
Healthcare (International Arrangements) Bill

Second Reading, House of Lords Tuesday 5th February 2019

The BMA is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

EU reciprocal healthcare arrangements allow citizens of EU and EEA nations, as well as Switzerland, to access the same health and social care services as local residents while in any of those nations, usually at no or low cost to the individual. Approximately 27 million people hold a UK-issued European Health Insurance Card (EHIC) and 190,000 UK pensioners living elsewhere in the EU are registered to the S1 scheme, which allows ongoing access to health and social care services whilst living abroad¹.

Brexit could lead to obvious and significant changes in these existing reciprocal healthcare arrangements². The BMA has repeatedly warned that a 'no deal' Brexit could lead to reciprocal healthcare arrangements for UK citizens and residents within the EU, and EU citizens and residents within the UK, ending³. This would lead to significant disruption to those individuals' healthcare arrangements, an increase in insurance costs, and uncertainty regarding access to healthcare abroad.

With just less than two months to go before the UK leaves the EU, the Healthcare (International Arrangements) Bill will provide a necessary legislative framework, which will help ease the concerns of UK citizens in the EU regarding their access to healthcare after Brexit. The Bill gives the Secretary of State for Health and Social Care new powers to fund and implement reciprocal healthcare arrangements and share necessary data after Brexit⁴. Under the provisions of the Bill, the UK would maintain reciprocal healthcare schemes with the EU and its Member States if a Brexit deal is reached. Should a no deal scenario arise, the Bill gives the Secretary of State powers to implement new bilateral agreements with individual EU Member States from 29 March 2019 onwards.

The Bill would also give the UK Government powers to strengthen existing reciprocal healthcare agreements with non- EU countries, or implement new arrangements if required.

¹ UK Government. Reciprocal healthcare agreements for visitors to the UK. Available at: www.nhs.uk

² Nuffield Trust (May 2017) [NHS could face bill of over half a billion pounds from Brexit](#)

³ [BMA briefing: reciprocal healthcare](#)

⁴ Department of Health and Social Care (October 2018) Healthcare (International Arrangements) Bill 2017-19 [Explanatory Notes](#)

Key points

- The retention or comparable replacement of reciprocal healthcare arrangements and securing access to healthcare for both UK and EU citizens should be an important consideration in the Brexit negotiations.
- With just less than two months to go until the UK leaves the EU, the BMA believes the UK Government should undertake every effort to retain the current model of reciprocal healthcare with the EU rather than seeking alternative mechanisms. This will avoid any unnecessary disruption in the delivery of vital health services for UK nationals in the EU.
- New powers granted to the Secretary of State for Health and Social Care under Clauses 1 and 2 of the Bill should be proportionate and subject to thorough parliamentary scrutiny.
- It is essential that any alternative cost-recovery systems introduced post-Brexit should not place an undue burden on either the NHS or on doctors or allied health professionals working within the health service.

Clause 1 - Power to make healthcare payments

Clause 2- Healthcare and healthcare agreements

Clause 5 – Regulations and directions

Clauses 1 and 2 of the Bill confer a range of new powers on the Secretary of State for Health and Social Care. These including the power to make payments to fund healthcare agreements and discretionary powers to make regulations for the provision of healthcare outside the UK.

Clause 5 (3) states that Regulations made under Clause 2 may amend, repeal or revoke primary legislation. Clause 5 (5) states that future regulations laid which make changes to primary legislation will be made through the affirmative procedure. Clause 5 (6) states that regulations related to this bill which do not specifically change primary legislation will only be subject to the negative resolution procedure. The BMA is seeking reassurances that any new powers granted to the Secretary of State are proportionate, subject to thorough scrutiny, and that all regulations are subject to the affirmative procedure in Parliament.

