

Access to STI and HIV services for uninsurable illegals in the Netherlands

Current situation


Report by Soa Aids Nederland

January 2018



Healthcare for everyone in the Netherlands

Essential medical care must be accessible to everyone,
including uninsurable illegals.



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SOAIDS



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Introduction

Foreword

In practice there is still a lot of uncertainty among health care professionals and others about what services, including those related to STIs and HIV, can or must be provided to uninsurable people staying in the Netherlands. These people are also known as illegal immigrants, people without a residence permit, people without papers and undocumented migrants. Designations like these are used to describe a group of people who are not officially allowed to be in the Netherlands but live in the country anyway and sometimes need health care.

Aim

This report provides health care professionals and other stakeholders with information about how access to health care, including STI and HIV services, is organized in the Netherlands. It also gives details about how uninsurable illegals can use these services.

It is important that professionals are well informed about how to use the reimbursement scheme of the CAK funding regulations for uninsurable illegals. The report also includes information about other issues related to health care for uninsurable illegals which professionals currently face in daily practice. Important addresses for advice, help and support are listed at the end of the report.

Section 122a

Uninsurable illegals have a right to all services which, according to Section 122a of the Health Insurance Act (Zvw) 2009, are included in the act's basic insurance package or the Exceptional Medical Expenses Act (AWBZ). This therefore means that they have access to HIV and STI services.

Summary on website

This report is available as a PDF on Soa Aids Nederland's website for professionals: www.soaids-professionals.nl.

1. Confidentiality and identification

1.1 Introduction

For health care workers and other professionals, issues like confidentiality, privacy and dealing with personal information are part of being professional. Nevertheless, patients and clients are often concerned about these issues, particularly if they are in a vulnerable position like uninsurable illegals.

It is important that professionals properly inform their patients and clients that they carefully respect patients' rights and will not inform others about where people live or their HIV status for example. It is also important to explain what duty of confidentiality and identification means in practice in the Netherlands.

1.2 Duty of confidentiality

All doctors have a duty of confidentiality. Other care providers like pharmacists, physiotherapists, midwives and nurses have a duty of silence. The duty of confidentiality forbids them to discuss a patient's records or HIV status with other people. This includes lawyers, social workers and interpreters.

Others are often involved in providing care, people like assistants, secretaries, receptionists and laboratory workers. They do not have a duty of confidentiality themselves, but one is implied via the care provider for whom they work.

A patient or client may only be discussed with colleagues in the treatment team. Examination and test results may only be shared with others with the patient's permission.

Care providers are required to maintain confidentiality about all information entrusted to them and which they learn in the performance of their work. This not only involves medical details, but also personal information entrusted to the care provider.

This duty of confidentiality may be set aside if the patient gives permission. A care provider can also be obliged to provide information about patients if legally required to do so, for example when there is a risk of an infectious disease spreading. However, this does not include HIV or other STIs since people can protect themselves against these infections.

Children and young people also have patients' rights but depending on their age, others may view their medical records. Children up to 12 years of age are subject to their parents' authority and are not allowed to make their own decisions. Parents are therefore entitled to view their records. Children from 12 to 16 years of age have a right to full information like their parents, and to make decisions together with their parents. From 16 years of age, young people can make their own decisions about medical treatment. Parents can only be informed with their child's consent.

1.3 Duty of identification

In principle all personal details of patients and clients are recorded. This is mainly to prevent mistakes in care provision. Make it clear to the patient that this information will never be passed on to official bodies like the police or the Immigration and Naturalization Service.

2. Health insurance in the Netherlands

2.1 Introduction

Care providers are often poorly informed about how health care services for illegals are organized in the Netherlands. People may also be unaware of whether they can or must take out health insurance. It is therefore important that care providers properly inform their patients about the current situation. Special rules apply to asylum seekers.

2.2 Taking out health insurance in the Netherlands

In principle, people are required to take out health insurance, but not everyone can do this. These people are therefore uninsurable.

2.3 Barred from health insurance

Certain illegals cannot take out health insurance, namely:

- Illegals living in the Netherlands illegally.
- Illegals who have applied for a residence permit.
- Illegals who have submitted an appeal or objection against a rejected application for a residence permit.

Some illegals, for example those covered by Section 64 of the Illegals Act, can be insured via the Central Agency for the Reception of Asylum Seekers (COA). Ask a lawyer to properly investigate these options.

