



Health for Undocumented Migrants
and Asylum seekers

ACCESS TO HEALTH CARE FOR UNDOCUMENTED MIGRANTS AND ASYLUM SEEKERS

LAW AND PRACTICE

ITALY

ITALY

HEALTH SYSTEM

Italy has a tax-based National Health Service based on the principle of solidarity and seeking to grant universal coverage to a uniform level of care throughout the country. Responsibilities are shared among the central government and the regions. Local health authorities are responsible for the delivery of health care services at the local level. This system is combined with complementary private health insurance.

LEGAL ENTITLEMENTS TO ACCESS HEALTH CARE

The Italian Constitution guarantees everyone's right to health and access to health care free of charge for indigent people¹. The whole population "regardless of individual or social status" is entitled to access the basic benefit package ("*Livelli Essenziali di Assistenza sanitaria*") within the National Health Service². To this aim, **nationals and authorised residents** have to register with the NHS at the local health administration (*Azienda Sanitaria Locale, ASL*) that will provide them with the "health card" (" *tessera sanitaria*"). Registering in the NHS is free of charge for workers or self-employed individuals who pay income taxes, unemployed people who are enrolled with an employment agency, persons with refugee status, asylum seekers, and children of all these categories of persons. People who do not fit these requirements will have to pay approximately 388€³.

The basic benefit package is determined by the central government and it is comprised of all types of care with some exceptions such as aesthetic surgery, ritual male circumcision, vaccinations for abroad visits, and physiotherapy for transitional or minor problems⁴.

While some health services comprised in the basic benefit package are completely free of charge, some others are co-paid by the user through a moderating fee ("*ticket*"): specialist consultations, day hospitalisation after diagnosis procedures, some pharmaceuticals, thermal assistance, and out-clinic rehabilitation. Regarding the amount and payment of the "*ticket*", the payments are different among regions and some exceptions linked to age, income⁵, and type of illness, including work-related disability (above 2/3), partial blindness, deaf-mute, rare illness, early diagnosis and screening, maternity care, HIV prevention, and services against epidemics provided by law⁶.

1. Article 32 of the Italian Constitution: "*La Repubblica tutela la salute come fondamentale diritto dell'individuo e interesse della collettività, e garantisce cure gratuite agli indigenti (...)*".

2. See capo I.1 of Legge n. 833 - *Istituzione del servizio sanitario nazionale* of 23 December 1978.

3. See www.stranieriinitalia.it

4. There are also other exceptions depending on the "clinic appropriateness" criteria. See Ministero della Salute, *Libro bianco sui principi fondamentali del servizio sanitario nazionale*, 2008, pp. 36-37.

5. Children under six and people over sixty-five as long as their family income does not exceed € 36,151.98; people over sixty receiving minimum pension benefits with a family to care for as long as the family's income does not exceed 8,263.31 (if taking care of the spouse) and 11,362.05 (if not taking care of the spouse) (to this amount, it is added 516.45 for each child); those whose disability exceeds 2/3; and those receiving invalidity benefit from the state.

6. See Ministero della Salute, *Libro bianco*, pp. 60-62.

Asylum seekers have the right to register in the Italian National Health System and receive health care on equal grounds as nationals and upon the same conditions.

Undocumented migrants are not entitled to register in the NHS however, since 1998, they can access to the services offered by the National Health System as long as they are granted a “STP code” (*Stranieri Temporaneamente Presenti* – temporary residing foreigner code)⁷.

The “STP code” allows them to access (free of charge or upon the payment of a nominal contribution, depending of the type of care) a wide range of health services: a) “urgent” and “essential” medical care (including continual treatment); b) preventive care; c) care provided for public health reasons including prenatal and maternity care, care for children, vaccinations, and diagnosis and treatment of infectious diseases.

While the concept of “urgent medical care” is defined narrowly as care that cannot be postponed without jeopardising the migrant’s life or damaging his/her health, the concept “essential medical care” is very broad and is connected to diseases which are not dangerous in the short term, but which could subsequently entail serious damages and risks for the migrant’s health.

The “STP code” is anonymous, free of charge and has a validity of six months with possibility of renewal. It is granted by the ASL and can be obtained by undocumented migrants at anytime. To obtain it, they also have to apply for the “indigence status” (*stato di indigenza*) declaring their precarious economic situation. This “status” does not however excuse them from the obligation to pay the “ticket”. In March 2008, a new decree of the Ministry of Economy and Finance has included undocumented migrants among the categories of persons who do not have to pay the “ticket” for any medical service. This provision is however mostly unknown and therefore largely unapplied⁸.

Very recently, there has been an attempt by the government to require undocumented migrants to pay the full cost of the care received and to replace the prohibition that health providers denounce undocumented migrants by the duty to denounce (in the original proposal) and then by a choice of denouncing to be made by health professionals according to their freedom of conscience (in the amended text). Fortunately, none of these proposals were ever passed⁹.

7. Regarding the system applying to undocumented migrants see Articles 35 and 43 of the *Decreto Legislativo n. 286 - Testo Unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero*, *Gazzetta Ufficiale n.191 del 19 agosto 1998 - Supplemento Ordinario n. 139 of 25 July 1998*; Article 43 of the *Decreto del Presidente della Repubblica n. 394 -Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero a norma dell'articolo 1, comma 6 del Decreto Legislativo n. 286 de 25 luglio 1998 of 31 August 1999*; *Gazzetta Ufficiale n.190 - Supplemento Ordinario n. 258 of 3 November 1999*; Section II B of the *Circolare n. 5 del Ministero della Sanità of 24 March 2000*.

