***Note on implications of an orderly/contractual Brexit in terms of access to healthcare services – Health insurance, EHIC, other documents of entitlement to healthcare benefits in kind (S1, S2, DA1; E106, E109, E120, E121, E112, E123)***

***[WITHDRAWAL AGREEMENT]***

In the case of a successful ratification of the **Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland (the UK) from the European Union (the EU) and the European Atomic Energy Community (EURATOM),** hereinafter referred to as “the Withdrawal Agreement (WA)”, **the** **UK will leave the EU on 31 January 2020 in an orderly manner, and the WA will enter into force on 1 February 2020.**

Pursuant to the WA **(**Article 126), for the EU Member States and the United Kingdom **there will be a transition period or implementation period**, which will start on the date of entry into force of the WA and end on 31 December 2020, unless it is extended (the decision should be made at the latest on 30 June 2020).

***[EU LEGISLATION AFTER BREXIT]***

Union law will be applicable to and in the United Kingdom during the transition period. This means that the applicable Union law will produce in respect of and in the UK the same legal effects as those which it produces within the Union and its Member States, and will be interpreted and applied in accordance with the same methods and general principles as those applicable within the EU. The EU provisions on coordination of social security systems, i.e. Regulations: No 883/2004, No 987/2009 and No 859/2003 will remain applicable.

In the transition period, the EU Member States nationals in the UK and UK nationals in the EU (in Poland) will remain entitled to health care benefits in kind arising under the Union mechanism for social security coordination. This applies to: tourists, persons visiting their country of origin, persons visiting families residing in Poland or in the UK, employees and the self-employed, the unemployed, pensioners, persons applying for retirement pension/disability pension, etc., schoolchildren and students as well as family members of the insured.

***[DOCUMENTS OF ENTITLEMENT TO HEALTHCARE SERVICES AND RIGHT TO SERVICES AFTER BREXIT]***

**In Poland and the UK, it will be possible to use the following documents of entitlement to healthcare services issued prior to and after Brexit (after 1 February 2020):**

* EHIC, Provisional Replacement Certificate (PRC)
* S1 forms (or E106, E109, E120, E121),
* document of entitlement to scheduled treatment (S2, S3),
* documents of entitlement to healthcare services due to accidents at work or occupational disease (DA1 or E123),

**- but not longer than until the end of the transition period (i.e. until 31 December 2020, if not extended), unless:**

 1. The **S2/PL, S2/UK document** (*entitlement to scheduled treatment in the UK/Poland*) was issued before the end of the transition period, and the treatment began prior to and ended after the transition period.

 2. The **application for entitlement to scheduled treatment** in the UK/Poland was submitted before the end of the transition period, the entitlement (*S2 document*) was granted in the transition period, but it was only possible to start the treatment after the end of the transition period.

 3. The **application for entitlement to scheduled treatment** in the UK/Poland was submitted before the end of the transition period, but the entitlement (*S2 document*) was granted after the end of the transition period, and so the treatment began after the end of the transition period.

 4. **Treatment based on the EHIC/PL or EHIC/UK** began during a stay in the UK/Poland before the end of the transition period, and was completed before the end of the transition period.

 **Healthcare provided based on the EHIC** will also be available for persons insured in Poland/the UK who reside in the UK/Poland on the last day of the transition period – until the end of their stay in the UK/Poland.

 5. **In accordance with the provisions of the WA some Polish, UK, and third country nationals will remain entitled to healthcare services in accordance with the rules set out in the WU** (similar to those applicable in the social security coordination system) after the end of the transition period, i.e. among others:

 5.1. The EU (Polish) nationals subject to the UK legislation on the last day of the transition period, their family members and their survivors, e.g. a Polish national residing and employed in the UK [subject to the UK legislation under Article 11(3)(a) of Regulation No 883/2004] along with his or her family members residing in Poland.

 5.2. The UK nationals subject to the legislation of a Member State (Poland) on the last day of the transition period, their family members and their survivors, e.g. a UK national residing and employed in Poland [subject to the Polish legislation under Article 11(3)(a) of Regulation No 883/2004].

 5.3. The EU (Polish) nationals residing in the UK and subject to the legislation of a Member State (Poland) on the last day of the transition period, their family members and their survivors, e.g. a Polish national residing in the UK with his or her family members, receiving only a Polish retirement pension [subject to the UK legislation under Article 11(3)(e) and subject to Article 24 and 29 of Regulation No 883/2004].

 5.4. The UK nationals residing in a Member State (Poland) and subject to the UK legislation on the last day of the transition period, their family members and their survivors, e.g. a UK national residing in Poland with his or her family members, receiving only a retirement pension from the UK [subject to the Polish legislation under Article 11(3)(e) and subject to Article 24 and 29 of the basic Regulation].

 5.5. The EU (Polish) nationals, not listed in points 6.1. to 6.4., pursuing an activity as an employed or self-employed person in the UK on the last day of the transition period, subject to the legislation of a Member State (Poland) under Title II of Regulation No 883/2004 or their family members or their survivors, e.g. a Polish diplomat employed in a consulate in the UK, residing with his or her family members in Poland and spending holidays with his or her family in Poland [subject to the Polish legislation under Article 11(3)(b) of Regulation No 883/2004].

