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Could new EU patient rights lead to “health tourism”?

Patient choice is set to broaden across the whole of the European Union following a vote in the European Parliament this week on cross-border access to medical care. After years of inter-institutional wrangling MEPs voted on Wednesday to adopt new legislation that will open up health services to patients from other EU member states and force the patients' healthcare insurer to reimburse treatment costs. This week's vote represents a huge victory for the European Commission which has tried since 2004 to guarantee patient cross-border rights.

Given that the EU has only a very limited competence in health policy, getting any agreement between Member States on opening up healthcare provision is a significant achievement in itself. However, it has opened up the prospect of health tourism and there remain some unresolved questions about what treatments should be restricted to prevent abuse.



The European Commissioner for Health John Dalli hailed the news as a “great victory for patients' rights”. The European Commission came up with the proposals in September 2008 after it failed to get healthcare services included in the original Services Directive in 2004. The Commission has long claimed that individual rulings by the European Court of Justice shows that there was a need to guarantee patient rights in law where a patient was denied access to treatment in his / her own country either because the waiting lists were too long or because the service did not exist.

In the UK, where there is a risk of waiting lists increasing, the National Health Service will have to reimburse treatment costs of a patient in a French hospital if waiting times are deemed too long – with one important proviso; that the patient receives Prior Authorisation. The Council insisted on this proviso, supported by the European Parliament. In order to prevent an exodus of patients going abroad for treatment and landing the health service with a huge bill to pay.

In practice, however, the scope of prior authorisations is not clear. The Commission is keen that Prior Authorisation works to contain patient outflows and prevent healthcare systems being undermined. Both the Council and Parliament rejected the Commission's idea of listing at EU level specialised treatments that required Prior Authorisation. Instead, the Member State will inform patients what treatments would be available.

MEPs from the Socialist Group have been highly sceptical about the proposals since they believe it discriminates in favour of richer patients that can afford to pay upfront and travel to the country where the treatment is being carried out before receiving a reimbursement. They also fear that a whole new health tourism industry will emerge that leaves poorer patients behind.

The rules also allow for prescriptions to be recognised in another Member State. However, this has not been welcomed by European pharmacists who believe that there will be problems accepting prescriptions from another country whose language they can't speak and whose authenticity they can't verify.

The Directive will become operational mid-2013 at the latest. The Commission is hoping this could be a landmark in EU competences in public service provision. It would be a stretch to say that there will be an explosion in health tourism as a result of the new legislation. Nevertheless, it does have the potential to change quite dramatically, in the long term, the control that national health services have over the provision of care.

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