

HEALTH CARE SERVICES IN THE EUROPEAN UNION – AND HUNGARIAN PRACTICE

Servicios sanitarios en la Unión Europea – y la práctica húngara

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Resumen: El funcionamiento del mercado interior unitario está garantizado por cuatro principios básicos. Entre ellos, bajo la libre circulación de personas, los ciudadanos de la Unión Europea y sus familiares pueden establecerse, acceder a un empleo y cursar estudios en el territorio de otro estado miembro de la Unión Europea. Puesto que el desarrollo y la gestión de sistemas de seguridad es competencia exclusiva de los estados miembros, la Unión Europea es también responsable de la coordinación entre los diferentes sistemas de seguridad de los estados miembros, con el fin de hacer ejecutar los derechos de los ciudadanos de la Unión Europea y, por tanto, garantizar la libre circulación de las personas. Gracias a la coordinación de las normas, los ciudadanos tienen derecho a recurrir a los servicios de asistencia sanitaria en el territorio de otro estado miembro, a cargo del sistema de seguridad social del país donde se pagan las cotizaciones. El estudio describe, a la luz de las normas sobre la coordinación de los sistemas de seguridad social de la Unión Europea,

la normativa de la Unión Europea y de Hungría para acceder a la asistencia sanitaria en el extranjero.

Palabras clave: *Asistencia sanitaria programada y no programada; Coordinación de los sistemas de seguridad social; Derechos sociales de los ciudadanos de la UE; Seguridad social; Hungría*

Abstract: The functioning of the single market is guaranteed by four principles. Under one of them, the free movement of people, EU citizens and their family members can settle down, work and study in the territory of another EU Member State. As the design and operation of social security systems fall within the exclusive competence of the Member States, the enforcement of the coordination between the various social security systems in the Member States is the task of the European Union in order to enforce the rights of EU citizens, thus providing the smooth operation of the free movement of people. Due to the coordination regulation, EU citizens

have the right to use the healthcare service of another Member State at the expense of the social security system of the country where the contributions are paid. The study presents the EU and Hungarian rules for accessing healthcare abroad in light of the EU regulations on the

coordination of social security systems.

Keywords: *Scheduled and unscheduled healthcar; Social security coordination; Social rights of EU citizens; Social security; Hungary*

I. Coordination of social security systems – II. Receiving healthcare in the European Union: 1. Unscheduled healthcare, 2. Scheduled healthcare service – III. Development opportunities in the administration of foreign care – References

I. COORDINATION OF SOCIAL SECURITY SYSTEMS

The coordinated operation of the various social security systems of the Member States is implemented by the coordination of social security systems, which is essential for the free movement of people¹. The current regulations on the coordination mechanism are provided for in the Regulation (EC) No 883/2004 on the coordination of social security systems (hereinafter: Regulation) and the Regulation (EC) No 987/2009 laying down the procedure for the implementation thereof (hereinafter: Implementing Regulation). Communication between the various regulatory bodies of the Member States and the efficient and secure exchange of information required for procedures are of paramount importance in the functioning of coordination. To this end, the EESSI (*Electronic Exchange of Social Security Information*) system as been set up, allowing social security institutions in the EU Member States to exchange and communicate data with each other efficiently and quickly².

In order to join EESSI, it has become necessary for all Member States, including Hungary, to develop an IT system that supports communication through the EESSI system. This is how the HYDRA IT system has been introduced in Hungary.

II. RECEIVING HEALTHCARE IN THE EUROPEAN UNION

Due to the EU coordination regulations, EU citizens have the right to use the healthcare service of another Member State at the expense of the social security

¹ See more on this topic: KRISTÓ, K.; *Szociálpolitika, szociális jog*. National University of Public Service, Budapest, 2014.

