



Contestations over patients' rights

The broader context of E-9/23

CROSS-BORDER HEALTHCARE

49%

of EU nationals
feel well
informed about
healthcare
reimbursement
in their own
country

17%

of EU nationals
feel well
informed about
healthcare
reimbursement
in another
EU country



10%

of the Europeans have
heard of the National
Contact Points for
cross-border healthcare

Source: Special
Eurobarometer 425

MEDICAL TREATMENT IN OTHER EEA- COUNTRIES

ST.MELD. NR. 50 (1993-
94)

- The Ministry recognized that regulation 1408/71 article 22 provided a right to medical treatment in other EEA-countries, in the event that an economic active person was not provided treatment within a time limit set by the Norwegian authorities.
- “There has never been an unconditional statutory right to have expenses covered by the social security system if a person ...travels abroad for hospital treatment. However, there has been a long-standing practice that contributions may be provided to cover expenses under certain specified conditions.”

CHANGE

- Outside hospitals - Ot.prp. no. 92 (2008–2009)
 - ESA 'has ... raised ... that Norway does not have any system for reimbursing expenses incurred by patients for (planned) non-hospital treatment in other EEA countries. The Ministry assesses ... that Norway is obliged under EEA law to establish such a system.'
 - This results in the adoption of the National Insurance Act § 5-24 a. "I sykehus - Prop. 118 L (2012-2013)
- Hospital treatment - Prop. 118 L (2012-2013)
 - «According to the Ministry's assessment, however, the current arrangements for coverage of expenses for 'hospital treatment' abroad do not fully comply with the patient rights directive'.»

TIMELINE

17. desember 2014 (reimbursement regulation)

3. mai 2016 (reimbursement regulation)

22. februar 2017 (reimbursement regulation)

1. desember 2017 (Prioritisation Regulation)

28. november 2019 (Prioritisation Regulation)

17. desember 2019 (Patients' Rights Act)

8. desember 2020 (Prioritisation Regulation)

17. November 2022 (Patients' Rights Act)

23. mai 2024 (Prioritisation Regulation)

the government should carry out "an EEA legal assessment of the implications of the proposals in the bill, and then return to the Storting with a new proposal."

"delaying these legislative changes would not benefit patients."



Case No: 72376
Document No: 1095594
Decision No: 091/19/COL

EFTA SURVEILLANCE AUTHORITY DECISION

of 18 December 2019

to bring a matter against Norway before the EFTA Court in accordance with Article 31(2) of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice

THE EFTA SURVEILLANCE AUTHORITY

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, in particular Article 31(2) thereof,

Whereas:

Remaining questions

1. Which challenges have the administration faced in applying the rules correctly, given their frequent changes?
2. Was the Norwegian government correct in asserting that none of the amendments made over the last decade were necessary?
3. To what extent has the Storting received all the necessary information to assess the risk of legislation violating the EEA Agreement?
4. How easy has it been for patients to navigate a system that is constantly evolving? Has the department assessed whether the rules have been sufficiently clear for patients to understand since 2013?
5. To what extent has ESA's criticism of Norwegian legislation and practice been warranted?
6. What are the implications following the EFTA Court's decision in case E-9/23? Has the government evaluated the risk that the legislation may still conflict with the EEA Agreement, and is this assessment shared with the Storting? What actions will ESA take? Is this issue being resolved, or will criticism persist? Additionally, what will be the impact on patients? Will they finally receive the rights to which they are entitled?

