

Ministry of Social Affairs and Health, Finland

N.B. Unofficial translation. Legally binding only in Finnish and Swedish

## **No. 1201/2013**

### **Act on Cross-Border Health Care**

Adopted in Helsinki on 30 December 2013

#### **Chapter 1**

##### **General provisions**

###### **Section 1**

###### **Objectives of the Act and relation to other legislation**

This Act lays down provisions on the right to use the services of cross-border health care and on the reimbursement of costs incurred by them, on procedures related to cross-border health care, and on the right of persons insured in another member state of the European Union (*EU member state*) to receive health care services in Finland. The Act implements Directive 2011/24/EU of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare.

As concerns a person's right to use health care services and the reimbursement of costs incurred through the use of such services, provisions laid down elsewhere in the law, in Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and in Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, apply.

With the exception of section 6, provisions laid down in this Act on EU member states or persons insured in an EU member state are also applied to Switzerland and countries belonging to the European Economic Area and to persons insured in these countries.

###### **Section 2**

###### **Scope *ratione personae***

This act applies to:

1) a person who seeks or has received health care services in an EU member state other than Finland and who has a municipality of residence referred to in the Municipality of Residence Act (201/1994) in Finland or who is insured under the Health Insurance Act (1224/2004);

2) individuals who are regarded as insured persons referred to in Article 1(c) of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems, or to whom Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems is applied by virtue of Regulation (EU) No 1231/2010 of the European Parliament and of the Council extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the grounds of their nationality and who, based on provisions concerning applicable legislation laid down in Title II of Regulation (EC) No 883/2004, are covered by the Finnish legislation and to family members and beneficiaries of such persons;

3) persons to whom Finland as a member state is competent to grant authorisation to receive treatment appropriate to their condition outside the member state of residence under Article 20 of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems.

### **Section 3**

#### **Restrictions on the scope of application**

This act does not apply to:

- 1) services in the field of long-term care the purpose of which is to support people in need of assistance in carrying out routine, everyday tasks;
- 2) allocation of and access to organs for the purpose of organ transplants;
- 3) vaccinations under the national vaccination programme;
- 4) occupational health care referred to in the Occupational Health Care Act (1383/2001);
- 5) school-based and student health care referred to in the Health Care Act (1326/2010).

### **Section 4**

#### **Definitions**

For the purposes of this Act:

- 1) *patient directive* means Directive 2011/24/EU of the European Parliament and of the Council on the application of patients' rights in cross-border health care;
- 2) *EU Regulation 883/2004* means Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and, when appropriate, Regulation (EEC) No 1408/71 of the Council, which preceded it, on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community;
- 3) *EU Regulation 987/2009* means Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems;

- 4) *social security agreement* means medical care agreements and social security agreements with provisions concerning medical care ratified by Finland;
- 5) *health care services* mean measures undertaken to determine the patient's state of health or to restore or maintain their health carried out by health care professionals or performed at a health care unit, including the prescribing of medication;
- 6) *public health care* means health care services the provision of which is the responsibility of local authorities under section 1(1) of the Health Care Act;
- 7) *cross-border healthcare* means health care services provided to a person or costs incurred by health care services that have come about in a country other than the member state responsible for the costs of medical care provided to the person in question under EU Regulation 883/2004 or EU Regulation 987/2009, a social security agreement or this Act;
- 8) *persons insured in another EU member state* mean nationals of other EU member states, stateless persons and refugees who are regarded as insured persons referred to in Article 1(c) of EU Regulation 883/2004 and to whom the legislation of a country other than Finland is applied under the provisions on applicable legislation laid down in Title II of EU Regulation 883/2004 and the family members and beneficiaries of such persons and nationals of non-EU countries to whom Regulation 883/2004 is applied by virtue of Regulation (EU) No 1231/2010 of the European Parliament and of the Council extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the grounds of their nationality; and
- 9) *municipality of residence* means the municipality referred to in section 2, Chapter 2 of the Municipality of Residence Act.

## **Chapter 2**

### **Right to the services of cross-border health care**

#### **Section 5**

##### **Services provided abroad**

Individuals have the right to seek health care services abroad. Grounds for reimbursement of the costs incurred through the services are laid down below in this Act.

#### **Section 6**

##### **Right to receive health care services in Finland**

If a person insured in another EU member state seeks treatment in the Finnish public health care system, the local authority must provide these services for the person without discrimination on the same grounds as for individuals residing in Finland.

Private health care units and self-employed persons must provide services for persons insured in another EU member state without discrimination based on the same grounds as for individuals residing in Finland.