² HAJDÚ, J.; “A szociális jog elmúlt 20 évéről, különös tekintettel az Európai Unióra”, *Gazdaság és jog. Húsz év jogalkotási fejleményei a civilizztika területén*. (MISKOLCZI BODNÁR, P.; KUN, A.; BOÓC, Á.), Károli Gáspár University of the Reformed Church in Hungary, Faculty of Law, Budapest, 2019. p. 16.

system of the country where the contributions are paid. Healthcare is available in the territory of another Member State in a scheduled and unscheduled manner. Receiving unscheduled healthcare³ with a European Health Insurance Card (hereinafter: EU Card) can be considered as a relatively easy way⁴. However, scheduled healthcare⁵ must be preceded by a complex administrative, in some cases authorization process by the health insurance authority of the Member State where the contributions are paid⁶.

1. Unscheduled healthcare

Medically necessary services available during a temporary stay in EEA Member States and in Switzerland⁷ are provided for in Article 19 and 27 of the Regulation and Article 25 of the Implementing Regulation. Under Article 19 (1) of the Regulation, an insured person and members of his/her family staying in a Member State other than the competent Member State are entitled to medically necessary benefits in kind during their stay, taking into account the nature of the services and the expected duration of the stay. These services shall be provided on behalf of the competent institution by the publicly funded institution of the place of residence, according to the provisions of the legislation applied thereby. Under Article 25 (1) of the Implementing Regulation, a European Health Insurance Card shall be possessed to receive healthcare service, which is issued free of charge by the health insurance authority of affiliation. Reimbursement of healthcare service costs is arranged between the insurance authorities of the Member States. It is important to emphasize that the insured person is entitled to healthcare services under the same conditions as those applicable to insured persons in the Member State of residence if an EU Card is possessed⁸.

³ Unscheduled healthcare is most common in cases where an EU citizen has an unexpected accident or falls ill and needs urgent medical treatment while staying in a Member State.

⁴ GELLÉRNÉ LUKÁCS, É.; "Egészségügyi szolgáltatások igénybevétele", *Társadalmi fenntarthatóság*. (SMUK, P.), Ludovika Egyetemi Kiadó, Budapest, 2020. p. 1355.

⁵ Scheduled healthcare is when an EU citizen travels to another Member State specifically for the purpose of receiving healthcare service there.

⁶ In addition to the above categories, there is an additional regulatory group: when an EU citizen receives healthcare service in a Member State other than the competent Member State of residence. This special category mainly affects frontier workers as well as relocated pensioners and their families. This group of persons can receive healthcare service in both Member States, in the country of employment and in the country of residence. Regarding space constraints, the present study focuses on presenting the main regulatory issues of scheduled and unscheduled healthcare services. See more on this topic: KRISTÓ, K; BORBÁS, SZ.; "Külföldi egészségügyi ellátások az európai unió és a magyar szabályok tükrében", *Acta Humana* n° 3, 2021.

⁷ Benefits in kind shall be considered medically necessary that are provided in the Member State of residence under its legislation in order to prevent the insured person from returning to the competent Member State for the necessary medical treatment before the end of his/her stay. (Implementing Regulation, Art. 25(3)).

⁸ Article 25 (2) of Implementation regulation.

In Hungary, customers can apply for the EU Card in person or by proxy, by post or even through the customer portal from any government office or one-stop-shop. If the application is submitted and the applicant's contractual relationship with the insurer and entitlement to healthcare service can be clearly established, the administrator will issue the EU Card or the Card Replacement Form by using the HYDRA system.

2. Scheduled healthcare service

The rules for scheduled healthcare services are set out in the coordination regulations and in Directive 2011/24/EU on the application of patients' rights in cross-border healthcare. These provisions have been transposed in the Hungarian legal system through Government Decree No 340/2013 (IX.25.) on the detailed rules of medical treatment abroad (hereinafter: Government Decree). According to these regulations, access to a foreign healthcare service is possible in three ways: under EU regulations (hereinafter: by regulation), in the framework of cross-border healthcare service (hereinafter: by directive) and on the basis of equity (hereinafter: by equity).