Clause 1- Power to make healthcare payments

Impact assessment on the loss of access to reciprocal arrangements on the NHS and HSCNI

The BMA is calling for a full impact assessment on the loss of access to reciprocal arrangements on the NHS and Health and Social Care in Northern Ireland (HSCNI) to be published at least one year after the UK has left the EU, and then again in subsequent years⁵. Any assessment would need to explore changes in both the expenditure and scope of healthcare provision arising from the loss of access to reciprocal healthcare arrangements.

The Government estimates that in a scenario where a deal is reached with the EU, the costs of establishing a future reciprocal healthcare relationship at £630m per year⁶. In the event of a no deal scenario, where bilateral arrangements are established between the UK and EU/EEA countries, the costs are expected to be similar, or less, depending on the number of schemes that are established. The BMA notes that as these costs will be subject to fluctuations in exchange rates, these predictions are likely to be inaccurate.

Clause 2 - Healthcare and healthcare agreements

Given that 27 million people hold a UK-issued European Health Insurance Card (EHIC) and 190,000 UK pensioners living elsewhere in the EU are registered to the S1 scheme, it is vital that the UK

⁵ [BMA briefing: reciprocal healthcare](#)

⁶ Department of Health and Social Care (October 2018) Healthcare (International Arrangements) Bill 2017-19 [Explanatory Notes](#)

Government secures reciprocal healthcare arrangements with the EU after Brexit which adequately provide for these people.

Guidance published by the Government on 28 January 2019 for UK nationals living in the EU/EEA and Switzerland confirms that their existing access to healthcare may change if the UK leaves the EU without a deal. The Government confirms that that EHIC and the S1 certificate will only be valid until 29 March 2019 if there is a 'no deal' and advises residents to buy insurance to cover your healthcare after this date, as you would if visiting a non-EU country⁷. The BMA has considerable concerns that for those with disabilities or long-term conditions, the cost of health and travel insurance could be prohibitively high. Should this be the case, UK citizens currently residing in other EEA nations may be forced to return to the UK post-Brexit to access healthcare services, placing the NHS under even greater pressure.

It is also essential that reciprocal health measures are put in place by either the EU or individual EU member states for EEA citizens currently living in the UK or for those arriving after 29 March in the event of a no-deal Brexit. On 28 January 2019, the Government confirmed that in the event of a no-deal Brexit, EEA nationals arriving in the UK after 29 March 2019 who intended to stay for longer than three months would have to apply for European Temporary Leave to Remain (ETLR). While ETLR will entitle EEA citizens to stay in the UK for 36 months from the date of their application, it will be a temporary, non-extendable immigration status: it will not give indefinite leave to remain (ILR), lead to status under the EU Settlement Scheme or make EEA citizens eligible to stay in the UK indefinitely⁸.

Should we leave the EU without a deal, EEA nationals in the UK would face a significant change in their access to care. Depending on the deal secured between the UK and EU on citizens' rights, this could mean that EEA citizens in the UK face the same costs and terms of access to the NHS as other non-EEA visitors and migrants do currently. This may lead to EEA visitors and residents in the UK becoming liable to pay the IHS (Immigration Health Surcharge), or individual fees for the care they receive.

Ending reciprocal arrangements may require the application of existing cost recovery methods for non-EEA patients to EU and EEA patients in the UK, or the development of new, alternative system. This could potentially increase the complexity of the cost recovery process within the NHS as it seeks to recoup costs from EU nations, as well as the administrative burden on clinical staff. The BMA will be monitoring this situation closely.

Reciprocal healthcare arrangements with non-EU countries

The Bill also includes powers for the Secretary of State for Health and Social Care to make reciprocal healthcare agreements with non-EU countries. The BMA notes that these current agreements, which are limited in their scope and nature, could be expanded as the UK seeks to expand trade arrangements after Brexit. The BMA will be monitoring these developments closely.

For further information, please contact:

Susan Bahl, Brexit lead: sbahl@bma.org.uk

⁷ Gov.uk guidance (January 2019): [UK nationals living in the EU/EEA and Switzerland: Healthcare](#)

⁸ Gov.uk guidance (January 2019) [European Temporary Leave to Remain](#)