Idryma Koinonikon Asfaliseon (IKA) v. Vasilios Ioannidis

C-326/00

Country: Greece
Region: Europe
Year: 2003
Court: European Court of Justice European Court of Justice
Health Topics: Aging, Chronic and noncommunicable diseases, Health care and health services, Health systems and financing
Human Rights: Freedom of movement and residence, Right to social security

Facts

During his stay in Germany, Mr. Ioannidis, a resident of Greece, was admitted to a clinic to undergo a catheterization with a heart catheter for pains in his thorax due to angina pectoris. Mr. Ioannidis had an old-age pension from the social security organization IKA. Mr. Ioannidis requested the German sickness fund to pay for the treatment on behalf of the IKA.

The German sickness fund sent the IKA a Form E 107 in the hopes of obtaining a Form E 112 or confirmation that the IKA was not capable of issuing such a form. The IKA informed the German sickness fund that it would not be able to issue a Form E 112 as IKA regulations were not met in this case (illness did not manifest suddenly enough) and it could not approve treatment after the fact. Mr. Ioannidis complained to an administrative committee of IKA, which came to the opposite conclusion that the illness had appeared suddenly and IKA should reimburse the cost.

IKA brought an action in the Diikitiko Protodikio Thessalonikis (Administrative Court of Appeal of Thessaloniki) to annul the decision. The administrative court referred questions to the Court for preliminary ruling. The primary question was whether the relevant European Council regulations preclude national legislation on ex post facto authorization for reimbursement. Subsequent questions were relevant only if the articles donâ€™t preclude national legislation.

Two relevant regulations refer to when someone seeks care in another member state. Article 31 of regulation 1408/71 provides:
â€œA pensioner entitled to a pension or pensions under the legislation of one Member State or to pensions under the legislation of two or more Member States who is entitled to benefits under the legislation of one of those States shall, with members of his family who are staying in the territory of a Member State other than the one in which they reside, receive:

(a) benefits in kind provided by the institution of the place of stay in accordance with the provisions of the legislation which it administers, the cost being borne by the institution of the pensioner's place of residence;â€• While Article 22(1) of the same regulation provides:
â€œAn employed or self-employed person who satisfies the conditions of the legislation of the competent State for entitlement to benefits ... and:

(a) whose condition necessitates immediate benefits during a stay in the territory of another Member State; or
(c) who is authorised by the competent institution to go to the territory of another Member State to receive there the treatment appropriate to his condition,

shall be entitled:
(i) to benefits in kind provided on behalf of the competent institution by the institution of the place of stay or residence in accordance with the provisions of the legislation which it administers, as though he were insured with it; the length of the period during which benefits are provided shall be governed, however, by the legislation of the competent State;â€•

Decision and Reasoning

The Court held that Article 31 of Council Regulation (EEC) No 1408/71 is separate from and should not be

interpreted in light of Article 22(1)(a) and that pensioners staying in Member States (such as Germany) other than their state of residence do not fall under Article 22(1)(a). Article 31, which refers to pensioners receiving care in another member state, has broader language than Article 22(1), which refers to employed persons, and should be interpreted in suit. The Court noted that the difference in language could be explained by the desire to increase the mobility of pensioners, especially considering their increased vulnerability. As the Articles were determined to be intentionally separate, the Court found that a member state could not impose any of Article 21â€™s restrictions onto Article 31 (such as making benefits subject to an authorization procedure).

The Court also held that if the foreign institution refuses to pay, the institution of place of residence must assess whether the institution of place of stayâ€™s refusal to provide benefits in kind under Article 31 was well founded. If the refusal was not well founded, the institution of place of residence must inform the institution of place of stay of its mistake so that the latter institution may reconsider its position. Should the institution of place of stay continue to deny the entitled benefits of Article 31, the institution of place of residence must, without condition of authorization procedure or need of immediate necessity due to sudden illness, reimburse the injured person directly for costs of treatment.

The Court found that the subsequent questions were moot due to the answer of the first question.

Decision Excerpts

â€œ[A]n interpretation harmonizing the systems established by [Articles 22(1)(a) and 31] would disregard both the differences of wording [in the Articles] and the fact that the Community legislature thought fit to enact a specificÂ provision for the category of insured persons consisting of pensioners and members of their families.â€• Paragraph 35.

â€œâ€¦ [T]he fact that the Community legislature did not wish to model the system applicable to non-working pensioners on that applicable to employed and self-employed persons may be explained by a desire to promote effective mobility of that category of insured persons, taking into account certain characteristics which typify them, such as a potentially greater vulnerability and dependence in health terms and an increased freedom from commitments permitting more frequent stays in other Member States.â€• Paragraph 38.