

Freedom to Choose Doctors in Europe

In spite of the fact that the operation of the European Union can currently be regarded as rather complicated, it can be said that EU citizens are very much aware of the fundamental freedoms of the European Union and take advantages of the opportunities presented by the free movement of goods, capital, services and persons. With the labour markets opening up, virtually a migration commenced from the Central European member states to the West. The population of Europe therefore has become increasingly mobile on the continent and the member state borders may in various respects be regarded as relative, the expert of Kovács Réti Szegheő Attorneys at Law pointed out. Has this process reached the market of healthcare services too, dr. Loránd Kovács asks the question.

The coverage for healthcare services are characteristically provided by the social security contributions while participation in the social security systems is mostly mandatory in Europe. Social security is a type of risk pooling which is meant to facilitate the reproduction processes of society by ensuring the necessary healthcare services, if possible, to all.

Such European social security systems, however, operate in isolation from one another thus the free movement in the field of healthcare services could not fully apply until recently, elaborated the expert of Kovács Réti Szegheő Attorneys at Law.

Regulation (EC) No. No 883/2004 of the European Parliament and of the Council

It is supported by the current legislation based on the Regulation (EC) No. 883/2004 of the European Parliament and of the Council on the Co-ordination of Social Security Systems which does not allow that refund by the national social security system be claimed for the medical services used abroad (i.e. in another European Union member state including Iceland, Liechtenstein, Norway and Switzerland) in case the original aim of travelling abroad was to use a certain medical service.

In such a case the patient has, entirely or in part, paid the costs of foreign medical treatment himself/herself or had applied for prior permission from the national health insurance administration which, however was able to take a decision in its sole discretion concerning the granting of such permission.

Once a health insurance administration had granted permission it caused the treatment abroad to be refunded only to such an extent as adequate to the amount provided by the domestic healthcare system in respect of the given medical treatment. Hence the current regulation did not particularly further the free movement of medical services therefore legislation in this field has already been justified, underlined dr. Loránd Kovács.

Enforcement of Cross-border Patient Rights

It has become an EU objective that those participating in the mandatory social security system as insured should be able to claim cost refunding in the future should they use the medical



treatments of another member state. In addition, a prescription issued in any member state shall be accepted in each member state.

In respect of these issues the health ministers of the European Union have come to an agreement in June 2010. Following the Luxembourg discussions and as a result thereof, the European Parliament and the Council adopted the Directive 2011/24/EU on the Application of Patients' Rights in Cross-Border Healthcare in March, 2011.

Hungarian Patient In an Austrian Hospital

As a general rule, the Directive sets out that a member state of the place of insurance does not render the refunding of costs incurred in relation to foreign healthcare treatment subject to prior permission. The transposition of the provisions of the Directive into their respective national legislations until 25 October, 2013 is the task of member states.

The Directive wishes to further the use of healthcare treatments in other member states based on the freedom of decision, while the costs of treatment shall be refunded according to the price level applicable in the member state as the place of insurance.

A Hungarian patient therefore may use Austrian hospital treatment but the national health insurance administration will only pay so much from the costs of treatment which it would have paid for the same hospital treatment if used in Hungary while the amount in excess of that shall be provided by the patient, revealed the expert of Kovács Réti Szegheő Attorneys at Law.

The price level of healthcare treatments in Europe is extremely unbalanced which is compounded by the diversification of social security systems. It may happen therefore that certain range of medical treatments that may be considered rather costly in Western European countries are only covered by insurance packages having extremely high membership fees.

Range of offer of Health Insurance Administrations Need Be Adapted

Those having no such insurance may solely use the treatments on an individual costing basis. For such patients, it may present a solution to be able to use such otherwise not covered treatments for instance in Hungary being that their insurance, in comparison to the Hungarian price levels could probably cover the costs of the treatment.

Pursuant to the Directive however, a patient would only be entitled to be refunded the costs in case he/she were otherwise entitled to the given treatment on the basis of his/her insurance. This brings up the problem that for instance if a foreign patient's insurance does not cover, for instance, the costs of a hip implant surgery in the country of the place of insurance, refund for its cost may not be claimed even if used in Hungary, irrespective of the fact that the coverage for the treatments significantly exceeds the costs of the hip implant surgery performed in Hungary.

This means, although the Directive furthers the flow of healthcare services which may lead to price competition on this market, in order to achieve that the product range of



the healthcare providers should also be appropriately adapted in the future, emphasised finally dr. Loránd Kovács.