

Legal Regulation of State Guarantees Concerning the Rights of Medicine Free Provision for Children in the Russian Federation

Lyaysan R. Mustafina and Gulnara M. Khamitova

Abstract--- *The problem of securing and protection of citizen rights in the field of medical care within the current legislation is one of the most relevant in modern Russian law. "Health is a state of complete physical, mental and social well-being, and not just the absence of diseases and physical defects" [1]. A citizen in the Russian Federation, possessing rights and freedoms in the field of medical care, including property and personal non-property ones, often faces their declarative nature and neglect in medical practice. The problem of the system effectiveness increase for ensuring and protection the rights of patients in Russia requires a qualitative solution. In domestic legislation, the right to protection of health and medical care is enshrined, primarily, in the Constitution of the Russian Federation. Thus, the article 41 enshrines the right to both free medical care in accordance with the program of state guarantees of free medical care for citizens, and to receive paid medical services and other services. This article is devoted to compliance with the legislation of the Russian Federation concerning the pediatric services. In particular, it considers the procedure for preferential provision of medicines for children under three years of age, as well as for children from large families under six years of age. As the solution to the problem, we propose amending the legislation, and to ensure the implementation of state guarantees, provide prosecutorial supervision in the regions.*

Keywords--- *Federal Law, State Guarantees, Preferential Provision, Pharmaceuticals, Federal Budget, Regional Budget, The Right to Receive free Medicines, Prescription for Free Medicines, Prosecutorial Supervision.*

I. INTRODUCTION

Today we have the widest range of medical services that provides the population with the guarantees of their quality delivery in accordance with the paragraph 1, article 4 of the Federal Law No. 323-FL "On the Basics of Citizen Health Protection in the Russian Federation" (November 21, 2011).

Let's try to trace the process of compliance with the law for a still small citizen in the first pediatric link of service provision. According to the paragraph 1 of the Article 4 of the Federal Law No. 323-FL "On the Basics of Health of Citizen Protection in the Russian Federation" (November 21, 2011), the state assumes guarantees in the field of baby's health protection [2].

Considering the system of state guarantees for small patients of pediatric sites, we turn to the places of their implementation.

*Lyaysan R. Mustafina, Kazan Federal University, Assistant of the Department of Constitutional and Administrative Law.
E-mail: leisanm81@mail.ru*

Gulnara M. Khamitova, Kazan State Medical University, Senior Lecturer of the Department of Biomedicine, Medical Law and Medicine History. E-mail: gulnarakgmu@mail.ru

The article 8 of the Federal Law No. 323-FL “On the Basics of Citizen Health Protection in the Russian Federation” (November 21, 2011) stipulates that the state authorities of the constituent entities of the Russian Federation approve territorial programs of state guarantees concerning free medical care for citizens, with mandatory compliance with absolutely all federal regulatory documents, including the Decree of the Government of the Russian Federation (July 30, 1994) N 890 "On state support for the development of the medical industry and population and healthcare facility provision improvement with medicines and medical devices" [3]. This act establishes the list of population groups and categories of diseases, for outpatient treatment of which medicines and medical devices are dispensed by prescription free of charge. So, for example, children at the age of 1-3 years and children from large families up to six years of age have the right to receive all medicines free of charge.

II. METHODS

To achieve this goal in the course of the study, general scientific methods of cognition were used: analysis method, system method, comparison method, and generalization method.

The study is based on the method of analysis of current Russian legislation and law enforcement practice and existing European (world) standards for the purpose of legal unification [4]. The methods of legal modeling and forecasting make it possible to determine the need to amend existing Russian regulations, as well as the need to adjust judicial practice [5]. Thanks to the use of modeling and forecasting methods, the consequences of making such changes and adjustments can be ascertained with a sufficient degree of certainty, and it will also be revealed how, ultimately, Russian law enforcement practice will be close to existing European (world) standards [6]. The sociological method allows the assessment of social problems from a legal position, from the perspective of a legislator and law enforcer [7]. The interpretation method complements the comparative legal analysis in the study, which allows you to understand and compare Russian and European (world) legal standards [8]. The use of various methods allowed us to formulate the main theoretical conclusions and make our own proposals on the studied sphere of public relations [9,15].