The regulations of the CAK therefore apply to these uninsurable illegals. Care providers can apply for a contribution towards the cost of care provided to this group.


2.4 Asylum seekers

People awaiting the result of their asylum application live in an asylum seekers center. Here they are collectively insured via the Asylum Seekers Care Regulation (RZA). They are entitled to nearly all services included in the basic package of the Health Insurance Act and the Exceptional Medical Expenses Act.

2.5 Health insurance requirement

People with a residence permit are required to take out health insurance. They are then also insured under the Exceptional Medical Expenses Act. They must take out insurance within four months of the date on which the permanent residence permit is issued. The health insurance comes into effect on the same day as the residence permit. This can mean that premiums have to be paid retroactively to the health insurer.

People with a residence permit are entitled to all services included in the Health Insurance Act, i.e. the basic package. If they take out supplementary insurance, they are also entitled to reimbursement for services covered by their supplementary insurance.



2.6 People from other EU countries

People who come from or have a residence permit in another EU country, are required to have insurance against medical expenses in that country. People can only insure themselves against medical expenses in the Netherlands if they have an employment contract here and a legal address.

2.7 People from outside the EU

People are required to have health insurance in their own countries, if this is possible.

2.8 Under-insurance

Some people, like international students, may be under-insured. They are required to take out basic health insurance but this excludes reimbursement for disorders identified prior to the commencement date of the insurance. In short, if a person is aware of his or her HIV status when they take out health insurance, the HIV-related costs are completely excluded. These costs must be paid by the patient. Even so in other cases the costs for STI and HIV care can be excluded.

However, if the visa also permits working in the Netherlands, a compulsory basic insurance through the employer is needed, which then can be recovered from health care costs.

2.9 People in police custody or pre-deportation detention

When someone is held in prison, a judicial institution or provisional custody, basic insurance for medical expenses is suspended. They are then the responsibility of the Ministry of Security and Justice which pays for their medical care.

The ministry does not provide medical care itself but offers provisions for this. Medical services are responsible for providing care and the necessary medication. This concerns essential care which includes STI and HIV services. Medical services also have to arrange visits to a doctor or HIV treatment provider in a hospital for example. These rules also apply if a person is held temporarily in a police cell.

When a person is released, the treatment must continue seamlessly and the HIV treatment provider should be informed of this. In all cases, the professionals involved have a duty of confidentiality.

The HIV working instruction of the Dienst Justitiële Inrichtingen (DJI) defines the arrangements of health care treatment for judicial detainees with HIV. Main purpose is to level practice actions by nurses, GPs and HIV clinician at detainees with HIV.



3. Essential medical care

3.1 Introduction

Uninsurable illegals must receive all care considered by a doctor to be medically essential for the patient's well-being. A doctor has a 'legal duty of care'. In principle, a doctor may not refuse patients if they do not have insurance or a residence permit.

3.2 Essential medical care

The care that must be provided is essential medical care. This is all care that the doctor considers essential and which is included in the basic health insurance package. The basic package is the care that is usually reimbursed by the health insurer according to Section 122a of the Health Insurance Act 2009. This is the care provided via basic insurance and care provided via the Exceptional Medical Expenses Act. All HIV and STI services must therefore be provided. These include counseling about the risks of STIs and HIV, an STI or HIV test, treatment, medication, care and support.

3.3 More than emergency help

Some professionals and organizations are not properly up to date on the regulations regarding uninsurable illegals. They sometimes think that they only have to give uninsurable illegals emergency help. This is not the case. Essential medical care must be provided.

3.4 Refusal of care

If there are medical grounds for treating someone, care may not be refused. Please take particular account of the options offered by the regulations of the National Health Care Institute. If a person hears of a colleague refusing to provide care, refer them to these regulations. If he or she continues to refuse care report this to LAMPION (see addresses at the end of this report).

3.5 HIV is no reason to refuse care

When an uninsurable illegal is diagnosed with HIV or has had HIV for a long time, he or she is entitled to the same care as an insured person. Essential medical care is the issue here. There are absolutely no legal grounds for withholding HIV services. Care providers must work according to standard precautionary and hygiene measures.

3.6 Living illegal in the Netherlands

A care professional always has a legal duty of care. This legal duty remains in force even if living illegally in the Netherlands becomes a criminal offence in the future.





4. Paying for care

4.1 Introduction

An uninsurable patient must pay for care himself. This obligation is stipulated in Section 122a of the Health Insurance Act 2009.

