

14th session of the Open-ended Working Group on Ageing

Guiding questions on the normative content related to right to health and access to health services

Definition

1. *How is the human right of older persons to the highest attainable standard of physical and mental health defined in the national and local legislation in your country? If definitions are not available, how should such rights be defined considering relevant existing national, regional and international legal frameworks?*

The legislation of Ukraine envisages:

creation of conditions for maintaining health and active longevity in accordance with modern scientific achievements, defines guarantees of the right to medical care for older persons¹;

provision of rehabilitation assistance in the field of healthcare in healthcare institutions for persons with limitations of daily functioning (or those who may have limitations of daily functioning) regardless of disability status²;

provision to persons with disability status of a set of rehabilitation measures aimed at assisting persons in restoring and compensating for impaired or lost body functions in order to achieve and maintain social and material independence, integration into society, as well as providing persons with disabilities with auxiliary rehabilitation equipment and medical devices³;

access of elderly people to free medical care in the amounts stipulated by the programme of state guarantees of medical care for the population related to the provision of medical services and rehabilitation in the field of health care⁴;

provision of psychiatric care to citizens.

In order to create an integrated, effective mental health care system, the Cabinet of Ministers approved the Concept for the Development of Mental Health Care in Ukraine for the period up to 2030 by its Resolution No. 1018-r dated 27 December 2017.

2. *The human right to health encompasses both access to health care and attention to the material and other conditions which are necessary for its full enjoyment. What provisions have been made to ensure that older persons enjoy access, on an equal basis with others, to social protection, adequate water and sanitation, adequate housing and to health education?*

In order to address the life problems of the elderly, Ukraine has introduced the concept of social services, the list and conditions of which are set out in the Law of Ukraine "On Social Services"⁵.

Elderly people who have reached the retirement age (60 years) are entitled to pensions if they have the required insurance record, and people who do not have such a record are entitled to state social assistance (generally, upon reaching the age of 65).

Households with elderly members who cannot afford to pay for housing and communal services on their own are provided with housing subsidies.

Scope of the right

3. *What are the key normative elements of the human right of older persons to the enjoyment of the highest attainable standard of physical and mental health?*

Please provide references to existing standards on elements including but not limited to:

a) Prohibition of all forms of discrimination against older persons on the basis of age, alone or combined with other grounds, in all matters related to health.

Medical care for the elderly is provided by healthcare facilities in accordance with the procedure established by law on a general basis under the programme of medical guarantees

¹ <https://zakon.rada.gov.ua/laws/show/3721-12#Text>

² <https://zakon.rada.gov.ua/laws/show/1053-20#Text>

³ <https://zakon.rada.gov.ua/laws/show/2961-15#Text>

⁴ <https://zakon.rada.gov.ua/laws/show/2168-19#Text>

⁵ <https://zakon.rada.gov.ua/laws/show/2671-19#Text>

without separating these medical services for this category of persons into a separate package of medical services. Equal state guarantees are determined for the enjoyment of the right to healthcare by patients regardless of age, race, skin colour, political, religious and other beliefs, gender, ethnic and social origin, property status, registered place of residence, language or other characteristics.

b) Provision of promotive, preventive, curative, rehabilitative and palliative health facilities, goods and services, as well as health care and support, including on aspects such as quality of care, long-term and palliative care and support.

c) Availability, accessibility, acceptability and quality of health facilities, goods and services as well as health care and support, including aspects such as quality of care, long-term and palliative care and support.

In the context of administrative-territorial and decentralisation reforms, medical institutions are being closed and only those remaining at the level of districts or regions are functioning. This makes it difficult for people living outside cities and in rural areas to access medical care, especially specialised care.

d) Exercise of older persons' legal capacity on an equal basis with others, including the ability to make an informed consent, decisions and choices about their treatment and care.

A patient, including an elderly person, who has applied to a healthcare facility, gives consent⁶ to diagnosis and treatment, and, if necessary, to surgery and anaesthesia. The attending physician informs the patient about the diagnostic and treatment plan, provides information in an accessible form about the likely course of the disease and the consequences of refusing treatment.

e) Access to prompt and effective remedies and redress when older persons' right to health is violated.

Legal protection of older people is provided by:

pre-trial procedure - a person may send a written appeal to: the administration of a medical institution with justification of the facts that indicate poor quality of medical services and a demand for free elimination of deficiencies or a proportional reduction in the price of the service provided, full compensation for material and moral damage, etc;

judicial procedure - in which actions (inaction) are recognised as unlawful, and the issue of compensation for material and moral damage caused by such actions is resolved.

State obligations

4. What are the measures that should be undertaken by the State to respect, protect and fulfil the human right of older persons to the highest attainable standard of physical and mental health, regarding the normative elements as provided above?

The healthcare sector for the elderly needs a balanced strategy, which should include concrete measures taken by the government

Special considerations

5. What special measures and specific considerations should be considered in developing the normative content on older persons' right to health?

Developing research on the specifics of the provision of geriatric medical care and, if necessary, on healthcare facilities of the relevant profile.

6. How should the responsibilities of non-State parties such as private sector be defined in the context of the human right to health of older persons?

According to the Law of Ukraine " On Fundamentals of the Legislation of Ukraine on

⁶ <https://zakon.rada.gov.ua/laws/show/z0661-12#Text>

Healthcare"⁷, healthcare is defined as the activities of healthcare institutions and individual entrepreneurs who are registered and licensed in accordance with the procedure established by law in the field of healthcare, which is not necessarily limited to medical care.

At the same time, the obligations to provide medical services (medical care) by individual entrepreneurs who are registered and licensed in accordance with the procedure established by law in the field of healthcare are determined by the requirements of the National Health Service of Ukraine regarding the contracting of relevant packages of medical services.

Implementation

7. What are good or promising practices and main challenges faced by your country in the adoption and implementation of the normative framework on the human right to health of older persons?

The main challenges are the lack of national programme documents that define the specifics of medical and rehabilitation care for older people, the development of geriatric medical care and healthcare facilities.

Medical and rehabilitation care for older people is provided on the general basis defined by law, without taking into account the health needs of older people.

Appropriate packages of healthcare services have not been developed that envisage contracting healthcare institutions by the National Health Service of Ukraine to provide healthcare services taking into account the specifics of diseases of older people.

⁷ <https://zakon.rada.gov.ua/laws/show/2801-12#Text>