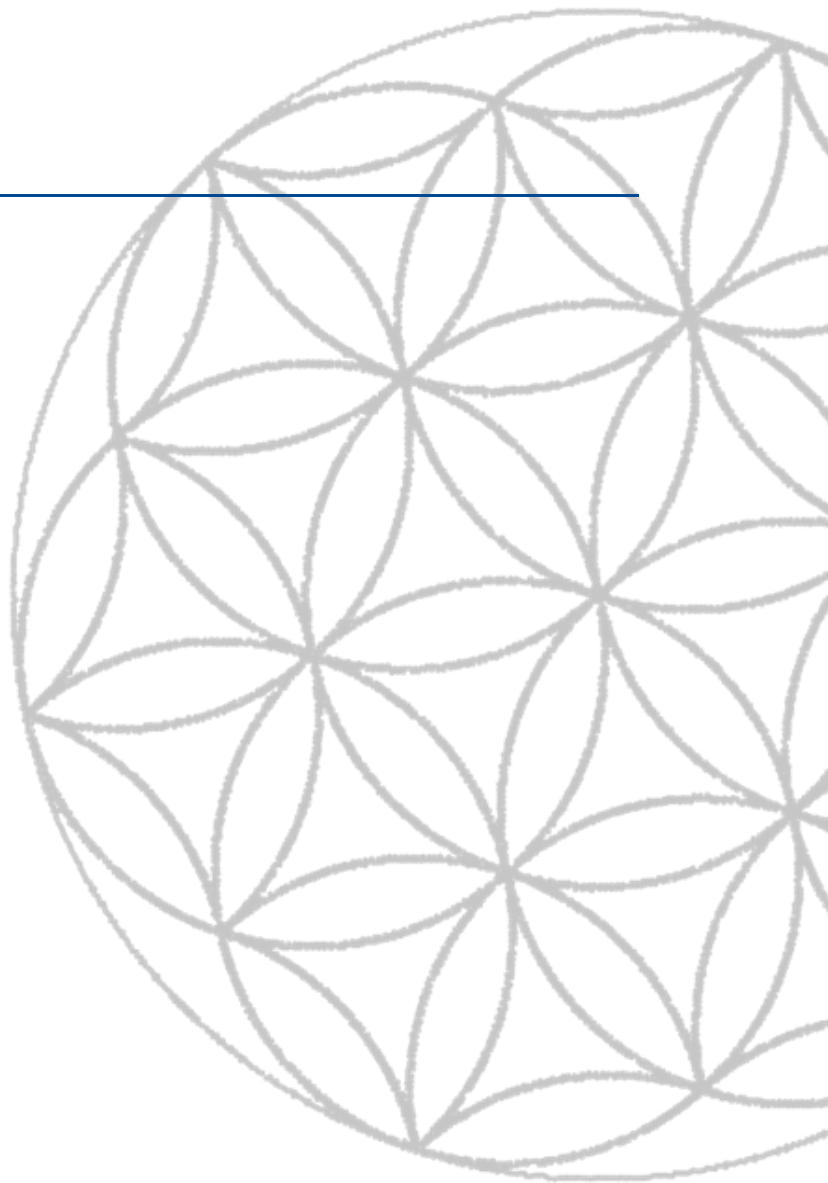


# **Provision of healthcare services for Ukrainian citizens**

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**4 April 2022**



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Persons using medical services in Poland are subject to special legal protection. Regardless of their nationality, all patients have the same rights. Below we discuss the key patient rights and legal solutions concerning citizens of Ukraine.

## Guaranteed services

The Law of 12 March 2022 on Assistance to Citizens of Ukraine in Connection with the Armed Conflict in the Territory of Ukraine (the "Special Act") came into force with retroactive effect and is valid from 24 February 2022. The legislator has adopted special legal solutions that will enable payment for medical services provided to Ukrainian citizens coming to Poland as a result of the military aggression by Russia.

These solutions apply to Ukrainian citizens who have a certificate issued by the Polish Border Guard or the imprint of a stamp from the Polish Border Guard in their travel document, confirming their legal stay in the territory of Poland after crossing the border as of 24 February 2022, as a result of the armed conflict in the territory of Ukraine.