4.2 Inability to pay

In principle, everyone must pay for the medical care they receive, including uninsurable patients. It is important that an uninsurable illegal immediately informs a care provider that he or she cannot pay for the care themselves.

If they are unable to pay the bill entirely or in part, the care provider can apply for reimbursement of the (partially) unpaid bill via the care funding regulations of the CAK. For more information, please see chapter 5 and visit www.hetcak.nl/zakelijk/regelingen

When a patient is referred to a hospital, it may be important for him or her to speak to an HIV nurse or a social worker first. These professionals can provide information about how the hospital concerned deals with uninsurable illegals. A family doctor for example, can also make an initial appointment at the hospital. This can prevent problems resulting from receptionists' possible lack of awareness of current regulations.

4.3 Billing in all cases

A care provider or hospital can still send bills for care provided to uninsurable illegals. Always allow the patient or client to respond to bills and to indicate why they cannot pay. Care providers can also agree that the patient will pay the bill in part or in instalments. For example, by agreeing a monthly amount that the patient is able to pay. Only when a patient can show that he or she is truly unable to pay the bill can a care provider receive reimbursement via the regulations of the CAK.

4.4 Personal contributions to medications

Personal contributions to medication as stipulated in basic health insurance do not apply to the regulations of the National Health Care Institute. Here the personal contribution is always 100%.

5. Regulations for funding care for uninsurable illegals

5.1 Introduction

Although uninsurable illegals cannot take out health insurance, medical help can sometimes be necessary. These people therefore have to pay medical costs themselves. If they are unable to pay, the care provider can apply for reimbursement from the CAK via the funding regulations for care for uninsurable illegals.

5.2 Conditions

- Only care providers can apply for reimbursement.
- The care is covered by the basic package of the Health Insurance Act or the Exceptional Medical Expenses Act.
- In the opinion of the care provider, the care is medically essential.
- The patient is an uninsurable illegal who cannot take out health insurance.
- A bill is partially or wholly unpaid because it cannot be paid by or on behalf of the patient.

5.3 Care providers

Different conditions apply to different care providers, institutions and resources:

Family doctors:

They can apply for reimbursement. A family doctor can get an 80% reimbursement of the irrecoverable amount. He or she can charge a 'passer-by rate' for a consultation. For pregnancy and childbirth, reimbursement is 100% of the irrecoverable amount. Patients can only be referred to pharmacies and hospitals with contracts with the National Health Care Institute.

Pharmacies:

Only contracted pharmacies can apply for reimbursement.

Midwives and maternity assistants:

They can apply and receive a reimbursement of 100% of the irrecoverable amount. They can refer patients needing hospital care to any hospital.

Dentists:

All dentists can apply for reimbursement. The National Health Care Institute only reimburses care covered by the basic package of the Health Insurance Act. As a result, dentists only receive a reimbursement of 80% of the irrecoverable amount for:

- Patients younger than 18 years of age.
- Fully removable prosthetic items.
- Special dental care.

Paramedics:

They can apply for reimbursement. For physiotherapy, remedial therapy, speech therapy, occupational therapy and dietary advice, the CAK only reimburses care covered by the basic package of the Health Insurance Act.



Hospitals:

All hospitals can apply for reimbursement. There is a distinction between contracted and non-contracted hospitals.

- Contracted hospitals:

The CAK has a number of contracted hospitals throughout the country where uninsurable illegals can go for all types of hospital care, including HIV services.

- Non-contracted hospitals:

Hospitals without a contract can only get reimbursement for care when referral or transfer to a contracted hospital is impossible. Reimbursement is 80% of the irrecoverable amount.

Exceptional and mental health care institutions:

Only contracted institutions can apply for reimbursement. The CAK only contracts exceptional and mental health care institutions where uninsurable illegals are staying. Institutions providing these types of care can contact the CAK .

Appliances and aids:

Only contracted suppliers of appliances and aids can apply for reimbursement. The CAK pays a contribution and delivery of appliances and aids is a tailored service.

5.4 More information

If you questions about funding care for uninsurable illegals you can call their "helpdesk for uninsurable illegals" on 088-5028.

6. Important addresses and websites

Basic rights of undocumented migrants in the Netherlands

Leaflets on basic rights of undocumented migrants are available in a number of cities in the Netherlands. These leaflets include the addresses of organizations that undocumented migrants can approach (in Amsterdam, Breda, Eindhoven, Nijmegen, Rotterdam, Utrecht). Go to www.basicrights.nl

CAK

The CAK implements the national regulations on the basis of which care providers can claim the (partially) irrecoverable costs of care provided to uninsurable illegals. Information about reimbursements for care for uninsurable illegals, contracted institutions, claim forms and other matters can be found on their website.

