

Healthcare rights for patients: what's at stake after Brexit?

Time is running out to secure a deal for patients

Urgent negotiations are taking place between the UK and the EU to decide a new relationship that will take effect from 1 January 2021. New arrangements will need to be in place by then, including rules on what rights UK citizens will have if they fall ill while travelling or living abroad in an EU country.

Citizens' rights to healthcare and to social security benefits such as pensions are only one topic in an enormous and complex range of subjects being negotiated. The two sides are far apart on some issues and the Brexit Health Alliance is concerned that if the talks fail and no agreement is reached, or a very basic deal is agreed giving only minimum guarantees on healthcare rights, vulnerable people needing treatment will lose out.

Citizens' rights to treatment

The Brexit Health Alliance is calling for negotiators to agree for UK and EU citizens to continue to benefit from rights to healthcare at local, affordable cost in the EU member states and the UK, ensuring simple and safe access to treatment when working, living or travelling.

The current arrangements involve minimal bureaucracy for patients and healthcare providers, underpinned by well-established systems for reimbursement between member states. The NHS will face unwelcome increased resourcing burdens, if it is required to handle new, more complex administrative and funding procedures when providing care to EU citizens in future.

Who will be covered for healthcare after 1 January 2021, and who won't

Broadly speaking, under the terms of the legally binding Withdrawal Agreement signed between the UK and the EU, any UK citizen already living as a legal resident in an EU member state before the end of transition on 31 December 2020, will have their current rights protected for their lifetime in the member state in which they are legally resident.

Entitlement to NHS care in the UK is based on residence. UK citizens who are normally resident in an EU member state are not entitled to free NHS care when visiting the UK, except for urgent treatment. Currently they can use their European Health Insurance card (EHIC) for urgent care, but the situation after 31 December 2020 will depend on the outcome of the UK/EU negotiations. UK citizens staying temporarily in an EU country, for example on holiday or a business trip, will continue to be able to use their EHIC card for necessary treatment if they fall ill while abroad before 31 December 2020. After this, whatever new arrangements have been agreed between the UK and EU will apply.

“Currently, 30,000 people on dialysis can travel throughout Europe and receive their dialysis free of charge because of the EHIC. Even though dialysis is a life-sustaining treatment for kidney failure, it isn't covered by travel insurance, and without reciprocal healthcare agreements, will cost up to £1,000 per week. The end of EHIC means that a holiday or family visit in the EU will simply become out of reach for many thousands of people.”

Fiona Loud, Policy Director, Kidney Care UK

"EHIC is the mechanism which allows me the freedom to get healthcare within the EU and gives me the sense of freedom which everyone else has. I simply couldn't afford to pay for my own treatment abroad as we're a one-income family. To take that freedom away from me and my husband would be devastating."

Amanda, NHS patient

“I hope that we are able to come to an agreement with the EU to allow the UK, specifically the NHS, to carry on being able to pay for dialysis within the EU. It is so important for people on dialysis to have a holiday, although the dialysis doesn't stop. The same routine three times a week can be exhausting for dialysis patients, so it's good to get away and clear your mind.”

Jack, kidney patient

What the UK and EU are asking for in negotiations

There are some areas where the two sides suggest that agreement is possible, some where they diverge, and other areas that are not mentioned by either side so may not be on the negotiating table.

If talks fail and there is no deal between the UK and EU, none of these areas will apply and UK citizens will need to take out private health insurance to travel to EU member countries, as they would if visiting a non-EU country. However, it is likely that individual EU countries will reach reciprocal agreements with the UK covering at least some of these areas.

Special provisions apply between the UK and the Republic of Ireland, where current arrangements for UK and Irish citizens will, broadly speaking, continue.

Entitlement if moving across the UK border after 31 December 2020	Is the UK asking for this in the negotiations?	Is the EU asking for this in the negotiations?
Necessary healthcare arising during short-term visits after crossing the UK/EU border	Yes	Yes
Payment, uprating and aggregation of retirement pension (but not other social security benefits) while living abroad in the EU/UK	Yes	Yes
Healthcare for pensioners on same terms as local residents while living abroad in the EU/UK (if move abroad took place after 31 December 2020)	No	Yes
Pre-planned treatment scheduled in the EU/UK, for non-residents (cost reimbursed by citizen's home country)	No, except for a limited list (covers dialysis, chemotherapy and some other specified conditions)	No
Non-urgent healthcare for frontier workers (ie UK citizens living and/or working in one EU member state and seeking treatment in another)	No	No

Example scenarios



Lian: UK tourist who needs urgent treatment in Belgium

Lian, a UK citizen, falls ill with COVID-19 while on holiday in Belgium and is taken to hospital with severe breathing difficulties. If there is no deal between the UK and the EU and no bilateral deal between Belgium and the UK, she'll receive immediate emergency treatment, but may be required to pay for it afterwards, as well as for any follow-up care. However, both sides say they want an agreement on unplanned emergency treatment for temporary visitors - but will they reach a deal?

