



Undocumented migrants in Spain to regain access to healthcare?

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Description

Undocumented migrants were officially excluded from the Spanish healthcare system in 2012. The implementation of this measure was extremely uneven between the different regions. Since September 2015 there has been a proposal from the Inter-territorial Council of the Spanish Healthcare System to extend primary care to undocumented migrants, but no decision has been taken in that respect to-date.

On April 24th 2012, the Spanish government passed the 16/2012 Royal Decree on “Urgent Measures to Insure the Sustainability of the National Health System (SNS)”, which included a series of reforms aimed at reducing healthcare costs. Central among them was the re-introduction of labour-related social insurance contributions as the key mechanism for the definition of healthcare entitlements in Spain. It meant a radical change in the philosophical foundation of the SNS, from universalism back to a social insurance model (although it continues to be funded through general taxation, not from Social Security contributions).

The Royal Decree 1192/2012, passed on August 3rd 2012, more clearly defined the new rules to establish eligibility to the SNS: “insured persons” (workers, pensioners, unemployed persons receiving benefits, and job seekers), and “beneficiaries” (spouses and siblings - younger than 26- of “insured” persons). A series of groups were thus officially excluded from the SNS, including undocumented migrants older than 18 (with the exception of pregnant women). In October 2012, the Inter-territorial Council of the Spanish Healthcare System (CISNS) approved the government proposal to establish an insurance scheme so that those excluded from the SNS could buy their way into the system for an annual premium of

710€ (1,864€ if older than 65).

The government estimated that by September 1st 2012, 873,000 SNS cards had been cancelled (about half a million from people no longer in the country, 160,000 from undocumented migrants, and 200,000 from EU citizens not entitled to healthcare under the new rules).

These regulations should have meant the exclusion of undocumented migrants from the 17 Regional Healthcare Services (SRS), but the complex healthcare governance structure brought about an extremely uneven implementation of this measure across the regions. It was: explicitly ignored by Andalusia and Asturias; partly implemented by Aragon, Basque Country, Canary Islands, Cantabria, Catalonia, Extremadura, Galicia, Navarre and Valencia; applied with certain exceptions by Madrid, Balearic islands, Castile-Leon, Murcia and Rioja; and strictly enforced by Castile-La Mancha (Médicos del Mundo, 2014).

Less than three years after this legislation was passed, the government reconsidered its effectiveness, partly as a result of certain high-profile cases of lack of adequate medical treatment to undocumented migrants, the wide variety in the practices of the SRS, and the recognition that no savings could be directly attributed to it. On September

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2nd 2015, it presented a proposal to the CISNS aimed at extending primary care to undocumented migrants with no economic resources and living in the country for more than six months. No clear decision has been adopted yet regarding the reincorporation of this group into the SNS.

Outlook & Commentary

In a context of economic crisis, the justification for rethinking eligibility to the SNS was based on the argument of eliminating “abuse” of the system and “health tourism” by foreign patients considered to be illegitimately benefitting from it. Several national (Ombudsman, Tribunal de Cuentas, Constitutional Court) and international institutions (Council of Europe, UN Special Rapporteur on Extreme Poverty and Human Rights) criticised this initiative, pointing to the potential public health risks derived from not adequately treating patients within the conventional healthcare channels. At the same time, a large number of health professional organisations, human rights groups, and immigrant associations rejected the argument of the potential savings. They pointed to the increase of the cost of attending to this population in Emergency Rooms, the complications derived from late disease treatment, and the deficient follow up of treatments. These practices are considered to largely exceed the cost of responding to healthcare needs through conventional channels. They also denounced the growing administrative discretion (including discriminatory practices), and health inequalities deriving from the exclusion of undocumented migrants from the SNS.

A series of factors can account for the “implementation gap” in this policy initiative. These include: a)

the role of “institutional inertias” within an up to recently universalist system, b) the strong influence of the political affiliation of regional governments (in particular where there are differences between the parties in power at the different levels of government), and/or c) the impact of public opinion regarding the welfare rights of migrant populations (perception of “deservingness”). Beyond the position adopted by regional health authorities, the implementation of this rule seems to have resulted in widening scope for bureaucratic discretion.

Re-establishing the universal character of the SNS would result in a simplification of its functioning, a reduction of health inequalities and a more efficient use of scarce resources. The proposal presented by the central government to the Inter-territorial Council of the Spanish Healthcare System in September 2015 did not go as far as that, since it suggested to grant primary care to undocumented migrants within the region where they reside, without granting them a SNS card that would entitle them to access all healthcare services provided by the system.

Further reading

Amnistía Internacional (2014). El laberinto de la exclusión sanitaria. Madrid. <https://goo.gl/iL7e9K>

Legido-Quigley, H., Otero, L., La Parra, D., Alvarez-Dardet, C., Martin-Moreno, J., and McKee, M. (2013). Will austerity cuts dismantle the Spanish healthcare system? *BMJ* 346.

Médicos del Mundo (2014). Dos años de reforma sanitaria: más vidas humanas en riesgo. MDM. Madrid. <https://goo.gl/1MHPkj>

Moreno Fuentes, F.J. (2014). “El puzzle de la exclusión sanitaria de los inmigrantes indocumentados en España”. *Anuario de la inmigración en España 2014*, CIDOB, Barcelona 2015: 277-300.

<http://goo.gl/IPOLX2>

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