See website: www.hetcak.nl/zakelijk/regelingen/onverzekerbare-vreemdelingen
For questions contact the helpdesk for uninsurable illegals by telephone on 0800-5028.

The National Ombudsman / Health Insurance

For more information and advice about health insurance, please call the Health Insurance Line on 0800-646 46 44 (free of charge, Monday to Friday between 9.00 and 17.00 hours). See website: www.zorgverzekeringslijn.nl

Hiv Vereniging (HIV Association)

The Hiv Vereniging is the national organization which supports everyone living with or affected by HIV. It provides information, mutual contact and support, and advocacy.
Address: Eerste Helmersstraat 17, 1054 CX Amsterdam.
Telephone: +31.20-616 01 60
Website www.hivvereniging.nl

Hiv Vereniging Service Point answers questions f.i. on medical and legal issues.
Call 020-689 25 77 (Opening hours: Monday, Tuesday, Thursday, from 14.00 to 22.00
or send your questions by e-mail to servicepunt@hivvereniging.nl

Health Care Inspectorate (Inspectie Gezondheidszorg)

For questions or to make a complaint (anonymously) about refusal of health care please contact the Health Care Inspectorate.

Telephone during office hours: 088-120 5000 (local rates).
Website: www.igz.nl or send questions by e-mail to meldpunt@igz.nl

Children and health care rights

Children are also entitled to health care. For practical information read the brochure 'Iedereen heeft recht op gezondheidszorg! Jij ook' ('Everyone has the right to health care! Including you'). It covers children of parents living here illegally and access to various health care institutions in the Netherlands. The brochure also has information about how you can apply for child benefit for 'illegal' children from the Sociale Verzekerings Bank and for child allowance from the Tax Office. The brochure is available in English and Dutch, and folds up to the size of a bank card.

See website: www.pharos.nl

Lampion

For questions about essential medical care, please contact Lampion, the national information and advice center for undocumented migrants.

See website: www.lampion.info

Medication costs

You can find out whether medications are covered by the basic health insurance package and how much extra you may have to pay. You can also find out whether alternative medication is available without extra payment. Information is updated at the beginning of every month.

See website www.medicijnkosten.nl

Medical Support for Undocumented Migrants (MOO)

This project offers support and guidance (including legal guidance) to undocumented migrants from asylum countries who have serious mental problems. MOO also operates as a national reporting office for problems concerning access to mental health care and adequate support.

See website: www.askv/moo.nl

Telephone: 020-775 34 78

Mobile: 06-40 30 89 18

Or send questions by e-mail to moo@askv.nl

Soa Aids Nederland (STI AIDS Netherlands)

Soa Aids Nederland is a center of expertise for STIs and HIV.

Address: Keizersgracht 390-392, 1016 GB Amsterdam.

See website: www.soaids.nl

Telephone: 020-626 26 69

You can also call Soa Aids Nederland's telephone line for help and information.

Telephone: 0900-204 20 40 (10 cents per minute). You can also send questions by e-mail to infolijn@aidsfonds.nl

Care providers in the Netherlands

You can find and compare care providers in your area based on your postcode.

See website: www.kiesbeter.nl



Kruispost

Kruispost offers support to people like uninsurable illegals, who cannot find help through normal health care services. This support is similar to that of a family doctor supplemented by social work where necessary. The organization asks every patient to donate whatever they can towards costs. There is no need to make an appointment.

Advice about tooth extraction is also available. For a consultation, a personal contribution to pay for materials is expected. For this service an appointment must be made with the Kruispost doctor.

See website: www.oudezijs100.nl

Dokters van de Wereld (DvdW)

DvdW provides information about health care options and reporting problems with access for insurable illegals. It also offers help with registering at a regular family doctor's practice.

DvdW can be contacted by telephone on 020-4652866 or by e-mail:

info@doktersvandewereld.org

See Website: www.doktervandewereld.org





So, there is care for everyone in the Netherlands ... !

This report is available as a PDF on Soa Aids Nederland's website for professionals: www.soaids-professionals.nl.

For questions, tips and suggestions please contact Ronald A.M. Brands, Policy Office on Social and Legal Aspects at Soa Aids Nederland via rbrands@soaids.nl

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