 5.6. The UK nationals, not listed in points 6.1. to 6.4., pursuing an activity as an employed or self-employed person in a Member State (Poland) on the last day of the transition period, subject to the UK legislation under Title II of the Regulation or their family members or their survivors, e.g. a UK national residing in the UK who normally pursues an activity as an employed person in the UK and in Poland, if he or she is subject to the UK legislation under Article 13 of Regulation No 883/2004.

 5.7. Stateless persons and refugees who are legally residing in a Member State (Poland) or the UK and are in one of the situations described in points 6.1. to 6.6., and their family members and their survivors, e.g. a Pakistani national with refugee status in Poland and residing in Poland with his or her family members on the last day of the transition period, employed in the UK as a translator or interpreter [subject to the UK legislation under Article 13(2)(a) of Regulation No 1408/71].

 5.8. Third country nationals and their family members and their survivors who are in one of the situations described in points 6.1. to 6.6., provided that they meet the requirements laid down in Regulation No 859/2003, e.g. an Indian national legally residing in Poland and employed as a translator or interpreter both in Poland and in the UK [subject to the Polish legislation under Article 14(2)(b)(i) of Regulation No 1408/71].

**- who are continuously in one of the situations listed above, regarding both a Member State (Poland) and the UK. In each of the aforementioned cases the WA provides for the rules of social security coordination for as long as the situation remains unchanged or as long as a given person remains in a situation concerning both a Member State and the UK, without interruption. Entitlement to healthcare services and financing of their cost based on the WA – according to the rules set out in the provisions on coordination (i.e. based on the following documents: EHIC, S1, S2, S3, DA1 or E106, E109, E120, E121, E123) – in each of the aforementioned cases should be determined individually by the regional branch of the National Health Fund (NHF) competent for the place of residence in Poland or by the Branch which issued a document of entitlement to healthcare services outside the country of residence/insurance.**

***[RESIDENCE IN POLAND, CERTIFICATES, HEALTH INSURANCE]***

**“Certificates of entitlement to healthcare benefits in kind”** issued on the basis of British S1 forms (or E106, E109, E120, E121) by the regional branches of the NHF to persons insured in the UK and residing in Poland (e.g. British pensioners, residing in Poland family members of persons insured in the UK), will remain valid in the transition period, but not longer than until the end of the transition period, unless the personal situation of a certificate holder remains unchanged during and after the transition period. Every case will be considered individually – based on the WU – by the regional branches of the NHF (see e.g. point 5.4.).

**The UK nationals residing in Poland** who used healthcare services financed by the NHS (based on relevant forms issued by this institution) before the UK’s withdrawal from the EU, and who after Brexit / the end of the transition period will not be subject to the UK legislation or covered by mandatory health insurance in Poland for one of the reasons listed in Article 66(1) of the Act of 27 August 2004 *on health care services financed with public funds* (Journal of Laws of 2019, item 1373, as amended), e.g. on account of employment or self-employment, collection of British retirement or disability pension transferred to Poland via a bank operating in Poland, becoming unemployed, or obligated to be declared for insurance as family members (children, spouses, relatives in the ascending lines) pursuant to Article 67(3) or (3a) of this Act, will be eligible for voluntary insurance under Article 68 of the aforementioned Act, by filing a relevant application with a regional branch of the NHF competent for the place of residence in Poland. Also the UK nationals already studying or taking up studies at Polish universities will be eligible for voluntary insurance.

***[POLISH NATIONALS RETURNING TO POLAND AFTER BREXIT]***

**Polish nationals returning from the UK to Poland** who will no longer be entitled to healthcare services under the UK legislation on the day of the UK’s withdrawal from the EU or after the end of the transition period will be eligible for healthcare services in Poland in accordance with the rules set out in the Act on health care services financed with public funds, i.e.:

 1. After becoming eligible for mandatory health insurance for one of the reasons listed in Article 66(1) of the said Act (e.g. on account of employment or self-employment, collection of British retirement or disability pension transferred to Poland via a bank operating in Poland, becoming unemployed).

 2. Persons who will not be covered by mandatory health insurance in Poland, or obligated to be declared for insurance as family members (children, spouses, relatives in the ascending lines) pursuant to Article 67(3) or (3a) of the said Act, will be eligible for voluntary insurance under Article 68 of the aforementioned Act, by filing a relevant application with a regional branch of the NHF competent for the place of residence in Poland.

**Note:** persons intending to enjoy voluntary insurance in the NHF after returning from the UK to Poland should first obtain a certificate from the relevant British institution, confirming their prior health insurance coverage in that country (E104/UK form), in order for the insurance gap fee in Poland to be waived;

 3. Polish nationals returning from the UK to Poland or Polish national who are no longer entitled to healthcare services financed by the UK due to Brexit and are not subject to mandatory health insurance or not able to apply for voluntary insurance in Poland due to low income will be allowed access to healthcare services financed from public funds for beneficiaries other than insured persons. **Such services are available to:**

 3.1.Women with Polish citizenship and place of residence in Poland, during pregnancy, labour and puerperium;

 3.2.Children with Polish citizenship, until reaching the age of 18;

 3.3**.** Persons meeting the income criterion specified in the provisions on social assistance – on the basis of a decision of the head of a commune, mayor or president of a city, issued pursuant to Article 54 of the Act on healthcare services financed from public funds.

**More information is available**: in regional branches and offices of the NHF and in the Ministry of Health.

**Useful links:** [www.nfz.gov.pl](http://www.nfz.gov.pl)