

Obtaining medical treatment in the EU

How do you go about it?

General

Our neighbouring countries¹ in Europe have come much closer since the physical borders were removed. This trend became even more apparent after the introduction of the euro. An increasing number of people from border regions will, for example, go shopping in their neighbouring country. Family, friends and neighbours will tell you that it is also possible to obtain medical treatment in other EU countries. If you want to take advantage of this possibility, the most important question is “How do you go about it?”

This brochure answers that question!

The purpose of this brochure is to explain your rights as a patient in the European Union and describe the options you have for obtaining medical care in other countries. The brochure has been written mainly for patients living in border regions and provides information on how to go about obtaining healthcare in another country if you decide to do so.

This brochure provides a general description of European rules and regulations on requesting, receiving and being reimbursed for healthcare in a neighbouring country. If you have specific questions, you can always make enquiries with your health insurer. There are also numerous patient organisations you can contact who will be pleased to help you (for addresses, visit the EPECS website: www.epecs.eu).

EUROPEAN LEGISLATION

Which European legislation covers the reimbursement of the cost of cross-border healthcare?

The question of who is to pay for medical treatment provided in another country is covered by two pieces of legislation at European level: a Regulation and a Directive.

The EU Regulation on the coordination of social security systems was published on 29 April 2004. This Regulation contains detailed provisions concerning the free movement of persons. The Regulation sets out the rules for obtaining healthcare in another country and, more particularly, for obtaining reimbursement of the cost incurred.

In addition to the Regulation, there is a Directive on the application of patients' rights in cross-border healthcare. This Directive was finally adopted on 9 March 2011 and entered into force at the end of March 2011.

The Directive was introduced because a lot of judgments had been handed down in the European Court of Justice in which the provisions in the Regulation were interpreted in detail.

¹ Where neighbouring country, abroad, other country, etc. are mentioned in the brochure, this refers only to countries which are members of the European Union.

For example, the Regulation states that prior authorisation must be obtained from the health insurer before treatment in another country can be considered for reimbursement. The European Court of Justice has stated that this strict provision hinders the free movement of services. It has elaborated on this theme in a number of rulings.

The rulings of the European Court of Justice have therefore been incorporated into the Directive.

Both the rules set out in the Regulation and the provisions of the Directive are therefore relevant to you.

What is the status of the EU legislation?

To put it simply, the Regulation is law. This means that you can, for example, appeal direct to the courts on the basis of the provisions of the Regulation.

This is not the case with the Directive. A Regulation has precedence over a Directive. A Directive requires member states to amend their legislation. The member states can decide for themselves how they do this. Directives still have to be enacted in national legal systems. The Netherlands will therefore amend the relevant provisions of the Civil Code so that they comply with the Directive. The member states are given a specific time within which to amend their laws in accordance with the Directive. As soon as the laws have been amended, you can invoke the amended legislation. If this period has elapsed and the member state has not (yet) incorporated the Directive into its laws, you can refer direct to the Directive in the event of a problem with the government.

The Directive on the application of patients' rights in cross-border healthcare should have been incorporated into the national laws of the member states by 25 October 2013.

Judicial body

The body charged with administering justice in the European Union is the European Court of Justice (ECJ). The ECJ is responsible for interpreting the provisions of Community law. National courts have referred a great number of issues to the ECJ, including those arising from health legislation concerning the right to healthcare across borders.

Rulings binding on member states

All of the countries in the European Union, which have accepted the EC Treaty, are bound by rulings handed down by the EJC. If a country still has a law in force that conflicts with an ECJ ruling, it must amend or abolish that law.

You would like to get treatment in another country (in Europe), with your health insurer paying. Is that possible?

Yes, you can be treated in another country with your health insurer paying. Your member state can and is entitled to stipulate – subject to certain conditions – that prior to any treatment you must have authorisation before you have some or all of the cost reimbursed. In general, the country in which you are insured guarantees that the costs you have incurred in order to obtain cross-border healthcare will in principle be reimbursed.

This does not apply if there are compelling reasons in the public interest for curtailing the refunding arrangement. One example could be the desire to keep costs under control and avoid, as far as possible, any waste of financial, technical and human resources.

Your member state does not make the refund of cross-border healthcare costs dependent on obtaining prior authorisation, except in specific cases.

A distinction can be made between day treatment and treatment involving admission to hospital for one or more days. (Day treatment is also referred to as ambulant, outpatient or extramural care. Treatment involving hospital admission is also referred to as clinical or intramural care.)

Day treatment

The member state may in principle not require you to apply for authorisation to be considered for reimbursement of the cost of medical assistance in the case of day treatment. In general, it must refund all or part of the cost in accordance with the current legal position and current legislation.

Directive 2011/24/EU of 9 March 2011 also lays down that prior authorisation is not required to obtain a refund of the cost of cross-border healthcare.

However, Article 8 of the Directive also sets out a few exceptions to these rules.