## **Section 7**

### **Restrictions on the provision of treatment**

A municipality or a joint municipal authority responsible for the provision of health care services may temporarily restrict the provision of treatment to persons insured in another EU member state and seeking treatment in Finland in certain public health care units provided that the restriction is necessary to secure the provision of health care services for the residents of the municipality. The restriction may only be valid for 12 months at a time, and it must concern exclusively the specific aspect of the activities of the health care unit to which the grounds for the restriction apply.

The National Supervisory Authority for Welfare and Health, the relevant Regional State Administrative Agency and the national contact point for cross-border health care referred to in section 24 must be informed of the adoption of the restriction without delay.

This section is not applied in situations where the person must be provided with treatment under EU Regulation 883/2004, a social security agreement or some other international agreement.

## **Section 8**

### **Fees charged for public health care services**

A person insured in another EU country may be charged a fee for the health care services provided to him or her in the context of public health care under sections 1 to 3 of the Act on Client Fees in Social Welfare and Health Care (734/1992), unless the person's right to the public health care service is based on EU Regulation 883/2004, a social security agreement or some other international agreement.

## **Chapter 3**

### **Reimbursement of costs**

## **Section 9**

### **Right to reimbursement of the cost of health care services provided in an EU member state**

If a person travels to another EU member state with the intention of being provided with a health care service in the said member state, the costs incurred by the person as a result of the treatment are reimbursed as provided in Chapters 2 to 5 of the Health Insurance Act, provided that the treatment given is part of the service selection referred to in section 7a of the Health Care Act and the person has not been granted the authorisation referred to in section 13 of this Act.

Under this Act, the person shall be reimbursed for the costs of medically necessary care provided in another EU member state during a temporary stay referred to in Article 19 of EU Regulation 883/2004 if the treatment provided is part of the service selection referred to in section 7a of the Health Care Act and the person has paid for the costs incurred by the health care service him/herself. The costs shall not be reimbursed if they have been incurred through treatment provided by virtue of the European Health Insurance Card or a comparable certificate or if the cost has been incurred by the person in a country that is the member state of residence of the person in question in the manner referred to in Article 17 of EU Regulation 883/2004.

The reimbursement of costs referred to above in subsection 2 may not exceed the cost of corresponding treatment in public health care in the person's municipality of residence or in the joint municipal authority that the person's municipality of residence belongs to. The cost of corresponding treatment refers to the cost that, under section 58 of the Health Care Act in the case of a patient who is not a resident of the municipality running the unit, would be recovered from the local authority or the joint municipal authority responsible for the health care of the patient in question. Under the Act on Client Fees in Social Welfare and Health Care (734/1992), a client fee for corresponding treatment decided on by the local authority or joint municipal authority responsible for the health care of the person shall be deducted from the total amount of the reimbursement.

If the person does not have a municipality of residence, the cost of corresponding treatment refers to the cost that under section 58 of the Health Care Act, would be charged by the City of Helsinki or the Hospital District of Helsinki and Uusimaa to the municipality of residence of a person from another municipality or to the joint municipal authority responsible for the health care of the person in question. Pursuant to the Act on Client Fees in Social Welfare and Health Care, the client fee decided on for corresponding treatment in the City of Helsinki or the Helsinki and Uusimaa Hospital District shall be deducted from the amount of reimbursement.

#### **Section 10**

##### **Right to reimbursement of the cost of a health care service provided in a non-EU country.**

Costs incurred by a person from a health care service provided in a non-EU country are reimbursed as provided in the Health Insurance Act.

#### **Section 11**

##### **Reimbursement of travel costs**

Travel costs incurred by a person seeking a health care service in another EU member state are reimbursed as provided in Chapter 4 of the Health Insurance Act.

Costs incurred through seeking a health care service in a non-EU country are not reimbursed.

#### **Section 12**

##### **Applying for reimbursement, confirming the amount of reimbursement and payment**

Sections 2, 3, 7, 8, 13–15 and 17–20 of Chapter 15 of the Health Insurance Act shall be applied to the application and payment of the reimbursement.

To confirm the amount of reimbursement to be paid out to a patient under section 9(3) or 9(4), the Social Insurance Institution shall contact the patient's municipality of residence to determine the cost of a corresponding health care service there.

