



Proposal for a Directive on the application of patients' rights in cross-border health care (Com(2008)414 final)

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Introduction

The European Heart Network (EHN) is a Brussels-based alliance of heart foundations and other concerned non-governmental organisations throughout Europe. EHN has members in 26 countries throughout Europe.

EHN plays a leading role in the prevention and reduction of cardiovascular disease through advocacy, networking and education so that it is no longer a major cause of premature death and disability throughout Europe.

Background

On 2 July 2008, the European Commission published a proposal for a directive on the application of patients' rights in cross border health care in response to requests from European Council and the European Parliament to clarify the rules on patients' rights to treatment abroad following a number a European Court cases.

This proposal aims to address the legal uncertainty that followed the European Court of Justice rulings and to consolidate the rights of European patients to access proper healthcare regardless of their place of residence.

General comments

Currently less than 1% of European patients seek health care abroad. Research shows that most patients prefer to be treated where they live. Within the cardiovascular patients community, we also observe little quest for receiving treatment abroad.

Nevertheless, EHN welcomes the Commission's proposal, particularly its insistence on clear information to patients about their rights to receive treatment abroad. EHN appreciates the limitations inherent in the Commission's proposal due to restricted competence. EHN would like to offer its contribution to the ongoing discussion on how to ensure the best quality care for patients whether at home or abroad. EHN believes this discussion must take place with due consideration to health inequalities, i.e. taking care that these are not aggravated. It is also necessary to recognise that health care resources are not boundless. Resources must be put to the best use for our patients, but preventing premature illness, where this is feasible, remains the best option. In terms of cardiovascular diseases, we have excellent knowledge of how to prevent them be it at individual or population level.

Below, we set out comments to a number of issues pertinent to the Commission proposal.

Specific comments

Prior authorisation

According to the Directive, prior authorisation may be requested by Member States for reimbursement of the cost of hospital care provided in another Member State. A prior authorisation system shall be limited to what is necessary and proportionate and shall not constitute a means of arbitrary discrimination. Furthermore, Member States can only require prior authorisation if their social security systems are at risk of being seriously undermined due to an unexpectedly high outflow of patients.

Prior authorisation is often seen as a barrier to patients' mobility; however, it can actually offer patients a high degree of certainty about the right to reimbursement of healthcare in another Member State. EHN strongly supports that prior authorisation must be lawful i.e. non-discriminatory and under the terms defined in the proposed Directive; additionally, a prior authorisation system must be highly efficient, timely and providing full administrative support to the patients. Under those circumstances, EHN does not consider that it necessarily hampers patients' rights. Rather, it could provide patients with the protection and certainty that is so important before undergoing care, especially abroad.

Reimbursement

Reimbursement of costs post-treatment is a central issue. It prevents those who cannot afford potentially costly treatment they need or want from getting it abroad. This creates an unequal system that favours wealthier people and risks creating two different tiers of citizens in regards to healthcare. It is an issue that needs to be addressed. No patient going abroad for care should be put in a situation that is inferior from the one he or she would be in had he/she received the care at home. Particularly, when prior authorisation, is granted, the patient should not have to pay upfront. Payment should be arranged directly between the Member States of affiliation and treatment.

Information & Standards

The implementation of the proposed Directive involves the setting up of national contact points. These contact points would provide information on liability, advice on destinations and information about standards in the countries patients are travelling to. They are essential for the implementation of the Directive and for the well-functioning of cross-border healthcare. It is indispensable that patients have this access to information and EHN welcomes the Commission's initiative on the condition, of course, that the contact points provide sufficient and reliable information and that they are independent (i.e. no conflict of interest for the providers of the information). There may be a case for cooperation between national contact points and patient organisations. EHN considers that the contact points should also provide information to health professionals. Health professionals are patients' first point of contact and need information as much as patients. EHN would suggest that as well as providing information and advice regarding healthcare abroad, the contact points should also provide information on what to do in cases of redress and harm. The system by which redress is sought should be defined in the Directive. Also for the purpose of continuity of care, it is essential that there is a clear line of responsibility. Each Member State must have services that monitor and supervise the patient's journey and continued treatment or care (see also below).

The contact points will also provide information on the standards (quality and safety) of healthcare in another Member State. The Directive sets out plans to set up a Committee that will provide guidelines to Member States on quality and safety. These guidelines will be based on the Council Conclusions of 2006 on the common principles of quality in healthcare. These principles are referred to many times in the Directive and EHN is pleased to see them enshrined in law.

The Commission has stated that it is not intending to legislate on healthcare standards. With its proposal, the Commission merely requests that Member States be upfront and transparent about the quality standards they apply. EHN commends these efforts to increase transparency about quality of care. EHN understands the complexities of the issues surrounding competency but would like to see the Parliament and Council recognise their role in supporting patients' rights to good quality healthcare and take this as far as they can.

Liability

EHN welcomes the clarity given in the proposal about who is responsible for redress in cases. EHN also welcomes that the proposal stipulates that Member States of treatment must ensure that systems of professional liability insurance or guarantee etc. are appropriate to the nature and the extent of the risk are in place on their territory. Perhaps, the proposed Directive needs to set some minimum criteria for what constitutes an appropriate system. Information on how to seek redress from the Member State of treatment must be available at the national contact points (see also above).

Continuity of Care

Continuity of care in a cross-border setting is difficult but addressing it adequately is essential. The proposed Directive, however, does not address this issue apart from in relation to medicinal products. It states that when patients travel for treatment, which is allowed in their Member State, they are entitled to receive any medicinal product they received as part of that treatment in another Member State, on their return. However, assuring access to medicines prescribed abroad is only part of continued treatment. It is vital that excellent communication channels between healthcare providers abroad and continued healthcare providers at home be established. EHN welcomes the proposal's call for reinforced cooperation between the different healthcare systems/providers in the EU and urges such cooperation to include measures to achieve effective communication between healthcare providers at different stages of treatment; such communication is, in many instances, lacking even at national level. Medical teams from the patients' country of origin should cooperate closely with the medical and specialists teams of the country of treatment to ensure continuity of care. E-health may hold some promises.

European Reference Networks

The European Reference Networks are a commendable initiative that will enable patients with rare diseases to access the best treatment and care in that field. Some cardiovascular diseases are rare. The hospitals that are in the networks should be gold-standard hospitals and should be spread throughout the EU so that they have the greatest possible coverage.

If increasingly more diseases are treated by healthcare providers that are part of the reference networks, there may be a danger that Member States disinvest or refrain from investing in national/regional/local services for more common conditions. It is necessary to ensure that reference networks are dedicated to highly specialised healthcare. Perhaps, stronger emphasis on this point is needed in the proposal.

Conclusions

Transparency about quality of care must be a central element of cross-border healthcare. EU common standards in care may be needed to underpin the proposed Directive. Common standards may incentivise Member States to provide good quality care for people on their own territory thus limiting patients' travel and anxiety about being at a distance from their families at a difficult moment. No common standards should be lower than the existing standards in any of the EU Member States; indeed they should aim for the highest level of quality and safety.

Cross-border healthcare must not aggravate existing health inequalities and should preferably actively encourage Member States to reduce them.

It is vital to ensure that all patients get the necessary support throughout their treatment across borders. Patients should be informed, involved and reassured. National contact points need to be well resourced at all levels and capable of providing independent information.

Reference centres can play a key role in providing patients suffering from rare conditions with optimal treatment as well as being cost-efficient for Member States. Care must be taken that they do not limit access to care, particularly by creating economic and geographic barriers for patients.