The legislation covers medical facilities that have a contract with the National Health Fund (NFZ). Changes in the law will apply retroactively from 24 February 2022.

The rules on providing medical services for Ukrainian citizens and payment for these are identical to those for Polish patients. Citizens of Ukraine have an additional right entitling them to healthcare services in Poland.

The NFZ will pay for the services from the state budget. The basis for payment will be the rates specified in contracts with the NFZ.

The right to services in Poland, as for insured persons, includes:

- a. citizens of Ukraine who directly crossed the Polish-Ukrainian border,
- b. non-Ukrainian citizen spouses of Ukrainian citizens who directly crossed the Polish-Ukrainian border,
- c. citizens of Ukraine who hold a Polish Nationality Card (who need not have crossed the border between Poland and Ukraine directly),
- d. members of the immediate family of a Ukrainian citizen who holds a Polish Nationality Card,

- who **entered Poland as of 24 February 2022**.

The right to services is also extended to a child already born in Poland if its mother is a person specified under a or b.

Entitlement to medical provision under the special law **is not accorded** to persons who were legally staying in Poland on the basis of residence permits or had refugee status or applied for such status before 24 February 2022.

Eligible persons **are entitled to healthcare services in Poland under analogous rules and in analogous scope as persons insured in Poland, with the exception of:** spa treatment, spa rehabilitation, right to treatment abroad, reimbursement of funds for treatment abroad under the "cross-border" directive.

A Ukrainian citizen who leaves Poland for more than a month loses his/her entitlement to medical services under the Special Act.

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## Temporary protection and medical services

EU Council Implementing Decision 2022/382 is in force as of 4 March 2022. This confirms the existence of a mass influx of displaced persons from Ukraine, within the meaning of Article 5 of Directive 2001/55/EC, and introduces temporary protection for certain persons.

The decision covers:

- Ukrainian citizens residing in Ukraine before 24 February 2022 and their family members,
- Third-country nationals and stateless persons who enjoyed international protection in Ukraine before 24 February 2022 (refugees), and their family members,
- Third-country nationals and stateless persons who resided in Ukraine before 24 February 2022 on the basis of a permanent residence permit, and cannot safely return to their country.

### IMPORTANT!

The EU Council Decision defines family members as:

- spouse,
- partner recognised by law,
- minor unmarried children,
- spouse's children,
- other close relatives, if they lived together as one family and were dependent on the person covered by temporary protection.

The aforementioned persons are entitled to temporary protection pursuant to Articles 110 and 112 of the Act on granting protection to foreigners within the territory of Poland, which was amended by enactment of the Special Act.

A person enjoying temporary protection, to whom a certificate has been issued as referred to in Article 110 sec. 5, shall be provided, upon his/her request, **with medical care by the Head of the Office for Foreigners**.

The Head of the Office for Foreigners issues a certificate upon such person's request, confirming that temporary protection has been granted.

Medical care is provided in medical facilities which have signed an agreement with the Head of the Office for Foreigners.

The costs of this medical care are covered from the State budget by the Head of the Office for Foreigners.

In addition, these individuals are entitled to services for the prevention and treatment of infectious diseases - including COVID-19 vaccinations, coronavirus testing (antigenic and PCR), COVID-19 treatment. These are funded by the state budget through the National Health Fund.

## Access to primary healthcare (POZ)

The NFZ points out that some Ukrainian citizens who have found themselves in Poland after the outbreak of armed conflict migrate within our country or go abroad. Therefore, the vast majority of them do not have a permanent place of residence in Poland, which is one of several conditions required to submit a declaration of choice of a primary care doctor.

However, as the NFZ has explained in a payer's communiqué, a person who is entitled to receive medical care under the Act is treated on a primary healthcare basis as a patient from outside the current POZ list. This does not mean, however, that a primary care doctor can, for example, refuse to help such person.

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The NFZ pays for these visits in the manner provided for in law, while the billing method should not in any way affect access to medical care at primary level.