#### **Section 13**

##### **Authorisation to receive appropriate treatment outside of the member state of residence**

Authorisation to receive appropriate treatment outside of the member state of residence under Article 20 of EU Regulation 883/2004 shall be requested from the Social Insurance Institution. The Social Insurance Institution shall issue a decision on the authorisation based on a binding statement issued by the public health care unit responsible for the health care of the patient.

The public health care unit must submit to the Social Insurance Institution the statement referred to in subsection 1 assessing the fulfilment of the conditions laid down in Article 20(2) of EU Regulation 883/2004. The written statement must be submitted within 21 days of the receipt of the request concerning the matter. If the statement indicates that the conditions for granting the authorisation have been fulfilled or no statement is received from the public health care unit in question despite requests from the Social Insurance Institution, then the authorisation referred to in subsection 1 shall be granted by the Social Insurance Institution.

If the application has been submitted to a public health care unit, the unit must deliver the application and its own statement regarding the case to the Social Insurance Institution within the time limit cited in subsection 2.

When applying Article 27(3) of EU Regulation 883/2004, the Social Insurance Institution shall issue a decision based on information corresponding to the statement referred to in subsection 2 provided by the patient's member state of residence. If the Social Insurance Institution has not received the necessary information pertaining to the authorisation within the time limit referred to in subsection 2, the Social Insurance Institution shall issue a decision after requesting and receiving from the Helsinki and Uusimaa Hospital District a medical assessment concerning the treatment of the patient that accounts for the patient's current state of health and the probable course of his or her illness.

If in connection with the reimbursement application it transpires that the patient has not requested the authorisation referred to in subsection 1, then the prerequisites for the authorisation shall be examined upon application and the authorisation must be granted in retrospect if the conditions for granting the authorisation were fulfilled prior to the provision of the health care service.

#### **Section 14**

##### **Reimbursement of treatment provided under authorisation**

If the person has been granted the authorisation referred to in section 13 and has paid the costs incurred from the health care service, the amount under section 9(3) or 9(4) shall be reimbursed as costs incurred from treatment provided under authorisation.

## **Chapter 4**

### **Provision of information and the issuing of documents**

#### **Section 15**

##### **Certificates of right to health care benefits to be used in other EU member states**

Upon application, or on its own initiative, the Social Insurance Institution shall issue the following documents:

- 1) the European Health Insurance Card or a certificate to substitute for it on a temporary basis;

- 2) a registration certificate under Article 24 of EU Regulation 987/2009 to obtain benefits in kind;
- 3) certificate of a former frontier worker's right to treatment in the member state where the former frontier worker last pursued his activity under Article 29 of EU Regulation 987/2009.

## **Section 16**

### **Certificate of right to health care benefits to be used in Finland**

The Social Insurance Institution shall, upon request by the person in question or public health services, examine whether a person has a right to receive health care services and other sickness and maternity benefits in Finland under EU Regulation 883/2004, a social security agreement, another international agreement or national legislation. The Social Insurance Institution may also examine this on its own initiative.

Based on the examination referred to in subsection 1, the Social Insurance Institution shall issue a certificate of the person's right to health care benefits in Finland.

The decision on a refusal to issue a certificate is provided to the person in question. If the certificate has been requested by a party other than the person in question, the decision on the refusal to issue the certificate shall be provided only upon specific request from the person in question.

The certificate shall be valid for a limited period, the maximum duration of which is 24 months. Public health care must provide the services referred to in subsection 1 to persons holding the certificate referred to in this section.

## **Section 17**

### **Provision of information on the right to receive health care services**

The Social Insurance Institution shall provide individuals with information on their right to receive cross-border health care services and information on the issuing of documents referred to in sections 15 and 16 as well as on registration and changes in registration, its cancellation and monitoring.

In order to be provided with the information referred to in subsection 1 above, the person must, where needed, provide the Social Insurance Institution with the necessary information on his or her circumstances and any changes that may have taken place regarding them.

## **Chapter 5**

### **Administration of costs**

## **Section 18**

### **Duties of the Social Insurance Institution pertaining to the reimbursement of costs**

The Social Insurance Institution is responsible for tasks related to the reimbursement of costs incurred by health care services and other sickness and maternity benefits when implementing the provisions of EU Regulation 883/2004, this Act and social security agreements as provided in this Act.

Every year, the Social Insurance Institution shall provide an account to the Ministry of Social Affairs and Health on the costs of health care services and other sickness and maternity benefits provided under EU Regulation 883/2004, social security agreements and this Act.

## **Section 19**

### **Reimbursement of costs between states**

The Social Insurance Institution shall reimburse to other EU member states the costs of such health care services and other sickness and maternity benefits that Finland is responsible for under EU Regulation 883/2004.

