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Patients should be free to choose any hospital in the EU

All citizens should have the right to be treated in another EU country at public expense if waiting times are too long in their own country. This is the aim of a new EU directive.

Every day thousands of people need treatment in one of the many hospitals in this country. Many of them get the help they need quickly, but many others are told to wait for months or even years before they can be treated.

On certain conditions they should be able to get the treatment in another EU country at public expense. And it does not necessarily have to be due to shorter waiting times.

You will have the right to choose another hospital in the EU if that is what you want.

This has been established by a number of rulings of the European Court of Justice. The Court has based its judgments on concrete cases where patients have been treated in another EU country, but have then had their applications for reimbursement of their expenses refused by their home country's normal health service. After having their applications turned down, a number of patients have chosen to bring their cases before the European Court of Justice. The Court has established that in certain circumstances the home country, not the patient, should pick up the bill.

On the basis of these rulings patients in Denmark already have certain possibilities for having their treatment abroad paid for. In order to clarify what rights patients have, the European Commission has now presented a proposal for an EU directive in this area based on the Court's rulings.

Few want to go abroad

The directive has three overall objectives:

- to make it clear for patients what rights they have to get treatment abroad
- to offer better guarantees of quality and safety during treatment abroad

- to establish how the different national systems can work together.

"Most patients don't want to be treated in another country. They are happy with what they have got or lack the incentive or the resources to travel. But for some it can be useful to be able to receive treatment abroad," says Bernard Merkel, who is head of the committee which has prepared the Commission proposal for an EU directive.

"If you live close to a border and the expertise in the neighbouring country is not as far away as the expertise in your own, it could be useful. The reasons could also be long waiting lists, too little expertise or the fact that patients want to be close to relatives living in another country," he says. He only expects 1 per cent of EU citizens to use the possibility of receiving treatment abroad. Nevertheless, they should be given the opportunity.

Paid for by public funds

The problem is how to secure these rights across 27 very different public health systems in the EU.

"The aim is to make the national systems work better together. But it should be done without changing or interfering with the individual national systems," says Bernard Merkel.

We will try to do that, among other things, by applying the rule that only the sum which the treatment abroad would have cost at home is refundable. If a treatment in, for instance, Germany is more expensive, the patient will have to pay the difference him- or herself. If it is less expensive, it will only benefit the system - not the patient.

"It is important that people know that their expenses for the treatment will be reimbursed. And there should be detailed rules explaining under which circumstances they will be reimbursed, within a reasonable time limit," says Merkel. The directive also states that if anything goes wrong during a treatment abroad, the patient should address his or her complaint to the country in question.

Prior authorisation

However, certain conditions must be met before you can seek treatment abroad. It should be clearly defined when patients are entitled to seek treatment abroad themselves and be reimbursed, and when they need prior authorisation from the national health service. According to the European Court of Justice, and hence the Commission proposal, a citizen does not need prior authorisation from the national health service if he or she seeks so-called non-hospital care. If that is

not the case, the national health service may, however, require prior authorisation. Otherwise the home country is not obliged to pay for the treatment. That is the main issue dividing political opinions in the European Parliament, which has started its preliminary discussions of the proposal. This is not least due to the fact that the definition of non-hospital care is not 100 per cent clear.

Special treatment

But what happens when a German wants treatment in Denmark or a Dane wants to be treated in France? Will the local Dane or Frenchman jump the queue and be treated before the foreigner? Or will the foreigner get first priority?

"It is important to have clear rules in this area. The directive clearly states that all should be treated equally. Neither the local population nor foreigners have preference. All should be treated equally," Bernard Merkel emphasises.

In order to ensure that patients are aware of their rights, the directive calls for information centres to be set up to provide clarity about patients' rights.

Although many patients will acquire new rights, there are still some who will not have their treatment abroad paid for, i.e. patients needing a type of treatment which is not available in their home country. Even if an internationally recognised treatment exists, the system will not pay for it so long as it is not offered in Denmark. At least according to the rules in the proposed directive.

