

Brussels, 5 September 2006

Patient mobility: Commission to launch public consultation on EU framework for health services

The European Commission today decided to launch a public consultation on how to ensure legal certainty regarding cross-border health services under Community law, and to support cooperation between the health systems of the Member States. The consultation will be based on a Communication to be drawn up by European Health and Consumer Protection Commissioner Markos Kyprianou setting out ideas for an EU framework for safe, high-quality and efficient healthcare services, reflecting the outcome of the orientation debate held today by the Commission. The first step will be a consultation on issues such as: the conditions according to which cross-border health care must be authorised and paid for, and the provision of information to patients about treatments available in other Member States; which health authority is responsible for supervising cross-border health care in different circumstances; responsibility for any harm caused by healthcare and compensation; patient rights; and supporting health systems through European co-operation. On the basis of responses to this consultation, any formal Commission proposals will follow in 2007.

“The healthcare that patients need is sometimes best provided in another EU country,” said Commissioner Kyprianou. “The European Court of Justice has ruled that patients have rights to cross-border care under Community law, but there are uncertainties about what this means in practice. A clear, practical framework is needed to enable patients to and those who pay for, provide and regulate health services to take advantage of cross-border healthcare where that is the best solution. This will also help to unlock huge potential for European cooperation to help improve efficiency and effectiveness of all EU health systems, whilst respecting national responsibility for their organisation and financing.”

Patient mobility - background

Discussions about free movement of healthcare services, and in particular “patient mobility”, were prompted in 1998 after judgements of the European Court of Justice in the cases of Mr Kohll and Mr Decker, both Luxembourg nationals, regarding direct application of EU Treaty articles on free movement to the reimbursement of health services provided abroad. In its rulings, the Court made it clear that health services are subject to Treaty provisions on the free movement of services. Measures making reimbursement of costs incurred in another Member State subject to prior authorisation are thus barriers to freedom to provide services, although such barriers may be justified by overriding reasons of general interest.

In the 2003 report of the High Level Reflection Process on patient mobility and healthcare developments in the European Union, health ministers and other stakeholders invited the Commission to explore how legal certainty could be improved following the Court of Justice jurisprudence concerning the right of patients to benefit from medical treatment in another Member State.

The Commission's proposal for a directive on services in the internal market¹ at the start of 2004 therefore included provisions codifying the rulings of the Court of Justice in applying free movement principles to health services. This approach, however, was not accepted by Parliament and Council, and the Commission therefore undertook to explore how best to develop a separate specific initiative on health services.

Providing legal certainty

The main objective of an initiative in this area would be to provide clarity and certainty regarding the application of Treaty provisions on free movement to health services following the Court of Justice rulings, including the necessary clarity on medical, regulatory and administrative issues. This could cover issues such as the following:

- The terms and conditions according to which health care in another Member State must be authorised and paid for, and the provision of information to patients about treatments available in other Member States;
- Which health authority is responsible for supervising cross-border health care in different circumstances, and ensuring continuity of care;
- Responsibility for any harm caused in cross-border healthcare and compensation arising from such harm;
- Common elements of patient rights.

Support to cooperation between health systems

In addition, a range of specific areas where the economies of scale of coordinated action between all Member States could bring added value to national health systems have been identified, in particular through the work of the High Level Group on health services and medical care. These include:

- European networks of centres of reference;
- Collaboration on assessment of new health technologies;
- Providing a basis for sharing best practice through comparable data and indicators;
- Better methods for evaluating the impact of new proposals on health systems.

Next steps

Following today's debate in the College of Commissioners, the Commission will launch a public consultation on these issues based on a Commission Communication, seeking input from the Member States, the European Parliament and other stakeholders such as patients and health professionals, as well as purchasers and providers of care, with a view to bringing forward specific proposals in 2007.

For further information please see:

http://ec.europa.eu/health/ph_overview/co_operation/mobility/patient_mobility_en.htm
http://ec.europa.eu/health-eu/care_for_me/mobility_in_europe/index_en.htm

¹ COM(2004)2, 13.1.2004.