European Commission
Health and Consumer Protection Directorate General
Health Services Consultation
B 2328/102
B-1049 Brussels
Belgium

Comité Européen des Assurances (CEA)
Square de Meeûs 29
B-1000 Brussels
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Re: Consultation regarding Community action on health services

Brussels, 29 January 2007

Dear Sir/Madam,

On behalf of the European private health insurers, the CEA submits the following comments with reference to the 'Consultation regarding Community action on health services' as of 26 September 2006.

This document consists of two parts: first, general remarks by the CEA as regards the Commission's initiative and, second, specific answers to the questions raised in the Consultation.

General remarks

The CEA welcomes the initiative by the Commissioner for Health Mr. Markos Kyprianou to start a public consultation about the opportunities and threats of cross-border health care to European citizens and health systems.

The CEA recognizes the fact that the Member States have the prime responsibility for protecting and improving the health of their citizens. In view of the Treaty, it is up to the Member States to decide how the delivery of health services and care is organised and financed. However, there are several health issues, notably those with a cross-border or an international dimension, where co-operative action at the EU level may be desirable.

The CEA is also aware of the great change and new challenges Europe is currently facing, as described in 'Health in Europe: a strategic approach,' the discussion document the European Commission launched recently. Greater social diversity and economic inequalities in an enlarged European Union, a need for sustainable growth and competitiveness, globalisation, an ageing population, and the impact of innovation and technological development: all of these will have profound consequences for the health of the EU population and *vice versa*. The importance of health as a European issue is increasingly recognised, as demonstrated by the Communication on health services and our own initiative on improving the health of the working population that we launched at the European Parliament in Strasbourg on 4 April 2006.

In this context, consulting EU stakeholders about the nine issues which are put forward in the Communication is a positive initiative by the European Commission.

The CEA strongly believes in a focussed role for the European Commission in ensuring transparency for European citizens, providers of health care, insurers and other payers of health care and in promoting high quality of care.

To conclude, the CEA does not endorse a need for regulation as a solution for legal uncertainty. In our view the European Court of Justice judgements (i.e. *Decker/Kohll*, *Smits-Peerbooms*, *Watts* etc) provide enough clarity as regards the conditions under which forms of cross-border health care have to be reimbursed or not. In our view any cases of legal uncertainty are best resolved at a national level and by information to the public on the Health EU Portal.

CEA's response

Question 1: *What is the current impact (local, regional, national) of cross-border healthcare on accessibility, quality and financial sustainability of healthcare systems and how might this evolve?*

In general, the CEA is not convinced that cross-border care is really an issue of great importance for these areas. We note that the Communication itself states that accurate data about the volume of cross-border care are not available. One estimate is that 1 percent of healthcare expenditure is being paid for in this way. It is true that in border regions people are more likely to seek care abroad but the vast majority of the patients like to be treated near their own place of residence, in their own language and close to their family and neighbourhood. For border regions people bilateral agreements are more appropriate than European legislation as it can be adapted to the specific situation.

Because of the actual and foreseeable low volume of cross-border care, CEA does not believe this is, or will be, a real impact on accessibility, quality and financial sustainability of health care systems in the Member States.

Question 2: *What specific legal clarification and what practical information is required by whom (e.g. authorities, purchasers, providers, patients) to enable safe, high-quality and efficient cross-border healthcare?*

The judgments by the European Court of Justice in *Decker/Kohll*, *Smits-Peerbooms*, *Müller/Fauré* and recently *Watts* give legal answers to whom, when and where responsible players (either authorities and/or insurers) in Member States should pay for cross-border care. In the CEA's view, each and every Member State has to determine whether and how these judgments should be implemented in their own national legislation. The Netherlands for instance have decided to adopt the judgments fully in the new health insurance system which was introduced on 1 January 2006. So has done Germany.

However, in the field of practical information the CEA does acknowledge there is a problem. At the moment there is a lack of reliable information regarding packages, prices, reimbursement and quality of care. This is especially the case for consumers of health care. The CEA sees an important role for the European Commission in creating a centralized internet information portal with links to information sites of the different Member States as the current Health EU Portal. By improving information to patients the European Commission will contribute to help consumers to make better choices.

Question 3: *Which issues (e.g. clinical oversight, financial responsibility) should be the responsibility of the authorities of which country? Are these different for the different kinds of cross-border healthcare as described in section 2.2.?*

Question 4: *Who should be responsible for ensuring safety in the case of cross-border healthcare? If patients suffer harm, how should redress for patients be ensured?*

The CEA believes that the 'host country' should be responsible for dealing with the impact of cross-border care. Legislation and regulation in the country where health services or healthcare is being consumed should apply, in cases where patients want to make a complaint or seek for compensation. The private international law regulates complaints and torts with a foreign element.

The European Commission could support patients, payers, providers and national authorities by making and publishing a survey of the current complaints and compensation systems in the Member States. This could be done on the Health EU Portal as well.

Question 5: *What action is needed to ensure that treating patients from other Member States is compatible with the provision of a balanced medical and hospital services accessible to all (for example, by means of financial compensation for their treatment in 'receiving' countries).*

A lot of cross-border health care activities are taking place within a particular context. They are shaped by cross-border alliances in some EU regions (like Meuse-Rhine), facilitated by the European Commission, or are based on bilateral agreements between Member States about the use of healthcare facilities. It is the view of the CEA that this locally based approach is very useful in finding custom made solutions for problems which possibly could arise in receiving countries.

Question 6: *Are there further issues to be addressed in the specific context of health services regarding movement of health professionals or establishment of healthcare providers not already addressed by Community legislation?*

Question 7: *Are there other issues where legal certainty should also be improved in the context of each specific health or social protection system? In particular, what improvements do stakeholders directly involved in receiving patients from other Member States – such as healthcare providers and social security institutions – suggest in order to facilitate cross-border healthcare?*

Concerning the movement of health professionals there are already sufficient regulations with the Directive of 7 September 2005 on the recognition of professional qualifications (2005/36/EC).

The CEA notes the point about the lack of a common set of healthcare standards at a European level. At the moment healthcare providers and professionals in the different Member States use different definitions of quality of care and have different views on safe and sensible healthcare. The European Commission could play a role by starting a discussion about whether it would be possible or desirable to create European medical guidelines for some common adopted elective healthcare services.

Question 8: *In what ways should European action help support the health system of the Member States and the different actors within them? Are there areas not identified above?*

As described earlier CEA believes European action could be of help in creating better access to information for consumers, surveying systems of complaints and compensation and discussing the potential for common guidelines for health care services.

Question 9: *What tools would be appropriate to tackle the different issues related to health services at EU level? What issues should be addressed through Community legislation and what through non-legislative means?*

As stated before, the CEA sees no need for a European legal solution for legal uncertainty. This issue, if necessary, should be addressed by a national legal approach. It should be mentioned that possible national legislation must not conflict with commercial sustainability for health care providers and health insurers.

European action needed in the field of enhancing information transparency, surveying systems and discussing quality standards should be stimulated and facilitated directly from the European Commission. The Open Method of Coordination could be a very useful tool to work with.

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