

1. **Cross-border Healthcare**

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ABI lead Committee: Health Committee

Other interested committees: European Committee

Issue: In July 2008 the Commission issued a draft Directive on patients' rights in cross-border health. The aim of this Directive is to help create legal certainty in the field of cross-border health care in the light of European Court of Justice (ECJ) rulings that create a right for patients to seek health care in other Member States. The issue for the British insurance industry is whether the Directive applies to the provision of voluntary private health insurance.

Status: In April there was a plenary vote in the European Parliament and the ABI was critical of a number of amendments, specifically on the inclusion of private health insurance in the scope of the Directive, references to long-term care and organ donation and discrimination by insurance companies. The report adopted still includes references to private health insurance in the scope of the Directive; however, it does not refer to private insurance in the reimbursement and prior authorisation provisions.

Since the Parliamentary report was agreed on, the ENVI Committee lead Rapporteur for the Dossier, John Bowis (UK MEP) resigned from the Parliament. The new Rapporteur in the ENVI committee is now Francoise Grossetete, a French MEP from the European People's Party. She has voiced her concerns that during discussions in the Council they have not taken on board the position of the European Parliament.

After many Council working group meetings during the Swedish Presidency, a proposal went to the Health Ministers on 1 December. This proposal contained an exclusion for voluntary private medical insurance from the provisions of reimbursement. Long-term care and organ transplants were also excluded from the scope of the Directive. Unfortunately the Ministers were not able to reach agreement on the proposal and the work will be passed on to the Spanish Presidency to gain agreement. There were three areas of issue that Health Ministers could not agree on:

1. Reimbursement of costs with regard to non-contractual healthcare providers (i.e. private healthcare providers who have no contract with the social security system or the national health system).
2. A new issue concerning the definition of the Member States of affiliation in relation to pensioners living abroad.
3. The scope of the Directive and the legal basis, the relationship between the draft directive and the Regulations on the coordination of social security systems, the definition of the Member State of affiliation, and the role of the Medical Councils in order to control patients' flows.

The European Commission expressed disappointment that no agreement was reached within Council. They discussed withdrawing the Directive altogether but that would be up to the new Commissioner to decide.

ABI action: The Secretariat has engaged with the Department of Health on this dossier. They have been extremely helpful in encouraging discussions at Council level to clarify our position. The CEA also engaged the Swedish Presidency in our plea for clarification, resulting in a most favourable text before EPSCO in December. However, as no decision was taken at the December EPSCO meeting, the Secretariat will prepare for the Spanish Presidency and be ready to engage with their Ministry of Health and Social Policy.

The Secretariat has also engaged with other key stakeholders including the European Commission and other National Associations.

We will continue to lobby for the exemption for PMI providers to remain outside the scope of the reimbursement provisions and will update Members on developments once the Spanish start work on the Directive.

Background: The proposed Directive sets out that a patient travelling to another Member State with the purpose of getting healthcare should be reimbursed up to the level of costs had the same/similar healthcare been provided in their Member State. It leaves unchanged the current arrangements for incidental health treatment abroad (EHIC). The draft Directive falls into three parts including common principles for healthcare, a specific framework for cross-border healthcare and European cooperation on healthcare.

In previous drafts there was reference to compulsory professional liability insurance. This decision is now left up to Member States to ensure a system of professional liability insurance or a guarantee scheme or similar arrangements are in place for treatment provided in their country. We will continue to support this approach.

Useful documents

[HOL report on Cross Border Healthcare](#)

[Final text adopted by the European Parliament](#)