

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland)

[^{X1}TITLE III

**SPECIAL PROVISIONS CONCERNING THE
VARIOUS CATEGORIES OF BENEFITS**

[^{X1}CHAPTER 1

Sickness, maternity and equivalent paternity benefits

Section 1

**Insured persons and members of their families,
except pensioners and members of their families**

Article 17

Residence in a Member State other than the competent Member State

An insured person or members of his/her family who reside in a Member State other than the competent Member State shall receive in the Member State of residence benefits in kind provided, on behalf of the competent institution, by the institution of the place of residence, in accordance with the provisions of the legislation it applies, as though they were insured under the said legislation.

Article 18

Stay in the competent Member State when residence is in another Member State – Special rules for the members of the families of frontier workers

1 Unless otherwise provided for by paragraph 2, the insured person and the members of his/her family referred to in Article 17 shall also be entitled to benefits in kind while staying in the competent Member State. The benefits in kind shall be provided by the competent institution and at its own expense, in accordance with the provisions of the legislation it applies, as though the persons concerned resided in that Member State.

[^{F12} The members of the family of a frontier worker shall be entitled to benefits in kind during their stay in the competent Member State.

Where the competent Member State is listed in Annex III however, the members of the family of a frontier worker who reside in the same Member State as the frontier worker shall be entitled to benefits in kind in the competent Member State only under the conditions laid down in Article 19(1).]

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are outstanding changes not yet made to Regulation (EC) No 883/2004 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** Substituted by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes (Text with relevance for the EEA and for Switzerland).

Article 19

Stay outside the competent Member State

1 Unless otherwise provided for by paragraph 2, an insured person and the members of his/her family staying in a Member State other than the competent Member State shall be entitled to the benefits in kind which become necessary on medical grounds during their stay, taking into account the nature of the benefits and the expected length of the stay. These benefits shall be provided on behalf of the competent institution by the institution of the place of stay, in accordance with the provisions of the legislation it applies, as though the persons concerned were insured under the said legislation.

2 The Administrative Commission shall establish a list of benefits in kind which, in order to be provided during a stay in another Member State, require for practical reasons a prior agreement between the person concerned and the institution providing the care.

Article 20

Travel with the purpose of receiving benefits in kind — authorisation to receive appropriate treatment outside the Member State of residence

1 Unless otherwise provided for by this Regulation, an insured person travelling to another Member State with the purpose of receiving benefits in kind during the stay shall seek authorisation from the competent institution.

2 An insured person who is authorised by the competent institution to go to another Member State with the purpose of receiving the treatment appropriate to his/her condition shall receive the benefits in kind provided, on behalf of the competent institution, by the institution of the place of stay, in accordance with the provisions of the legislation it applies, as though he/she were insured under the said legislation. The authorisation shall be accorded where the treatment in question is among the benefits provided for by the legislation in the Member State where the person concerned resides and where he/she cannot be given such treatment within a time limit which is medically justifiable, taking into account his/her current state of health and the probable course of his/her illness.

3 Paragraphs 1 and 2 shall apply *mutatis mutandis* to the members of the family of an insured person.

4 If the members of the family of an insured person reside in a Member State other than the Member State in which the insured person resides, and this Member State has opted for reimbursement on the basis of fixed amounts, the cost of the benefits in kind referred to in paragraph 2 shall be borne by the institution of the place of residence of the members of the family. In this case, for the purposes of paragraph 1, the institution of the place of residence of the members of the family shall be considered to be the competent institution.

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Article 21

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.

2 The competent institution of a Member State whose legislation stipulates that the calculation of cash benefits shall be based on average income or on an average contribution basis shall determine such average income or average contribution basis exclusively by reference to the incomes confirmed as having been paid, or contribution bases applied, during the periods completed under the said legislation.

3 The competent institution of a Member State whose legislation provides that the calculation of cash benefits shall be based on standard income shall take into account exclusively the standard income or, where appropriate, the average of standard incomes for the periods completed under the said legislation.

4 Paragraphs 2 and 3 shall apply *mutatis mutandis* to cases where the legislation applied by the competent institution lays down a specific reference period which corresponds in the case in question either wholly or partly to the periods which the person concerned has completed under the legislation of one or more other Member States.

Article 22

Pension claimants

1 An insured person who, on making a claim for a pension, or during the investigation thereof, ceases to be entitled to benefits in kind under the legislation of the Member State last competent, shall remain entitled to benefits in kind under the legislation of the Member State in which he/she resides, provided that the pension claimant satisfies the insurance conditions of the legislation of the Member State referred to in paragraph 2. The right to benefits in kind in the Member State of residence shall also apply to the members of the family of the pension claimant.

2 The benefits in kind shall be chargeable to the institution of the Member State which, in the event of a pension being awarded, would become competent under Articles 23 to 25.

Section 2

Pensioners and members of their families

Article 23

Right to benefits in kind under the legislation of the Member State of residence

A person who receives a pension or pensions under the legislation of two or more Member States, of which one is the Member State of residence, and who is entitled to

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benefits in kind under the legislation of that Member State, shall, with the members of his/her family, receive such benefits in kind from and at the expense of the institution of the place of residence, as though he/she were a pensioner whose pension was payable solely under the legislation of that Member State.

Article 24

No right to benefits in kind under the legislation of the Member State of residence

1 A person who receives a pension or pensions under the legislation of one or more Member States and who is not entitled to benefits in kind under the legislation of the Member State of residence shall nevertheless receive such benefits for himself/herself and the members of his/her family, in so far as he/she would be entitled thereto under the legislation of the Member State or of at least one of the Member States competent in respect of his/her pensions, if he/she resided in that Member State. The benefits in kind shall be provided at the expense of the institution referred to in paragraph 2 by the institution of the place of residence, as though the person concerned were entitled to a pension and benefits in kind under the legislation of that Member State.

2 In the cases covered by paragraph 1, the cost of benefits in kind shall be borne by the institution as determined in accordance with the following rules:

- a where the pensioner is entitled to benefits in kind under the legislation of a single Member State, the cost shall be borne by the competent institution of that Member State;
- b where the pensioner is entitled to benefits in kind under the legislation of two or more Member States, the cost thereof shall be borne by the competent institution of the Member State to whose legislation the person has been subject for the longest period of time; should the application of this rule result in several institutions being responsible for the cost of benefits, the cost shall be borne by the institution applying the legislation to which the pensioner was last subject.

Article 25

Pensions under the legislation of one or more Member States other than the Member State of residence, where there is a right to benefits in kind in the latter Member State

Where the person receiving a pension or pensions under the legislation of one or more Member States resides in a Member State under whose legislation the right to receive benefits in kind is not subject to conditions of insurance, or of activity as an employed or self-employed person, and no pension is received from that Member State, the cost of benefits in kind provided to him/her and to members of his/her family shall be borne by the institution of one of the Member States competent in respect of his/her pensions determined in accordance with Article 24(2), to the extent that the pensioner and the members of his/her family would be entitled to such benefits if they resided in that Member State.

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Article 26

Residence of members of the family in a Member State other than the one in which the pensioner resides

Members of the family of a person receiving a pension or pensions under the legislation of one or more Member States who reside in a Member State other than the one in which the pensioner resides shall be entitled to receive benefits in kind from the institution of the place of their residence in accordance with the provisions of the legislation it applies, in so far as the pensioner is entitled to benefits in kind under the legislation of a Member State. The costs shall be borne by the competent institution responsible for the costs of the benefits in kind provided to the pensioner in his/her Member State of residence.

Article 27

Stay of the pensioner or the members of his/her family in a Member State other than the Member State in which they reside — stay in the competent Member State — authorisation for appropriate treatment outside the Member State of residence

1 Article 19 shall apply *mutatis mutandis* to a person receiving a pension or pensions under the legislation of one or more Member States and entitled to benefits in kind under the legislation of one of the Member States which provide his/her pension(s) or to the members of his/her family who are staying in a Member State other than the one in which they reside.

2 Article 18(1) shall apply *mutatis mutandis* to the persons described in paragraph 1 when they stay in the Member State in which is situated the competent institution responsible for the cost of the benefits in kind provided to the pensioner in his/her Member State of residence and the said Member State has opted for this and is listed in Annex IV.

3 Article 20 shall apply *mutatis mutandis* to a pensioner and/or the members of his/her family who are staying in a Member State other than the one in which they reside with the purpose of receiving there the treatment appropriate to their condition.

4 Unless otherwise provided for by paragraph 5, the cost of the benefits in kind referred to in paragraphs 1 to 3 shall be borne by the competent institution responsible for the cost of benefits in kind provided to the pensioner in his/her Member State of residence.

5 The cost of the benefits in kind referred to in paragraph 3 shall be borne by the institution of the place of residence of the pensioner or of the members of his/her family, if these persons reside in a Member State which has opted for reimbursement on the basis of fixed amounts. In these cases, for the purposes of paragraph 3, the institution of the place of residence of the pensioner or of the members of his/her family shall be considered to be the competent institution.

Article 28

Special rules for retired frontier workers

[^{F1}] A frontier worker who has retired because of old-age or invalidity is entitled in the event of sickness to continue to receive benefits in kind in the Member State where he/she last pursued his/her activity as an employed or self-employed person, in so far as this is a

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continuation of treatment which began in that Member State. ‘Continuation of treatment’ means the continued investigation, diagnosis and treatment of an illness for its entire duration.

The first subparagraph shall apply *mutatis mutandis* to the members of the family of the former frontier worker unless the Member State where the frontier worker last pursued his/her activity is listed in Annex III.]

2 A pensioner who, in the five years preceding the effective date of an old-age or invalidity pension has been pursuing an activity as an employed or self-employed person for at least two years as a frontier worker shall be entitled to benefits in kind in the Member State in which he/she pursued such an activity as a frontier worker, if this Member State and the Member State in which the competent institution responsible for the costs of the benefits in kind provided to the pensioner in his/her Member State of residence is situated have opted for this and are both listed in Annex V.

