



Healthcare coverage for undocumented migrants in Spain: Regional differences after Royal Decree Law 16/2012

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ARTICLE INFO

Article history:

Received 30 July 2015

Received in revised form 3 February 2016

Accepted 7 February 2016

Keywords:

Health policy

Migrants

Immigrants

Spain

Health inequalities

ABSTRACT

The economic crisis has prompted the debate on how to regulate health coverage of undocumented migrants in publicly funded healthcare systems. Spain, as one of the most heavily affected countries in Europe, can be considered a case of particular interest. In 2012 the Spanish Government issued a Royal Decree Law (RDL 16/2012) which revoked their previous full right to public healthcare coverage, now limited for some exceptions. However, the Spanish National Health System is highly decentralized, and this Central Government decree had to be implemented by the Regional Health Authorities. Our aim is to compare regional policies regarding entitlement to healthcare for undocumented migrants after RDL 16/2012 in the 17 Autonomous Regions by performing an exhaustive review of the regional health policy regulations published after the enactment of RDL 16/2012. Our analysis shows that many Regions adopted legal, legislative and administrative actions to void or limit its effects, while others applied it as intended, resulting in huge differences in healthcare coverage for irregular migrants among Spanish Regions. The unequal implementation of this Law constitutes a paradigmatic example of the complexity of nation-wide regulation of controversial key issues in decentralized health systems. In addition, our results highlight that within-country differences in access and/or entitlement can be as relevant as those reported among-country when there is healthcare decentralization.

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1. Introduction

Migration phenomenon has been deeply linked with economic and social development in Europe [1]. In the last decades, migrant population from outside the European

Union (EU) has increased considerably, representing a 6.6% of its whole population in 2011 [2,3]. However, a relevant part of migrants reside within its borders in an irregular situation, including (1) those who have entered the country illegally; (2) those who extend their stay in Europe longer than the time allowed by their visas; and (3) asylum seekers that have been denied their applications [4,5]. Even though it is difficult to estimate the real number, the Clandestino Project estimated that around 1.9 and 3.8 million of undocumented migrants were living in the EU-27 in 2008 [6].

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In Spain, migration has been an increasing phenomenon since the 80s. The total number of foreigners living in the country increased from 350,000 in 1991 to 5250,000 in 2012, representing a 12.1% of the total Spanish population. Migrants from countries outside the EU mostly came from North Africa and Latin-America [7]. Again according to Clandestino Project, around 280,000 to 354,000 irregular migrants lived in Spain by 2008 [6].

Migratory process in itself is a strong determinant of physical and mental health [1]. However, among migrants, those in irregular situation constitute a special vulnerable population which often experience worse living and working conditions. Also, lack of social support means for them additional health risks that need special attention from healthcare services [8,9]. Nevertheless, within the EU, there are considerable variations regarding entitlement and access to healthcare for undocumented migrants. A comparative study of Cuadra et al. [10] showed that, in 2009, it varied from very restrictive countries, to those with access equal to that of the nationals. This study included Spain among the countries with most comprehensive healthcare coverage for migrants in Europe, together with France, Italy, Netherlands and Portugal.

This situation was the result of social, demographic and economic changes during the last decades, which included a strong drive to develop the welfare system. The Spanish National Health System (SNHS), established by the 1986 General Health Law, is the result of the progressive expansion of the Social Security System to the almost entire population, and its final funding from a National Health System based on general taxation [11]. A 1989 Decree granted SNHS coverage to the poor without Social Security entitlement, and the few groups that that were still without healthcare coverage were included in 2011 Public Health law [12,13]. Migrants living in Spain and registered with municipalities, were granted by Law 4/2000 [14] the same healthcare and education rights as the Spaniards, irrespective of their legal status of residence.

However, around 2009 Spain was heavily stricken by the economic crisis and became one of the countries at the centre of the austerity debate in Europe. Some regional governments attempted reforms to reduce healthcare cost (i.e. privatization of hospitals in Madrid) [15]. The Central Government held by the conservative party, People's Party (PP), passed Royal Decree Law (RDL 16/2012) in April 2012 which, among other measures, changed the healthcare entitlements. For Spanish nationals, it made coverage more explicitly linked to Social Security entitlement; for undocumented migrants it revoked their equal right to public healthcare granted by Law 4/2000. They were left only with access to emergency care, maternal care (pregnant women, natal and post-natal services), child care under 18 years, asylum seekers and victims of trafficking during recovery and reflection period [16].

Spain can be a good case-study to analyze how a core national policy decision in very controversial issues, such as public healthcare coverage of undocumented migrants, might be differently applied by the different regions. The effectiveness of restrictive policies on access to healthcare for vulnerable population, as cost-saving measures, is at least debatable, while it is undeniable that they generate

important ethical conflicts [17] which create strains within the system and may have political consequences. In this case, the restrictions imposed by this national normative had to be implemented by the Regional Health Authorities. As they have autonomy to pass legislation and to adopt different organizational arrangements due to the highly decentralized design of the SNHS, their decisions may have drawn very different scenarios for undocumented migrants within the same country. In this context, our aim is to compare regional policies regarding entitlement to healthcare for undocumented migrants after RDL 16/2012 in the 17 Autonomous Regions by performing an exhaustive review of the health policy regulations published after the enactment of RDL 16/2012.

2. Methods

This study adopted Walt's definition of health policy: "courses of action that affect the set of institutions, organization, services and funding arrangements of the health system" [18].

2.1. Design

We performed an exhaustive review of the health policy documents regarding entitlement to healthcare for undocumented migrants in the 17 Spanish Regions after the enactment of RDL 16/2012, published between 20th April 2012 and 1st January 2014 in Spanish, Catalan or Galician.

2.2. Search strategy

We used the following terms ("undocumented" OR "irregular" OR "illegal") AND ("migrants" OR "immigrants") AND ("access to healthcare" OR "entitlement to healthcare" OR "healthcare exclusion" OR "healthcare coverage policies") AND ("law" OR "regulation" OR "instruction" OR "order" OR "report" OR "news") in different sources. An initial search was carried out in Spanish Regional Official Gazettes. Second, we looked for related documents in official websites of all regional departments with health or immigration competences and, eventually, we contacted in one case directly with them by e-mail. In addition, we used a general search engine (Google©) to locate any documents that had not be found by other sources. Finally, we performed a specific search for Regional Appeals to the Constitutional Court published on the Spanish Official Gazette (BOE) (Appendix A).

2.3. Analysis of documents

We defined several dimensions and indicators based on both published and grey literature, official reports, and publications from nongovernmental organizations (NGOs) caring for undocumented migrants healthcare coverage [5,19].

In a first step, we classified the type of action adopted by the different regional policies regarding SNHS coverage for undocumented migrants into three dimensions: legal, legislative and administrative actions. We considered as *legal actions* those taken before a court, which in this case

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