_border\\_care/policy/index\\_en.htm](http://ec.europa.eu/health/cross_border_care/policy/index_en.htm)