Prior authorisation **can** be required in the following cases or situations:

- there is a reason in the public interest (cost aspect, waste, etc.), as already cited above, which requires prior authorisation and use is made of highly specialised and cost-intensive medical infrastructure or medical equipment;
- the treatment presents a particular risk for you or the population;
- the treatment is provided by a healthcare provider that could give rise to serious and specific concerns relating to the quality and safety of the care.

If individual member states make use of the above-mentioned exceptions in future when implementing Directive 2011/24/EU in respect of ambulant treatment – in other words, where member states require prior authorisation for ambulant treatment in the cases referred to above – this would in our opinion be a clear setback in terms of the current rules. We will therefore have to wait and see how the implementation of Directive develops.

Treatment involving admission

For treatment involving admission you often do have to have authorisation to be considered for reimbursement of the cost.

Approximately the same conditions apply in this case as for day treatment.

- An insurer may, under the Directive², require prior authorisation for assistance which, is made subject to planning requirements aimed for example at controlling costs or avoiding waste of resources and involves your overnight hospital accommodation for at least one night or requires the use of highly specialised and cost-intensive medical infrastructure or medical equipment;
- presents a particular risk for you or the population;
- is provided by a healthcare provider that could give rise to serious and specific concerns relating to the quality and safety of the care.

Before undergoing treatment, you must therefore submit a request for approval of the treatment. But be aware: each member state has a certain amount of leeway in the implementation and transposition of the Directive. The extent of the transposition may therefore vary between member states and you will have to check this out on a case-by-case basis.

Can prior authorisation be refused?

Prior authorisation cannot be refused if you as a patient are entitled to this healthcare and you cannot receive this care where in your own country within a time limit that is medically justifiable. All the circumstances of the case must be taken into account, including your current state of health, medical history, the course of the condition, degree of pain, nature of the disability and the timing of the request for authorisation.

Authorisation may be refused where one of the cases for which authorisation may be required applies. The criterion used is often the clinical evaluation or “reasonable certainty”.

Authorisation can also be refused if the healthcare can be provided in your own country within a time limit that is medically justifiable.

Which costs are reimbursed?

The reimbursement of the cost of cross-border healthcare is based on the rules of the country where you are being treated. But if, on the basis of these rules, you would receive a smaller reimbursement than on the basis of your own health insurance, you will be entitled to reimbursement of the difference³.

² Article 8 of Directive 2011/24/EU.

³ European Court of Justice, 12 July 2001, Vanbraekel et al., C-368/98, section 41.

In general, it can therefore be stated that the basic rule is that the cost of healthcare that would be reimbursed to you in your own country will also be reimbursed in the other country.

It may therefore be the case that you are not reimbursed in full because the cost would not be covered by your insurance if you underwent the treatment in your own country.

If the treatment in the other country is or was more expensive than in your country, the health insurer may decide to reimburse the cost anyway. This is not obligatory: it is up to the insurers.

Your health insurer may also impose a condition that you should follow the "normal route" that you would have to follow if you were receiving the care in your own country. The "normal route" could mean having to visit your family doctor or health worker/health manager first for a referral where this is necessary to establish whether you are entitled to this healthcare. In other words, your country can set the conditions and criteria for qualification and all the administrative and other formalities that it would apply if you were receiving the care in your own country.

Emergency treatment

In this brochure, there is no discussion of emergency medical treatment abroad, for example when you are on holiday. In any case, it is advisable to arrange additional or travel insurance because medical costs in an emergency can be very high and are not always reimbursed in full if no additional or travel insurance has been arranged.

Important tips:

- Read the terms and conditions of your insurance policy and reimbursement arrangements carefully and thoroughly before undergoing treatment abroad.
- Make enquiries with your insurance company to find out the amount reimbursed for treatment involving hospital admission and – to be on the safe side – apply in advance for written authorisation for the treatment required.
- Some insurance companies have made care procurement agreements with hospitals in other countries. Make enquiries with your insurance company to find out the hospitals they have agreements with and the treatments covered. In this way, you will know which treatments will be reimbursed in whole or in part and you may be able to obtain medical assistance more quickly in the other EU country.
- If authorisation is refused, you can always ask for a written statement explaining the refusal. Don't be fobbed off with a simple telephone message.

- When requesting reimbursement of care costs, seek advice on the best way of doing so: either on the basis of the Regulation or on the basis of the Directive. This could make a difference to the amount of the costs reimbursed.

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Please bear in mind that statutory regulations change frequently. We therefore do not and cannot guarantee that the contents of this brochure will still reflect the current situation after some time has elapsed. You should also bear in mind that the brochure provides information of a general nature.

For contact details and further information, please visit our website www.epecs.eu.

Healthcare?

Your opinion counts! Discuss it with us.

There's an easy way for you to take part in the healthcare debate in your border region and Europe and help build an even better healthcare system. EPECS has set up a special ePanel for this purpose. You can find this ePanel on the EPECS website, www.epecs.eu. Sign up now!

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