The Social Insurance Institution shall invoice other EU member states for costs incurred from health care services and other sickness and maternity benefits provided under EU Regulation 883/2004. Reimbursements paid by other states to the Social Insurance Institution shall be taken into account when determining the state's share of funding.

When applying Article 35 of EU Regulation 883/2004, the Social Insurance Institution may waive the recovery of sums due to Finland from other EU member states if the amount to be recovered is small or if continuing with the recovery is otherwise deemed purposeless.

## **Section 20**

### **Central government's reimbursement to public health care**

The Social Insurance Institution shall reimburse from government funds costs incurred by a local authority or a joint municipal authority from a public health care service if the health care service has been provided to a person with no municipality of residence in Finland under EU Regulation 883/2004, a social security agreement or other international agreement, section 3(1) of the Act on Specialized Medical Care or section 14(5) of the Primary Health Care Act.

The Social Insurance Institution shall also reimburse costs from government funds if the health care service has been provided to a person who has a municipality of residence in Finland and whose health care services and other sickness and maternity benefits under Articles 17 or 18 of EU Regulation 883/2004 are the responsibility of another EU member state, from which the costs will be invoiced in full based on actual expenditure under Article 35(1)(2) of EU Regulation 883/2004.

In addition, the Social Insurance Institution shall reimburse costs incurred by a local authority or a joint municipal authority from a public health care service in cases where urgent medical care, referred to in section 50 of the Health Care Act, has been provided to a person who has no municipality of residence in Finland and in whose case it has not been possible to recover the costs of the treatment pursuant to sections 1, 2 and 13 of the Act on Client Fees in Social Welfare and Health Care.

The amount to be reimbursed out of the costs referred to in subsections 1 to 3 above is equal to the costs incurred through the provision of health care services that the municipality, joint municipal authority or joint municipal authority for a hospital district would charge for the treatment if provided to a resident of another municipality under section 58 of the Health Care Act. The party seeking reimbursement must provide the Social Insurance Institution with the information necessary for making the reimbursement.

If the municipality or joint municipal authority has the right to receive the fee referred to in section 13(1) of the Act on Client Fees in Social Welfare and Health Care for the costs cited in subsections 1 to 3, then a government reimbursement shall not be made.

## **Section 21**

### **Responsibility of the local authority and the joint municipal authority for the costs**

For a case in which a patient with a municipality of residence referred to in the Municipality of Residence Act has received reimbursement under section 14, the cost of reimbursement is the responsibility of the local authority or joint municipal authority maintaining the public health care services that issued the statement referred to in section 13.

If a patient with a municipality of residence referred to in the Municipality of Residence Act has received treatment abroad under Article 20 of EU Regulation 883/2004, the costs paid by the government to the other EU member state are the responsibility of the municipality or joint municipal authority maintaining the public health care services that issued the statement referred to in section 13.

The Social Insurance Institution shall invoice the costs referred to in subsections 1 and 2 from the local authority or joint municipal authority responsible for them. The Social Insurance Institution shall provide the information necessary for the reimbursement of costs to the municipality or joint municipal authority responsible for the costs that must then make the payment to the Social Insurance Institution without delay.

## **Section 22**

### **Misappropriation of the European Health Insurance Card**

The Social Insurance Institution may take measures to recover costs incurred by the government as a result of treatment provided based on the European Health Insurance Card from people having used the card, even though they were or should have been aware that they were not entitled to use the card.

The recovery of costs can be waived either fully or partially if this is deemed reasonable or if the amount of costs incurred to the government from the use of the European Health Insurance Card is small. Moreover, the recovery process can be waived after a decision on the recovery of costs has been made in cases where, considering the financial situation of the person in question, it is no longer purposeful to continue the recovery process or when the costs incurred from continuing the recovery process would be unreasonably large considering the sum to be gained.

A legally valid decision concerning the recovery may be executed as a legally valid judgement.

## **Section 23**

### **Competence to issue decrees**

More detailed provisions on the invoicing and payment of costs, seeking reimbursement from the government, the determination and payment of such reimbursements, and other matters related to the administration of costs provided for in this chapter shall be issued by government decree.

## **Chapter 6**

### **Contact point for cross-border health care**

#### **Section 24**

##### **Contact point for cross-border health care**

A contact point for cross-border health care has been established at the Social Insurance Institution for the purposes of communications and the exchange of information related to cross-border health care.