## Medical healthcare for a minor patient

A minor patient staying in Poland without a legal guardian (statutory representative) may use healthcare services in the presence of a de facto guardian (a person taking care of the minor without statutory obligation). However, a de facto guardian may only consent to the examination of the minor. Consent will be required from the guardianship court in the case of surgical treatment (procedure or operation), except in life-threatening situations.

## Medicines

Persons who are entitled to free access to guaranteed services have the right to receive publicly funded healthcare in Poland, including reimbursed medicines. They are also entitled to medicines under the Ministry of Health's health programmes.

A prescription issued for a person eligible under the Act must include an **IN code**.

If a person eligible under the Act does not have a PESEL (statistical) number and the e-prescription is issued by an authorised person in Poland, the prescription should be accompanied by **an information printout with the access key additionally presented in the form of a barcode**, which will allow the entity fulfilling the prescription to read it from the electronic SIM platform (P1).

Persons without refugee status or who are not eligible for free healthcare services will pay the full price for prescription drugs.

Persons with refugee status have the right to receive healthcare services in Poland financed from public funds, including reimbursed medicines. The symbol "BW" must appear on the prescription. Such persons must present a document confirming their refugee status.

In a life-threatening or health emergency, a prescription can be obtained directly from a pharmacy. This is called a pharmaceutical prescription, which is issued by a pharmacist who has a license to practice. The full price is payable for the drugs on such a prescription.

A prescription issued in Ukraine can also be fulfilled for full payment at a Polish pharmacy if it contains the following data:

- patient's first name or full name
- patient's address
- the common (international) name or trade name of the drug
- form of the drug
- strength of the drug
- quantity of the drug
- date prescription issued
- prescriber's data in the form of a printout or stamp and the prescriber's signature.

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## Verifying the right to services

According to Article 4 of the Special Act, each Ukrainian citizen legally residing in Poland can obtain a PESEL (statistical) number. **An already assigned PESEL number should be the basis for verification of entitlement to free healthcare services.** Therefore, it appears that one of the first questions at the stage of verification and registration of the Ukrainian patient should be whether he/she has a PESEL number.

Verification can also take place on the basis of **an e-document or a printout confirming the creation of a trusted profile for an authorised person**, but in both cases it is necessary for the patient to already have a PESEL number.

A requirement to confirm the identity of a Ukrainian patient is also an **identity document**, e.g. passport. A document with a stamp of the Border Guard confirming the crossing of the border may also prove to be absolutely necessary when verifying the rights of a Ukrainian patient who does not yet have a PESEL number. As indicated in the introduction, these solutions apply to Ukrainian citizens who have a certificate issued by the Polish Border Guard or an imprint of the stamp of the Polish Border Guard in their travel document, confirming their legal stay in the territory of Poland after crossing the border from 24 February 2022, as a result of the armed conflict in Ukraine.

## Reporting services

The issue of reporting healthcare services provided to Ukrainian citizens at this stage raises many doubts among healthcare providers, as **there are no clear legal regulations in this regard.** The NFZ admits that it does not yet have if only information about a dedicated entitlement title code for Ukrainian patients, while development of an effective legal basis requires, firstly, an amendment to the Minister of Health Regulation of 26 June 2019 on the scope of necessary information processed by healthcare providers, how this information is to be recorded and transferred to entities obliged to finance services from public funds. As of the publication date of this report, there has not yet been such a draft amendment.

Therefore, healthcare providers may only **rely on a payer's available protocols** in accordance with which, outpatient and inpatient services, as well as primary care are to **be reported via NFZ reporting procedures, as is the case for Polish patients.** In the case of outpatient and inpatient services, this will be the SWIAD message. What is also important is that **within the primary healthcare framework**, Ukrainian patients are entitled to receive medical care from family doctors **on the basis of being a person not on the current list** of a given service provider. Reporting on services rendered to Ukrainian citizens is to be performed at the earliest together with the payment for services from March 2022.

## Covid-19

An amendment to the Regulation on the establishment of certain restrictions, orders and prohibitions in connection with the occurrence of an epidemic condition has been in force as of Friday 25 February 2022. According to the amendment, persons crossing the Polish-Ukrainian border in connection with an armed conflict do not have to undergo quarantine or show a negative test result for Covid. In addition, they can be vaccinated against Covid-19 and tested for free.



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