*11/05/2018*

**Reply of the Republic of Lithuania to the Questionnaire on the right of persons with disabilities to the highest attainable standard of health**

**1. Please provide information on existing or planned legislation and policies to ensure the realization of the right to health of persons with disabilities, including current challenges and good practices.**

Article 2 (1) of the Law on Equal Treatment of the Republic of Lithuania enshrines that any direct or indirect discrimination, harassment, and instructions for discrimination, including disability, are prohibited.

Article 7 (1) of the Law on Social Integration of the Disabled provides that in order to ensure equal rights of persons with disabilities in the field of personal health care, persons with disabilities receive personal health care services of the same level and under the same system as other members of society.

Article 38 of the Law on Safety and Health at Work establishes guarantees of safety and health at work of the persons with disabilities. According to this article, safety and health at work of the persons with disabilities shall be guaranteed by the Labour Code, this Law, other laws and regulations on safety and health at work. Additional safety and health guarantees for the persons with disabilities may be provided for in collective agreements and employment contracts. Decisions of the Office for the Disability and Capacity for Work Establishment under the Ministry of the Social Security and Labour regarding the nature and conditions of work of a person with disability shall be obligatory for the employer and the worker.

In accordance with Article 1(2) of the Law on Patients rights and compensation of damages to health, the relations between the patient, healthcare professionals, healthcare institutions are based on the following principles:

* Mutual respect, understanding and help;
* Ensuring patient‘s rights in accordance with the acknowledged healthcare procedures as established by the state;
* Prohibition to restrict the rights of the patient on the basis of their sex, age, race, citizenship, nationality, language, origin, social status, religion, beliefs, views, sexual orientation, genetic features, disability or other basis, except cases as provided by law without infringement of general principles of human rights.

There is no legislation (procedures) specifically intended for regulation of healthcare services provided for persons with disabilities. Legislation is intended for all users of healthcare services (with no distinction between persons without disabilities or persons with disabilities).

In accordance with the Procedure for organizing primary outpatient personal healthcare services and payment of expenses for these services, approved by the Order of the Minister for Health of the Republic of Lithuania of 5 December 2005, the established promotional supplement is allocated to the primary ambulatory personal healthcare institution for the visits of a doctor / nurse to homes while providing of services for the persons with disabilities.

**2. Please provide any information and statistical data (including surveys, censuses, administrative data, literature, reports, and studies) related to the exercise of the right to health of persons with disabilities in general, as well as with particular focus in the following areas:**

* **Availability of barrier-free general healthcare services and programmes, which take into account all accessibility aspects for persons with disabilities;**
* **access to free or affordable general healthcare services and programmes, including mental health services, services related to HIV/AIDS and universal health coverage;**
* **access to free or affordable disability-specific healthcare services and programmes; and**
* **access to free or affordable health-related habilitation and rehabilitation goods and services, including early identification and intervention.**

Law on Health Insurance provides two types of health insurance: compulsory and additional/voluntary. There is a compulsory health insurance system in the Republic of Lithuania when the state collects health insurance contributions from residents that are listed in the special law. The collected funds are distributed in order to ensure the provision of health services to the insured residents: the cost of purchasing various medical services, treatment, rehabilitation, medicines, medical devices is paid or compensated.

According to the Article 6 of the Law on Health Insurance, one of the parents/adoptive parents, guardian or caretaker nursing at home a person for whom a disability level is established/disabled child or a person who was recognised as having incapacity for work before he reached the age of 24, or a person who before he reached the age of 26 was recognised as having incapacity for work because of an illness which occurred before he reached the age of 24, or a person who is identified as being in need of permanent nursing and persons who have been recognised as disabled in accordance with the procedure laid down by legal acts shall be considered as persons insured by the state.

In addition to compulsory insurance, residents, including people with disabilities, can have additional private health insurance, provided by a private company. According to the Article 44 of the Law on Health Insurance establishes that additional/voluntary health insurance shall be based on contracts between the policyholder and the insurer. The rules of conclusion and execution of such contracts shall be laid down by the Government. A policyholder may be a legal or natural person. The term “insured person” shall mean a natural person specified in a life and health insurance contract to whom, upon occurrence of an insured event in his life, the insurer must pay an insurance benefit; a person specified in a third party liability insurance contract whose property interests arising from civil liability are covered by insurance; a person specified in a property insurance contract whose property interests are covered by insurance, as it is stipulated in the Article 2 (1) of Law on Insurance. This means that all residents of the Republic of Lithuania, including persons with disabilities, are entitled to have voluntary health insurance. Voluntary health insurance contract where the insured is a natural person is to be considered a consumer contract, therefore the provisions of Article 8 of the Law on Equal Treatment are applicable to this agreement.