3 Paragraph 2 shall apply *mutatis mutandis* to the members of the family of a former frontier worker or his/her survivors if, during the periods referred to in paragraph 2, they were entitled to benefits in kind under Article 18(2), even if the frontier worker died before his/her pension commenced, provided he/she had been pursuing an activity as an employed or self-employed person as a frontier worker for at least two years in the five years preceding his/her death.

4 Paragraphs 2 and 3 shall be applicable until the person concerned becomes subject to the legislation of a Member State on the basis of an activity as an employed or self-employed person.

5 The cost of the benefits in kind referred to in paragraphs 1 to 3 shall be borne by the competent institution responsible for the cost of benefits in kind provided to the pensioner or to his/her survivors in their respective Member States of residence.

Textual Amendments

- F1** Substituted by [Regulation \(EC\) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation \(EC\) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes \(Text with relevance for the EEA and for Switzerland\).](#)

Article 29

Cash benefits for pensioners

1 Cash benefits shall be paid to a person receiving a pension or pensions under the legislation of one or more Member States by the competent institution of the Member State in which is situated the competent institution responsible for the cost of benefits in kind provided to the pensioner in his/her Member State of residence. Article 21 shall apply *mutatis mutandis*.

2 Paragraph 1 shall also apply to the members of a pensioner's family.

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Article 30

Contributions by pensioners

1 The institution of a Member State which is responsible under the legislation it applies for making deductions in respect of contributions for sickness, maternity and equivalent paternity benefits, may request and recover such deductions, calculated in accordance with the legislation it applies, only to the extent that the cost of the benefits pursuant to Articles 23 to 26 is to be borne by an institution of the said Member State.

2 Where, in the cases referred to in Article 25, the acquisition of sickness, maternity and equivalent paternity benefits is subject to the payment of contributions or similar payments under the legislation of a Member State in which the pensioner concerned resides, these contributions shall not be payable by virtue of such residence.

Section 3

Common provisions

Article 31

General provision

Articles 23 to 30 shall not apply to a pensioner or the members of his/her family who are entitled to benefits under the legislation of a Member State on the basis of an activity as an employed or self-employed person. In such a case, the person concerned shall be subject, for the purposes of this Chapter, to Articles 17 to 21.

Article 32

Prioritising of the right to benefits in kind — special rule for the right of members of the family to benefits in the Member State of residence

1 An independent right to benefits in kind based on the legislation of a Member State or on this Chapter shall take priority over a derivative right to benefits for members of a family. A derivative right to benefits in kind shall, however, take priority over independent rights, where the independent right in the Member State of residence exists directly and solely on the basis of the residence of the person concerned in that Member State.

2 Where the members of the family of an insured person reside in a Member State under whose legislation the right to benefits in kind is not subject to conditions of insurance or activity as an employed or self-employed person, benefits in kind shall be provided at the expense of the competent institution in the Member State in which they reside, if the spouse or the person caring for the children of the insured person pursues an activity as an employed or self-employed person in the said Member State or receives a pension from that Member State on the basis of an activity as an employed or self-employed person.

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Article 33

Substantial benefits in kind

1 An insured person or a member of his/her family who has had a right to a prosthesis, a major appliance or other substantial benefits in kind recognised by the institution of a Member State, before he/she became insured under the legislation applied by the institution of another Member State, shall receive such benefits at the expense of the first institution, even if they are awarded after the said person has already become insured under the legislation applied by the second institution.

2 The Administrative Commission shall draw up the list of benefits covered by paragraph 1.

Article 34

Overlapping of long-term care benefits

1 If a recipient of long-term care benefits in cash, which have to be treated as sickness benefits and are therefore provided by the Member State competent for cash benefits under Articles 21 or 29, is, at the same time and under this Chapter, entitled to claim benefits in kind intended for the same purpose from the institution of the place of residence or stay in another Member State, and an institution in the first Member State is also required to reimburse the cost of these benefits in kind under Article 35, the general provision on prevention of overlapping of benefits laid down in Article 10 shall be applicable, with the following restriction only: if the person concerned claims and receives the benefit in kind, the amount of the benefit in cash shall be reduced by the amount of the benefit in kind which is or could be claimed from the institution of the first Member State required to reimburse the cost.

2 The Administrative Commission shall draw up the list of the cash benefits and benefits in kind covered by paragraph 1.

3 Two or more Member States, or their competent authorities, may agree on other or supplementary measures which shall not be less advantageous for the persons concerned than the principles laid down in paragraph 1.

Article 35

Reimbursements between institutions

1 The benefits in kind provided by the institution of a Member State on behalf of the institution of another Member State under this Chapter shall give rise to full reimbursement.

2 The reimbursements referred to in paragraph 1 shall be determined and effected in accordance with the arrangements set out in the Implementing Regulation, either on production of proof of actual expenditure, or on the basis of fixed amounts for Member States the legal or administrative structures of which are such that the use of reimbursement on the basis of actual expenditure is not appropriate.

3 Two or more Member States, and their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between the institutions coming under their jurisdiction.]

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Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EC\) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems \(Official Journal of the European Union L 166 of 30 April 2004\)](#).

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