In all cases, the common rule is that the assessment of the claim for healthcare service starts with the submission of an application, and the process is carried out within the framework of an administrative procedure. An independent expert establishes whether the healthcare service is justified, and the applicant must have Hungarian social security status throughout the procedure. Should it be by regulation or equity, access to healthcare service is subject to prior authorisation. If it is by directive, the services specified in the legislation are subject to authorisation. Application for authorisation shall be submitted to the National Health Insurance Fund (hereinafter: NEAK). Upon receipt of the applications, NEAK examines whether the requested care is available within the framework of the Hungarian publicly funded healthcare system and can be provided in Hungary within a medically justified time⁹.

The rules of procedures initiated by equity and decree are similar, but the difference in principle is that while a decision on care not included in the Hungarian social security is made by equity, the decision on care included in the publicly funded care is made by decree, but it cannot be provided within a medically justified period¹⁰.

In each case, the decision of NEAK is based on the judgment of an independent medical department or a medical expert, who decides whether the care requested abroad has a professionally accepted and realistic health benefit. In the case of a positive medical decision, NEAK authorises the care and issues an S2 form to cover the costs thereof, on the basis of which those who bear the burden in the Member States settle accounts with each other after the treatment.

⁹ GELLÉRNÉ LUKÁCS, É.; PARAGH, B.; "A magyar biztosítottak részvétele az európai uniós szintű betegmozgásokban – tervezett egészségügyi szolgáltatások igénybevétele", *Munkajog*, n° 4, 2020. p. 32.

¹⁰ GELLÉRNÉ LUKÁCS, É.; PARAGH, B.; "A magyar biztosítottak részvétele" (...) op.cit., p. 33.

Regarding financing, there is a difference between the procedures carried out by directive, where the patient must advance the costs of the service, with the possibility of a retrospective reimbursement, and the amount thereof shall not exceed the domestic costs of publicly funded care in Hungary¹¹. At the same time, the patient has the possibility to use a private healthcare provider by directive.

It is usually by equity if NEAK rejects the application because it is for the purpose of receiving care not included in the social security in Hungary.

III. DEVELOPMENT OPPORTUNITIES IN THE ADMINISTRATION OF FOREIGN CARE

The continuous development of electronic public administration systems guarantees that the practice developed in administrative procedures can meet new challenges and a customer-oriented approach. Regarding the specific procedures, it has become an important objective to extend the digitalisation of public administration to cross-border services, as EU citizens across Europe expect other Member States to reap the benefits of digital technology. Therefore, the introduction of EESSI and, in this connection, the HYDRA application in Hungary, was of great importance, providing faster and more efficient communication between the institutions and liaison bodies of the Member States.

However, it is important to emphasize that these systems are only used for communication between Member State bodies, and that customers have not yet been channelled into the system. Thus, customers have the information in the form of portable documents. In this respect, the development of a kind of electronic administration method, which would complement the EESSI system and support more accurate and efficient communication between clients and social security authorities, would be a significant step forward¹².

In Hungary, the HYDRA application has been used by the agencies for a year, but based on the experience so far, possible areas for further development of the program have already become visible. As an example, when registering a certificate of entitlement (form S1), the legal relationship data are not displayed in the application, with which fast and accurate data could be fully provided, thus leading to an increase in administrative time.

Regarding access to healthcare in another EU Member State, it would be important to introduce a new generation of smart cards that could provide easy access to patient health data. This new type of EU Card would give doctors access to all the important information needed for medical treatments during a stay abroad. By further developing this system, an electronic interface should be created, linked to the

¹¹ Article 7 (3) of Government Decree.

¹² The development of such an electronic administration system is proposed by Katalin Kristó and Brigitta Malustyik in their joint study. See: KRISTÓ, K; MALUSTYIK, B.; “A tervezett külföldi gyógykezelés engedélyezése” (...), op.cit., pp. 15-25.

patient's insurer, to indicate whether the patient is lawfully receiving care, i.e., whether he/she actually has a contractual relationship with the insurer or is entitled to healthcare service at the time of receiving care.

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