The task of the contact point is to compile, produce and disseminate information on the Finnish health care system regarding the following topics:

- 1) health care services and their use and availability as well as the accessibility of buildings;
- 2) treatment practices and procedures for seeking treatment;
- 3) requirements related to the quality and safety of care and the supervision and evaluation of health care units;
- 4) patients' rights and procedures of appeal and applying for a review.

In addition, the duties of the contact point include compiling, producing and disseminating information on:

- 1) health services and their use in EU member states;
- 2) reimbursement of the costs of health care services provided in EU member states and related procedures;
- 3) corresponding contact points in other countries.

The information referred to in subsections 2 and 3 above must be available in electronic form and, if necessary, in other forms as well. The information must also be available in a form that is easy for people with disabilities to use.

The contact point operates in cooperation with contact points in other countries and engages in national and international cooperation concerning cross-border health care.

#### **Section 25**

##### **Cooperation obligation**

Public health care units, the Social Insurance Institution, the National Institute for Health and Welfare, the Finnish Medicines Agency, the Regional State Administrative Agencies and the National Supervisory Authority for Welfare and Health must provide the contact point with all the information necessary for it to complete its tasks without charge.

#### **Section 26**

### **Cooperation group at the contact point**

A cooperation team responsible for coordinating the compilation and production of information referred to in section 24 operates in connection with the contact point. The cooperation team helps prepare the information content for the contact point and ensures that it is presented in a uniform and client-oriented manner.

At minimum, the cooperation team shall include representatives from the Social Insurance Institution, the National Institute for Health and Welfare, the National Supervisory Authority for Welfare and Health, the Finnish Patient Insurance Centre, the Association of Finnish Local and Regional Authorities and an association representing the patients.

The manager of the contact point will act as the chair of the cooperation team, and the team will assemble as needed.

### **Section 27**

#### **Funding for the contact point**

The government shall finance the costs incurred by the activities of the contact point to the Social Insurance Institution with an amount to be confirmed annually in the state budget. The funding meant to cover the operating costs of the contact point is not allocated for the operating costs of the benefit funds of the Social Insurance Institution.

## **Chapter 7**

### **Appeal**

#### **Section 28**

##### **Appeals to the Social Security Appeal Board**

The provisions of Chapter 17 of the Health Insurance Act are applied to the appeal process for decisions made by the Social Insurance Institution under section 9(2–4) or sections 15, 16, 20 or 22.

#### **Section 29**

##### **Appeals to the Administrative Court**

A decision issued by the Social Insurance Institution under sections 13, 14 or 21 can be appealed by submitting an appeal to the Administrative Court, as provided in the Administrative Judicial Procedure Act (586/1996).

Decisions issued by the Administrative Court may be appealed only for cases in which leave of appeal is granted by the Supreme Administrative Court.

## **Chapter 8**

### **Miscellaneous provisions**

#### **Section 30**

## **Steering of cross-border health care**

The overall planning, steering and development of cross-border health care and the monitoring of its funding are the responsibility of the Ministry of Social Affairs and Health.

### **Section 31**

#### **Advisory board on cross-border health care**

An advisory board on cross-border health care shall operate in connection with the Ministry of Social Affairs and Health. The advisory board shall be appointed by the government for a three-year term upon such a proposal by the Ministry of Social Affairs and Health. The task of the advisory board is to monitor the application of legislation concerning cross-border health care, to draft proposals and initiatives aiming at the development of legislation, and to process other matters related to the implementation of this Act and cross-border health care.

Further provisions regarding the duties of the advisory board shall be issued by government decree.

### **Section 32**

#### **The right of certain population groups to receive health care benefits in Finland**

Notwithstanding the provisions in Annexes III and IV of EU Regulation 883/2004, persons referred to in Article 18(2) and Article 27(2) of EU Regulation 883/2004 have the right to receive public health care services, and local authorities must arrange these services for such persons without discrimination based on the same grounds as those used for individuals residing in Finland.

The Social Insurance Institution shall cover the costs incurred by local authorities and joint municipal authorities based on these public health care services from government funds.

Costs incurred through treatment provided in Finland will be reimbursed to persons referred to in section 1 above in accordance with Chapters 2 to 5 of the Health Insurance Act.

### **Section 33**

#### **Entry into force**

This Act enters into force on 1 January 2014.

Provisions in force at the time of this Act's entry into force shall be applied to costs incurred prior to this Act's entry into force.

Helsinki, 30 December 2013

President of the Republic  
**SAULI NIINISTÖ**

Minister of Social Affairs and Health  
**Paula Risikko**