Patients' rights in cross-border healthcare

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This report considers the effects resulting from Directive 2011/24/EU of the European Parliament and of `the Council on the application of patients' rights in cross-border healthcare, for insured patients wishing to be reimbursed for healthcare received outside their country of residence and in another EU Member State.

Specifically it considers the **potential effects of prior authorisation systems** introduced under Directive 2011/24 /EU and of the definition of the Member State responsible for reimbursing patients the costs of cross-border healthcare.

The Member State of affiliation may provide for a system of prior authorisation for reimbursement of costs of cross-border healthcare limited to specific types of planned healthcare, if such system is justified and proportionate.

Two legal instruments: as from 25 October 2013, two legal instruments apply to the situation of patients seeking healthcare outside their country of residence: (i) Directive 2011/24/EU, and Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and the Council on the coordination of social security systems. **These two legal instruments both feature systems of prior authorisation.** Depending on the choices made by Member States, this may result in two systems of prior authorisation co-existing side by side. Given the overlap between the two systems there is the **clear potential for substitution effects to occur.**

As the Directive was due to be transposed by Member States into national legislation by 25 October 2013, there is obviously **no data available** at this point on the impact of the Directive, either alone or in interaction with the Regulations.

The report briefly describes the two instruments and then goes on to assess possible impacts of their interaction in two areas: **possible substitution effects between the prior authorisation systems used under the two instruments**; and the adequacy of the financial compensation for costs of healthcare paid between Member States under the Regulations. On the latter part it considers those cases where Member States receive fixed amounts intended to cover the costs of healthcare benefits in kind for pensioners.

The report notes that, due to the lack of available information, **no clear conclusions** can currently be drawn on either of these two issues. At this point in time –soon after the end of transposition deadline of the Directive - the Commission is not able to evaluate the use that Member States have made of the possibility of introducing prior authorisation systems under the Directive, and the possible substitution effects with the Regulations. For similar reasons, it is not possible for the Commission to whether there is any disproportionality resulting from the implementation of the Directive.

It is, however, possible at this point to **draw some conclusions** with a view to addressing both of these points fully in the report on the general operation of the Directive, which the Commission is required to present by 25 October 2015. This will be the first in a series of

triennial reports.

The main conclusions of the report are as follows:

- **Zero measurement**: to be able to assess the impact of the Directive on the number of patients using the Regulations, the report suggests the establishment of a "baseline" zero-measurement to capture patient mobility under the Regulations prior to the implementation of the Directive.
- Next, this zero-measurement needs to be compared with another measurement that will be made after transposition of Directive 2011/24/EU.
- **Data for future reports**: the report stresses the need to rectify the lack of statistical data regarding cross-border healthcare. Member States wishing to introduce a prior authorisation system under the Directive would need to **review their current systems of data collection** as the current data would, in most cases, not seen sufficient to justify an extensive system of prior authorisation.
- **Prior authroisation systems and procedural guarantees** : with regard to prior authorisation systems the concept of a medically-justifiable time limit should be the same under both instruments. Similarly, the procedural guarantees established under the Directive should be applied to any authorisation system under the Regulations.
- **Measures to be taken after transposition**: in order to be able to properly examine the effects of the Directive on the use of the Regulations and on the adequacy of the lump sums, it would be useful to develop the way in which data is collected
- **Improving the system of monitoring**: the development by Member States of a monitoring system under the Directive will pose a challenge of coordination with that established under the Regulations. Methodological issues need to be discussed to adjust these systems to the international standards on statistics. Member States should unify – as far as possible - the collection of information, for the sake of efficiency.