Article 8 of the Law on Equal Treatment provides for additional protection in the field of the protection of consumers’ rights, providing that “when implementing equal treatment <...> a service provider, without regard to <... > disability <...> must:

1. provide consumers with equal access to the same products, goods and services, including housing, as well as apply equal conditions of payment and guarantees for the same products, goods and services or for products, goods and services of equal value;
2. when providing consumers with information about products, goods and services or advertising them, ensure that such information does not convey humiliation, contempt or restriction of rights or extension of privileges on the grounds of <…> disability <…> and that it does not form public opinion that these qualities make a person superior or inferior to another.“

Pursuant to Article 11 of the Law on health insurance of the Republic of Lithuania the basic cost of medical rehabilitation, including health recovery treatment, is fully compensated to the persons recognised as incapable of work or persons who reached the pensionable age, for whom a level of major special needs is established in accordance with the procedure laid down by legal acts; 90% of the basic cost of treatment at a health resort/secondary prevention is compensated to children under 18 years of age who are recognised as disabled in accordance with the procedure laid down by legal acts.

The Procedure of adult selection and sending to medical rehabilitation healthcare institutions (hereinafter – the Procedure) was approved by the Order “On organizing medical rehabilitation and sanatorium (antirecidiary) treatment” of the Minister for Health of the Republic of Lithuania of 17 January 2008. According to the Procedure, repeated rehabilitation is assigned to persons in case of disability during the first 2 or 3 years after reduction of working capacity or in case of increase of special needs (according to the relevant reasons as provided for in the tenth revised and supplemented edition of the International statistical classification of diseases and health disorders “Systemic list of diseases modification of Australia” (TLK-10-AM) (hereinafter – TLK-10-AM)) as established by the Disability and Working Capacity Assessment Office under the Ministry of Social Security and Labour. Later, starting with the fourth year after acknowledgement of disability due to relevant reasons as provided for in TLK-10-AM, maintenance rehabilitation is provided for the persons with disability.

In accordance with the Description of special requirements of medical rehabilitation services provided for adults as proved by the said Order, repeated and maintenance rehabilitation is assigned to persons, declared as incapable of work, who in accordance with the procedure laid down by legal acts are recognized as being of 0–25% working capacity; persons who reached the pensionable age, for whom a level of major special needs is established in accordance with the procedure laid down by legal acts; persons with partial working capacity who in accordance with the procedure laid down by legal acts are recognized as being of 30–40% working capacity.

**3. Please provide information on discrimination against persons with disabilities in the provision of healthcare, health insurance and/or life insurance by public or private service providers.**

Action Plan on Non-Discrimination for 2017-2019 approved by the Order of the Minister of Social security and Labour envisages measures that are directly related with the implementation of the prohibition of discrimination against persons with disabilities: 1) to inform the public on equal opportunities and non-discrimination issues; 2) to raise public awareness on equal opportunities and non-discrimination issues; 3) to train young people in promoting non-discrimination and respect for human development, without prejudice to the right of parents to raise children according to their convictions; 4) organize discussion meetings with organizations representing the rights of persons with disabilities in order to improve the procedures for the identification of disabilities.

According to the data provided by theOffice of Equal Opportunities Ombudsperson, 9 complaints were received regarding possible discrimination based on the disability grounds in the area of health protection (including medical rehabilitation services) in 2017.

A complaint was made regarding the Ministry of Health of the Republic of Lithuania in 30 June 2017 no. V-822 „On the Approval of the Description of the Procedure for the Payment of State Support for Orthopaedic Techniques by Purchasing Technical Means“, which stipulated that persons over the age of 65 years shall not receive assistance in acquiring orthopedic technical measures. After Equal Opportunities Ombudsperson determined discrimination on grounds of disability and age, the Ministry of Health removed the discriminatory provision from the legal act.