Janek, Polish businessman taken critically ill in the UK and requiring care after his visa runs out

Janek is working temporarily in the UK and has a 90-day visa to cover his business trip. A week before his visa runs out he becomes critically ill and is in intensive care for three weeks. If the EU and UK don't reach an agreement on urgent unplanned care for visitors and there's no reciprocal deal with his home country, Janek will need to pay for his care. If there is a reciprocal deal, the UK would have to agree a discretionary extension to his visa for it to apply to him. A UK citizen in the same situation while visiting an EU country after 1 January 2021 will be subject to the national law of the relevant country and might have to rely on their own insurance.



Michaela, frontier worker needing ongoing, pre-planned specialised care

Michaela is a UK citizen who moves to Luxembourg to live in 2021 and crosses the border most days to work in Germany. She is diagnosed with a rare condition that needs ongoing monitoring and medication and the nearest specialised centre that provides this care is in Belgium. Michaela is not an EU citizen so she will enjoy no rights under EU laws on cross-border healthcare. So, whether or not her private insurance will cover the cost of non-urgent healthcare in an EU country where she neither lives nor works will depend on the domestic laws of the countries concerned.

Nitesh: UK pensioner retiring to Greece in 2021



If the UK and EU can agree a deal, Nitesh will be able to receive his retirement pension if he moves to Greece. But he won't be able to get healthcare there unless Greece and the UK agree bilaterally. He will have to buy his own private insurance, as reciprocal healthcare for pensioners is not among the UK's proposals for negotiation between the UK and EU. If he does move abroad, he can't return to the UK to be treated under the NHS if he encounters health problems, as he won't be entitled to free NHS care unless he is ordinarily resident in the UK.

Peter: UK citizen, lives in Denmark, wants to retire to Spain

Peter moved to Denmark before 31 December 2020, so under the Withdrawal Agreement he is entitled to draw his UK pension and to access healthcare on the same basis as a Danish citizen for the rest of his life, as long as he resides legally in Denmark. However, if he moves to Spain after 31 December 2020, his entitlement to healthcare could be covered by the Withdrawal Agreement for some time, depending on how long he has been resident in Denmark. But afterwards it will depend on Spanish law and on any bilateral agreements between Spain and the UK, as the UK is not asking for a continuation of reciprocal healthcare arrangements for UK pensioners resident in EU countries.



Sabina: UK citizen, has kidney dialysis three times a week, wants to visit her son in Germany



In the past, Sabina has been able to arrange to have dialysis paid for by the NHS when she visits an EU member state. After 1 January 2021 this will no longer be the case. Neither the UK nor the EU wishes to continue the existing reciprocal agreement, although the UK is proposing that there should be arrangements for a limited list of specified conditions, including dialysis and chemotherapy. Travel insurance does not currently cover the cost of dialysis treatment, which is £200-£400 per session, three times a week. As the EU has not offered to reciprocate, Sabina may have to make private arrangements, as she would if visiting a foreign country with which the UK has no reciprocal agreement.

Brexit Health Alliance

The Brexit Health Alliance was established to make sure that the interests of those who use health services, as well as healthcare commissioners and providers, educators, researchers and the healthcare industry, are reflected in the Brexit negotiations.

The alliance includes members from across the devolved administrations and as such its work applies across the whole of the UK, including where health is a devolved matter.

For further information about the work of the Brexit Health Alliance, please visit: www.nhsconfed.org/BrexitHealthAlliance

Brexit Health Alliance members

Co-chairs Niall Dickson CBE, Sir Hugh Taylor

Secretary Kate Ling

Members

- Academy of Medical Royal Colleges
- Association of Medical Research Charities
- Association of British HealthTech Industries
- Association of the British Pharmaceutical Industry
- Association of UK University Hospitals
- BioIndustry Association
- Faculty of Public Health
- Medical Schools Council
- National Voices, NHS Confederation (including the Mental Health Network, NHS Clinical Commissioners and NHS Employers)
- NHS Providers
- Northern Ireland Confederation for Health and Social Care
- Richmond Group of Charities
- Scottish NHS Chief Executive Group
- Welsh NHS Confederation