III. RESULTS AND DISCUSSION

The analysis of the abovementioned regulatory acts of the Russian Federation allows us to state that small patients receive free medication. Let's try to clarify which medicines are free for this category of citizens. To do this, we turn to the same regional program of state guarantees, which works on the basis of the Article 81 of the Federal Law No. 323-FL “On the Basics of the Health of Citizen Protection in the Russian Federation” dated (November 21, 2011).

The program obligatorily stipulates the list of drugs dispensed to the population in accordance with the list of population groups and categories of diseases, for outpatient treatment of which drugs and medical devices are dispensed for free according to prescriptions. Absolutely all medicines from that list for children under three years of age, as well as the children from large families under six years of age are free. The following is an approximate list of drugs, since each subject of the Russian Federation has the right to set its own list of drugs: analgesics - the drugs designed to relieve pain (paracetamol, morphine), antihistamines - anti-allergy drugs (suprastin, clemastine),

anti-inflammatory - the drugs that stop inflammatory processes in the body and contribute to temperature decrease (ibuprofen, mesalazine), anticonvulsants - the drugs for the treatment of muscle seizure and epilepsy (phenytoin), anti-infective drugs, or antibiotics - the means for bacteria and microbes (ampicillin, vancomycin) suppression, antidepressants, antipsychotics, antipsychotic and other medications designed to treat disorders in the central nervous system (vinpocetine, clozapine), the groups of drugs for the treatment of diabetes - hypoglycemic, improving insulin sensitivity, hypoglycemic agents (glipizid, soluble insulin), anxiolytics - the drugs eliminating sleep disorders (zolpidem, diazepam), the agents for treating fungus (hydrocortisone), antiviral agents - familiar to everyone for treating colds, and elimination of viruses of other origin (anaferon, viferon, acyclovir), the agents that normalize the digestive tract (gastrointestinal tract) - antidiarrheal, adsorbents and other substances that promote proper digestion (bifidum bacterin).

Turning to the same article 81 of the Federal Law No. 323-FL “On the Basics of Citizen Health Protection in the Russian Federation” (November 21, 2011) [2], we’ll try to clarify one more aspect: where are the places for free medicine prescription to small patients? Let's consider again the regional program, according to which the list of medical institutions and organizations includes those drugs that are involved in the implementation of this regional program. It turns out that these are the same regional and district clinics.

Let's consider the budget program of 2018-2020 using the example of the Mari El Republic: “At the expense of the budget allocations of the republican budget of the Mari El Republic, the following measures are also carried out:

- Provision of citizens with medicines registered in the prescribed manner on the territory of the Russian Federation for the treatment of the diseases included in the list of life-threatening and chronic progressing rare (orphan) diseases, leading to life expectancy reduction of citizens or their disability;
- The provision of drugs in accordance with the list of population groups and categories of diseases, during outpatient treatment of which drugs and medical devices are dispensed with prescriptions for free in accordance with the legislation of the Russian Federation” [10,14];

So a patient under three years old, as is a patient from a large family under the age of six, has the right to receive a state guarantee if there is a prescription from the local pediatrician for free medicine, regardless of how many times he is sick.

The funds of the republican budget of the Republic of Mari El (without touching the funds of the compulsory medical insurance) for 2018 are allotted for all types of assistance in the amount of 582.9 million rubles (855 rubles per person [11,12,13], which will allow you to purchase, for example, espumisan in the amount of 3 pcs. for the whole year. Upon reaching the cost level stipulated in the budget - the issuance of free recipes should be suspended.

Therefore, the recipes for free medicine are received by the parents of children with disabilities, the patients with diabetes, bronchial asthma, etc. The parents of children who are not on dispensary records with serious illnesses are most often not notified by doctors about the availability of free medications.

IV. CONCLUSIONS

On the one hand, doctors could be blamed, but on the other hand, knowing the scope of the budget for a year, when you choose persons who need prescription of medicines most of all, dispensary children are preferred.

Of course, it is possible if they change the Article 8 of the Federal Law No. 323-FZ "On the Basics of Citizen Health Protection in the Russian Federation" (November 21, 2011), supplementing it with the state obligation to allocate funds from the federal budget to provide medicines for the children under three years of age within the same level as laid down in the annual budget by regional authorities. That is, in a ratio of 1:1 to the regional level. This measure will increase the supply of drugs to this category of citizens by 2 times.

To ensure the implementation of the Law, it is advisable to ensure proper prosecutorial supervision of compliance with this legislative requirement at the level of the Russian Federation and in the regions.

As an additional measure, we can talk about the need to organize public awareness of the guaranteed right of children to receive free medicines as the part of territorial state guarantee programs for free medical care for citizens.

There is a need to supervise the issuance of prescriptions for free medicines or, in some cases, the written refusal of parents to receive prescriptions for them.

V. SUMMARY

What can be said in conclusion? Child mortality should be reduced among low-income citizens when they fully provide medicines for children under three years of age. At the same time, the negative consequences will decrease from self-medication of children by parents in order to save money. The abovementioned measures will have a positive economic effect.

ACKNOWLEDGMENTS

The work is performed according to the Russian Government Program of Competitive Growth of Kazan Federal University.

REFERENCES

- [1] Mental health: strengthening our response [Electronic resource]. – URL: <http://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response> (reference date: 29.06.2019).
- [2] Federal Law No. 323-FL "On the Basics of Citizen Health Protection in the Russian Federation" (November 21, 2011) (as amended on December 5, 2017 No. 392-FL and December 29, 2017 No. 465-FL). Information-legal support "Guarantor". - More details at <http://base.garant.ru/57430472/>
- [3] The Decree of the Government of the Russian Federation (July 30, 1994) N 890 "On state support for the development of the medical industry and the provision improvement with medicines and medical devices for the population and healthcare facilities". Information and legal support "Guarantor". - More details at <http://base.garant.ru/57430472/>.
- [4] Comparative Law. An Introduction to the Comparative Method of Legal Study and Research. By Gutteridge H.C., K.C., LL.D. (1947). Cambridge Studies in International and Comparative Law, Vol. I.) – London: Cambridge University Press. *The Cambridge Law Journal*, 9(3), 386-387.
- [5] Dale, W. (1977). *Legislative Drafting: A New Approach: the Comparative Study of Methods in France, Germany, Sweden and the United Kingdom*. London: Butterworths.
- [6] Arslanov, K.M., & Khabirov, A.I. (2017). About the Weak Party of the Loan Contract. *Astra Salvensis, Review of History and Culture Supplement*, 323–330.

- [7] Siems, M.M., & Mac Síthigh, D. (2012). Mapping legal research. *The Cambridge Law Journal*, 71(3), 651-676.
- [8] Davies, P.S. (2016). Rectification versus interpretation: the nature and scope of the equitable jurisdiction. *The Cambridge Law Journal*, 75(1), 62-85.
- [9] Demiyeva, A.G., & Arslanov, K.M. (2016). Legislation on business: the international experience and the prospects of development in russia. *Turkish online journal of design art and communication*, 6, 2474-2479.
- [10] The Decree of the Government of the Republic of Mari El No. 612 “On the program of state guarantees concerning free medical care for citizens in the Republic of Mari El for 2017 and for the planning period of 2018 and 2019” dated on December 30, 2016 (as amended by the Decree No. 176 of the Government of the Republic of Mari El on 04/11/2017 and No. 471 dated on December 25, 2017). Information and legal support “Guarantor”. - More information at <http://base.garant.ru/43358204/>.
- [11] The Decree of the Russian Federation Government No. 890 “On state support for the development of the medical industry and improvement the provision of the population and healthcare facilities with medicines and medical devices” dated on July 30, 1994 (with the amendments by the Government of the Russian Federation No. 103 dated on February 14, 2002 (Rossiyskaya Gazeta, N 33, 02.20.2002). Consortium Code. Electronic Foundation for Legal and Technical Documentation. - For more details, visit <http://docs.cntd.ru/document/9006396>.
- [12] Matandare, M.A. (2018). Botswana unemployment rate trends by gender: Relative analysis with upper middle income Southern African countries (2000-2016). *Dutch Journal of Finance and Management*, 2(2).
- [13] Martins, V.F., Sampaio, P.N.M., Cordeiro, A.J.A., & Viana, B. F. (2018). Implementing a Data Network Infrastructure Course using a Problem-based Learning Methodology. *Journal of Information Systems Engineering & Management*, 3(2).
- [14] Sulistyarningsih, D., & Aziz, A. (2018). Development of Learning Design for Mathematics Manipulatives Learning based on E-learning and Character Building. *International Electronic Journal of Mathematics Education*, 14(1), 197-205.
- [15] Nuriyev, M., Sovetkanova, D., & Seysenbayeva, Z. (2018). Achievements and new challenges in the area of education of independent Kazakhstan. *Opción*, 34(85-2), 337-352.