



LEGISLATIVE GAPS IN OCCUPATIONAL MEDICINE II

Stelian MORARIU ¹, Adina MORARIU ², Vlad MORARIU ³

¹ "Vasile Goldis" Western University, Arad, Romania

² SC "Medicina Muncii - Dr. Morariu" SRL, Arad, Romania

³ University of Medicine and Pharmacy "Victor Babes" Timisoara, Romania

ABSTRACT. The purpose is to inform the ability forums about the problems currently faced by occupational health doctors and patients diagnosed with related diseases, patients that are hospitalised in departments / clinics of occupational health. After having studied these legislative regulations we have found these gaps and inconsistencies, which have a negative impact on occupational health activities. The need for legislative initiatives to amend and supplement the above mentioned normative acts, which provide a clear and coherent legislative framework for occupational health in medical activity, even more as the beneficiaries of these laws – patients diagnosed with occupational disease or work related disease, are mostly insured both by CAS and The Risk Fund (paid by employer).

Keywords: legislative gaps, occupational disease, work related disease, legislative disagreement, legislative initiative, departments of occupational diseases.

INTRODUCTION

Why I titled the work „Legislative Gaps II”? Because it represents a continuation of the work presented at the National Conference of Occupational Health, from Mamaia 2007.

The purpose of this study is to inform the ability forums about the problems currently faced by occupational health doctors and patients diagnosed with work related diseases, patients that are hospitalized in departments / clinics of occupational health.

MATERIALS AND METHODS

The documentation is the Law Number 346/2002 amended and supplemented, Law 418/2004, Law

48/2007, Law 258/2008, The Common Order of MSP and MMSSF Number 825/450/2006, Order MMSSF Number 1425/2006 and The Common Order of MMFPS and MS 213/363/2009.

RESULTS AND DISCUSSIONS

After having studied these legislative regulations, there have been found these gaps and inconsistencies, which have a negative impact on occupational health activities.

LEGISLATION IN FORCE ARTICLES	PROPOSALS FOR CHANGES	ARGUMENTS
<p>Law 346/2002 on insurance for work accidents and occupational diseases, ammended and supplemented.</p> <p>- Article 116, paragraph 2 specifies: „Costs for benefits and insurance services for work accidents and occupational diseases are performed for:</p> <p>i). Medical services provided in hospitals and clinics of occupational diseases with legal personality or outpatient system in occupational medicine cabinets, hospitals located, including the occupational diseases sanatorium from Avrig, Sibiu County, to the persons suffering of occupational diseases.”</p>	<p>- f Costs for benefits and insurance services for work injuries and occupational diseases are performed for:</p> <p>i). Medical services provided in hospitals and clinics of occupational diseases or outpatient system in occupational medicine cabinets, hospitals located, to the persons suffering of occupational diseases and work related diseases.</p>	<p>1. Specific statute law 418/2004, on occupational health specialist's work, modified by law 48/2007, Article 43, paragraph 3, states that „Health Physicians working in medical wards, clinics, occupational health departments / occupational diseases and occupational health clinics in the ambulatory subordinated to the hospitals, carry out preventive activities, diagnostic and curative activities, medical rehabilitation activities in an occupational disease, work related disease and asociated diseases during and after hospitalization, and other medical rehabilitation activities and dispensary care and prescribe the reccomendations which include medical treatment.”</p>

<p>The common order 825/2006 of MMSSF and MSP, for the approval of methodological norms of Law 346/2002: - Annex 3: Contract procedure and payment of medical services contracted: Art.1, Paragraph 2: „Medical services set in paragraph 1 are granted in hospitals with legal personality and contain medical services exclusively granted to occupational diseases cases.”</p>	<p>Medical services set in paragraph 1 are granted in hospitals with legal personality and contain medical services exclusively granted to occupational diseases cases and work related diseases cases.</p>	<p>2. Law 346/2002, Article 101, Paragraph 2: „Rates of contribution payable by employers are set according to the risk class from 0.5 to 4 %, applied to the total monthly gross wages.” 3. The Government Decision 1425/11.10.2006, Annex 23 – table of work related diseases. 4. The Government Decision 1425/11.10.2006, Article 174: „Work related disease are not notifiable. These are dispensary treated and communicated to the employers as unnamed medical reports on workers health...”</p>
<p>The Government Decision Nr. 262/2010, on the approval of the Framework Contract in the social health insurance system. Article 75: „Health Insurance Offices settle the cases discharged from medical units with legal personality of occupational medicine – occupational diseases and from departments of occupational diseases located in hospitals structure, for which no occupational disease was confirmed, respecting the hospitalisation criteria provided by the Article 60, Paragraph (4) , considering that the discharged cases are insured persons in the social health insurance system. Health Insurance Offices settle no more than 40 % discharged cases from medical units with legal personality of occupational medicine – occupational diseases and from departments of occupational diseases in hospitals.”</p>	<p>Health Insurance Offices settle the cases discharged from medical units with legal personality of occupational medicine – occupational diseases and from departments of occupational diseases located in hospitals structure, for which no occupational disease was confirmed, respecting the hospitalization criteria provided by the Article 60, Paragraph (4), considering that the discharged cases are insured persons in the social health insurance system.</p>	<p>1. Law 346/2002, Article 135, Paragraph5: „For people hospitalized in medical units with legal personality and departments of occupational diseases, which rule out the occupational character of the disease, the value of medical services provided and validated by Health Insurance Offices, are paid from amounts provided with this purpose in the state social security budget, their value to be recovered by settlement, of the justifying documents from the national health insurance budget.” – Law does not mention a certain percentage settlement.</p>
<p>The Common Order MMFPS si MS Number 213/363/2009: - Article 18*2, Paragraph 3: „The list of medical services rendered in the medical units with legal personality to investigate and establish the occupational nature of the disease, of the related charges and procedures for investigating and diagnosis of the occupational diseases shall be established by order of The Minister of Health and The Minister of Labour, Family and Social Protection.” - Article 4: „Services provided in Article 135, Paragraph 13, from the Law Number 345/2002, ammended and supplemented will make an addendum, signed between medical units with legal personality and the territorial National Houses of Pensions.</p>	<p>The elaboration made by The Ministry of Health of an emergency regime order of investigations on charges that are used in order to establish the occupational nature of the disease. - Addendums signed between the medical units with legal personality and the territorial National Houses of Pension according to the Order MMFPS/ MS 213/363/2009.</p>	<p>Law 258/2008, Article 6: „Article 135, after Paragraph 12, 3 new paragraphs are inserted (13 – 15), including: 13. The value of medical services in medical units with legal personality and departments of occupational diseases... to investigate and establish the occupational nature of the disease, are covered from charges provided in this destination, state social insurance budget , signed between hospitals and territorial National Houses of Pensions, wether the occupational character is certified or not.</p>



CONCLUSIONS

The need for legislative initiatives to amend and supplement the above mentioned normative acts, which provide a clear and coherent legislative framework for occupational health in medical activity, even more as the beneficiaries of these laws – patients diagnosed with occupational disease or work related disease, are mostly insured both by CAS and The Risk Fund (paid by employer).

It is important to be mentioned that work related diseases are included in almost all normative acts issued by The Ministry of Labor and Social Solidarity, less in legal acts proposed to be amended (those related to finance).

Please note that the need in case of unrecognized occupational diseases their funding are to be made according with the Law Number 346/2002, amended and supplemented.

The urgent elaboration by The Ministry of Health of an order which includes charges for investigations that are used in order to establish the occupational character of the disease, these charges being necessary to conclude the addendum between the departments / clinics of occupational health and the territorial National Houses of Pensions.

REFERENCES

- Law Number 346/2002 amended and supplemented;
- Law Number 418/2004;
- Law Number 48/2007;
- Law Number 258/2008;
- The Common Order of MSP and MMSSF Number 825/450/2006;
- Order MMSSF Number 1425/2006;
- The Common Order of MMFPS and MS 213/363/2009.