Facts

- In a number of judgments the European Court of Justice has established that in many cases patients have the right to receive treatment abroad paid for by their home country.
- The judgments have created a need for clarity for patients in the EU.
- On 2 July the European Commission presented a proposal for an EU directive which will ensure the rights of patients to be treated anywhere in the EU.
- So far the proposal has only passed through the preliminary discussions in the European Parliament and among the EU health ministers.
- It is difficult to estimate when the directive will be adopted but it is likely to take two to three years.
- Even though adoption is not definite and may take a long time, European patients already have the right to have their treatment abroad paid for on certain conditions. This has been established by the European Court of Justice.
- Read more at www.patients-rights.eu – where you will also find the rules in Danish.

Should patients or the system decide?

How far should patients' rights go and can treatment abroad be harmful to the Danish hospital sector? Opinions differ among politicians and organisations.

Attitudes vary greatly as to how patients should be ensured the best possible rights to cross-border treatment under the future EU directive.

One of the crucial questions is whether patients should have a prior authorisation from the hospital service in their home country before they can go abroad to receive treatment at public expense or at the expense of the health insurance which normally covers treatment in their home country. Or if patients can just leave without "asking for permission" beforehand.

This issue in the proposal for an EU directive divides the Social Democrats from the Centre Right in the European Parliament.

The Centre Right parties want to remove the demand for prior authorisation from the directive - and want patients to have their treatment approved beforehand only in special cases.

"We shouldn't have prior authorisation. It should be the exception rather than the rule," stressed Karin Riis-Jørgensen, MEP for the Danish Liberal Party, when she and a number of other politicians met at a seminar on cross-border patient rights in Sorø earlier this week.

This position is supported by the chairman of the Danish Patients' Association, former health minister Torben Lund (Social Democrats). "We should use prior authorisation only in special circumstances. Patients should have the right to choose where they want to be treated. That is also the reason why Danish citizens can choose which Danish hospital they want to be treated in, " he pointed out.

Fear of deterioration

This attitude is opposed by both the Danish Regions organisation and the Social Democrats in the European Parliament. "We must have prior authorisation. Otherwise it will have financial implications for our hospital services because the EU countries will no longer be able to plan operations. There is a risk that domestic hospitals will be drained of patients, which will only make matters worse for those who remain at home, e.g. the elderly or single mothers who cannot go abroad. We also have to keep these people in mind, " says Kristel Scaldemose,

MEP for the Social Democrats. She suggests a five-year indicative transition period with prior authorisation. Then we can evaluate how things worked. The organisation Danish Regions are more stringent.

"We must have prior authorisation before any kind of treatment. That way we will know where the patients are and that there will be room for other patients if somebody goes abroad. That will also enable us to ensure that patients get the right treatment and that expenses do not run out of hand," says Carsten Uno Petersen (Social Democrats), member of the regional committee of the organisation Danish Regions, which speaks on behalf of all regions, and member of the regional council of the Region Syddanmark.

He goes one step further and wants to secure a place for Danish patients in the domestic queue.

"We believe that the Danish health service is for Danish patients. Therefore, we should have the right to refuse foreign patients in order to secure our own," says Carsten Uno Petersen.

Internationally recognised

Torben Lund wants to focus on those patients whom the proposal for a directive does not allow for in any way. They are the ones who need treatment which is not given in Denmark and who cannot get the authorities to pay for this treatment abroad, because only treatments which are offered in the home country are refundable.

"This should be changed so that the health service in the home country pays for all treatments which are internationally recognised. That is a way of taking care of those patients who cannot be treated in Denmark, but who can actually receive treatment abroad," says Torben Lund.

One of the difficulties concerning this point is determining when a treatment is a treatment. Should, for instance, a cosmetic operation or an abortion be refundable? Torben Lund believes that it would be easy to exclude this kind of treatment to prevent misuse of the scheme.

Reimbursement

All parties agree that patients should not disburse money for the treatment themselves. There should be a scheme ensuring that the EU countries and their normal health services take care of payments.

The argument in favour is that if patients themselves are to lay out the expenses for an operation a number of patients will already be barred from using their rights because they don't have the money to do so.

At the seminar in Sorø, many other issues ranging from questions about prescriptions to rehabilitation, complaints, quality levels and language barriers were touched upon. They were all examples of the gamut of questions and opinions about the directive which should ensure patients' rights – across political parties, organisations and EU countries.