In 2017 the Equal Opportunities Ombudsperson found that, from 1 January 2017, after the entry into force of the new reimbursement procedure for the purchase of hearing aids, the situation of hearing impaired persons in the provision of medical rehabilitation services was worsened. In the course of the investigation, the Ministry of Health and the National Insurance Fund under the Ministry of Health was contacted and was proposed to modify the cost of acquiring hearing aid from the budget of the Compulsory Health Insurance Fund for the purpose of proper discharge of the obligation under Article 25 (b) of the United Nations Convention on the Rights of Persons with Disabilities and the fixing of their basic prices ordering legislation, establishing the appropriate basic price for hearing aids and ensuring the provision of medical rehabilitation services for people with hearing impairment. In pursuance of this decision, the Order of the Director of the National Insurance Fund replaced the methodology for the determination of basic prices for orthopaedic technical measures whose costs of purchase are reimbursed from the budget of the Compulsory Health Insurance Fund.

After determining the constraints of rights of persons with hearing impairment in checking driver's health, the Equal Opportunities Ombudsman addressed the Minister of Health of the Republic of Lithuania, it was proposed to change 10 October 2008 Order No. V-973 “Description of requirements and procedures for driver check-ups” approved by the Minister of Health of the Republic of Lithuania by changing the ban on persons with hearing impairment in Group 2 motor vehicles provided for in the table "Minimum physical and mental fitness for use for motor vehicle drivers" the prohibition of hearing impaired persons to drive motor vehicles of group 2 with the obligation of a physician conducting medical examination of drivers with hearing impairment to seek medical advice from a specialist as well as by changing the ban on hearing impaired persons provided for in the above table for work as drivers. The submitted decision is being implemented, drafts of amendments to the legislation have been prepared.

Upon completion of the investigation of the received complaint and finding that in the course of implementation of the Law of the Republic of Lithuania of 6 October 2000 Order No 529 „On the approval of the list of compensating medical aid measures (List C) approved by the Compulsory Health Insurance Fund for the reimbursement of the cost of acquiring medical aid measures

In 2017, the fact of discrimination in the sanatorium "Eglė" in Birštonas was determined – the sanatorium rejected to provide medical rehabilitation services to a person with disability. The head of the sanatorium administration was warned against the violation of equal opportunities.

**4. Please provide information on the observance of the right to free and informed consent of persons with disabilities regarding healthcare, including sexual and reproductive health and mental health services.**

In accordance with Article 25(2), Book 2 of the Civil Code of the Republic of Lithuania intervention into a human body, removal of parts of his body or organs is possible only with his consent. Consent to a surgical operation is given in writing. Where a person is incapable his guardian gives his consent, in the event of castration, sterilisation, abortion, operation, removal of organs of an incapable person, however, authorisation of the court is necessary. Such consent is not necessary in emergency cases when person’s life is endangered and has to be saved while the person himself is unable to express his will.

Chapter III “Informed consent” of the Law on Patients rights and compensation of damages to health is designated for informing patients on the provision of healthcare services, regulating the following: prohibition of the provision of healthcare services without the consent of the patient, requirements for consent for the provision of healthcare services, consent for the expression of healthcare, written consent of the patient, unforeseen special cases.

**5. Please describe to what extent and how are persons with disabilities and their representative organizations involved in the design, planning, implementation and evaluation of health policies, programmes and services.**

By Resolution No 1042 adopted by the Government of the Republic of Lithuania on 19 October 2016, new regulations and composition of the Council for Disabled Affairs were approved. The Council for Disabled Affairs consists of 20 members: 9 representatives from state institutions, including Chair of the Council, one representative from municipalities, 9 representatives from associations of the disabled persons and one representative from the academia. Currently the Chair is the Minister of Social Security and Labour. The composition of the Council is approved for the period of 2 years.

The Council is entitled to consider issues of social integration of people with disabilities and submit proposals not only to the Minister of Social Security and Labour, but also to the Government, ministries, other state and municipal institutions. The most important point is the inclusion of the organizations representing persons with disabilities in monitoring of the implementation of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol.

The Council‘s task is to consider social integration issues of people with disabilities and submit proposals to the Government of the Republic of Lithuania, ministries, other state and municipal institutions and institutions regarding the social integration policy of persons with disabilities, draft legal acts regulating social relations of persons with disabilities, and the monitoring reports on the implementation of the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol.