

PM Norway 26/27 October 2017

SOCIAL SECURITY

Case 77886 (Export of Work Assessment Allowance)

It is the objective of the meeting to exchange as much information as possible about this case, so all kinds of more general questions can be asked.

However, in order for you to be able to prepare better for the meeting, we provide you already now some of the more specific questions that we would like to be addressed:

1. According to the information sent to ESA on 2 January 2017 (Your ref. 15/3220-), there is no **statistical information** on the ratio of grants and rejections of WAA export claims. Around 700 people receive WAA while being abroad but most of them moved already abroad before claiming WAA so for them, there was no export assessment.

For how many of these 700 was there such an assessment?

Is it possible to show some (more) of these assessments and their results, based on concrete cases?

2. In the **National Insurance Act (NIA)**, **exceptions to the residence requirement** (for being entitled to a WAA) are (only) possible:

- for persons who, in accordance with their activity plan, receive medical treatment or participate in an employment-oriented measure abroad
- persons may also be granted WAA during a *limited* period of residence abroad if the stay abroad is consistent with performance of the specified activity and does not prevent follow-up and control by the Labour and Welfare Service

It seems that Norwegian legislation does not take the possibility to move (permanently) to another EEA State into account.

How can this be conciliated with Article 21.1 Reg. 883/2004 (about the export of sickness benefits in cash) covering both situations (ànd residence ànd stay):

Cash benefits

1. An insured person and members of his/her family residing or staying in a Member State other than the competent Member State shall be entitled to cash benefits provided by the competent institution in accordance with the legislation it applies. By agreement between the competent institution and the institution of the place of residence or stay, such benefits may, however, be provided by the institution of the place of residence or stay at the expense of the competent institution in accordance with the legislation of the competent Member State.

3. **The criterion of “centre of vital interest”:**

We can not see how this criterion, which represents an extra condition on top of those already formulated in the NIA, could be relevant.

The Norwegian authorities refer to Article 11 Reg. 883/2004 but this Article is related to the determination of someone's residence, not to the export of sickness benefits.

4. Specifically about the complainant's case:

- The complainant has expressed his willingness to travel back and forward (for medical treatment or vocational measures). Why has this not been taken into account? Also for the report obligation of the NIA, physical appearance is not necessary.

- Norway refused on grounds as “there *might* be a delay in medical treatment, there *might* be a delay on vocational measures” but apparently never really investigated the complainant's case. This is even more remarkable as it shows out of the Nordic Convention on SS that there is a structural basis for dialogue between the Norwegian and Swedish authorities.

(It is hard to see how a WAA export request to a country without bilateral agreement with Norway, could end in a positive decision.)

- It is remarkable that the complainant did not follow treatment nor vocational measures and yet received WAA while staying in Norway, but when he expressed the willingness to go to Sweden, the WAA was refused.

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20 October 2017