8. See 8.27 allegato 12 of the *Decreto del Ministero dell'Economia e della Finanza of 17 March 2008*.

9. See *Disegno di Legge 2180 - Disposizioni in materia di sicurezza pubblica of 5 February 2009*; *Legge n. 38 - Conversione in legge, con modificazioni, del decreto-legge 23 febbraio 2009, n. 11, recante misure urgenti in materia di sicurezza pubblica e di contrasto alla violenza sessuale, nonché in tema di atti persecutori*, *Gazzetta Ufficiale n. 95 del 24 aprile 2009 of 23 April 2009*.

ADULTS CARE

EMERGENCY CARE

NATIONALS/AUTHORISED RESIDENTS

Entitlements:

Access free of charge.

Conditions:

▶ To register in the NHS and show the “health card”.

ASYLUM SEEKERS

Entitlements:

Same as nationals.

Conditions:

Same as nationals.

UNDOCUMENTED MIGRANTS

Entitlements:

Same as nationals.

Conditions:

▶ To obtain the “STP code” (a STP code is provided immediately).

PRIMARY AND SECONDARY (OUTPATIENT) HEALTH CARE

NATIONALS/AUTHORISED RESIDENTS

Entitlements:

Access free of charge for primary care and co-paid (moderating fee) for secondary care.

Conditions:

- ▶ To register in the NHS and show the “health card”;
- ▶ To pay the “ticket” (only for secondary care, around 16 €). Exceptions: linked to age, income and type of illness, including work-related disability (above 2/3), partial blindness, deaf-mute, rare illness, early diagnosis and screening, HIV prevention and services against epidemics provided by law; and
- ▶ Previous authorisation by family doctor to access secondary care.

ASYLUM SEEKERS

Entitlements:

Same as nationals.

Conditions:

Same as nationals, (although in their case they have to submit a valid certificate showing that they have formally applied for asylum to get registered in the NHS).

UNDOCUMENTED MIGRANTS

Entitlements:

Access free of charge ONLY if considered “essential” or of a preventive nature. No possibility to register with a family doctor.

Conditions:

- ▶ To obtain the “STP code”; and
- ▶ In practice, they also pay the moderating fee. Problem: No possibility to register with a family doctor, thus problems to access primary and secondary care since secondary care is provided only if previously authorised by the family doctor.

HOSPITALISATION (INPATIENT CARE)

NATIONALS/AUTHORISED RESIDENTS

Entitlements:

Access co-paid (moderating fee).

Conditions:

- ▶ To register in the NHS and show the “health card”; and
- ▶ Pay the “ticket” for day hospitalisation after diagnosis procedures (around 45€). Exceptions: linked to age, income and type of illness, including work-related disability (above 2/3), partial blindness, deaf-mute and rare illness.

ASYLUM SEEKERS

Entitlements:

Same as nationals.

Conditions:

Same as nationals.

UNDOCUMENTED MIGRANTS

Entitlements:

Access free of charge ONLY if considered “essential”.

Conditions:

- ▶ To obtain the “STP code”; and
- ▶ In practice, they also pay the moderating fee.

ANTE AND POST NATAL CARE

NATIONALS/AUTHORISED RESIDENTS

Entitlements:

Access free of charge.

Conditions:

- ▶ To register in the NHS and show the “health card”.

ASYLUM SEEKERS**Entitlements:**

Same as nationals.

Conditions:

Same as nationals.

UNDOCUMENTED MIGRANTS**Entitlements:**

Same as nationals.

Conditions:

Two different situations:

- ▶ To obtain the “STP code”.

ADULTS TREATMENT

MEDICINES

NATIONALS/AUTHORISED RESIDENTS**Entitlements:**

Access free of charge or co-paid (payment of certain amount of the cost depending on the category of medicines).

Conditions:

- ▶ To register in the NHS and show the “health card”; and
- ▶ To pay certain amount of the cost of the pharmaceuticals: 0% for Category A (severe diseases); 50% for Category B and 100% for Category C. Exceptions: Children, people above 65 and persons with specific chronic diseases.

ASYLUM SEEKERS**Entitlements:**

Same as nationals.

Conditions:

Same as nationals.

UNDOCUMENTED MIGRANTS**Entitlements:**

Same as nationals.

Conditions:

- ▶ To obtain the “STP code”; and
- ▶ To pay certain amount of the cost of the pharmaceuticals: 0% for Category A (severe diseases); 50% for Category B and 100% for Category C. Exceptions: Children, people above 65 and persons with specific chronic diseases.

HIV SCREENING

NATIONALS/AUTHORISED RESIDENTS

Entitlements:

Screening anonymous and free of charge.

Conditions:

▶ To register in the NHS and show the “health card”.

ASYLUM SEEKERS

Entitlements:

Same as nationals.

Conditions:

Same as nationals.

UNDOCUMENTED MIGRANTS

Entitlements:

Same as nationals.

Conditions:

▶ To obtain the “STP code”.

HIV TREATMENT

NATIONALS/AUTHORISED RESIDENTS

Entitlements:

Access free of charge.

Conditions:

▶ To register in the NHS and show the “health card”.

ASYLUM SEEKERS

Entitlements:

Same as nationals.

Conditions:

Same as nationals.

UNDOCUMENTED MIGRANTS

Entitlements:

Same as nationals.

Conditions:

▶ To obtain the “STP code”.

TREATMENT OF OTHER INFECTIOUS DISEASES

NATIONALS/AUTHORISED RESIDENTS

Entitlements:

Access free of charge for treatment of “exonerated pathologies” in outpatient special departments.

Conditions:

▶ To register in the NHS and show the “health card”.

ASYLUM SEEKERS

Entitlements:

Same as nationals.

Conditions:

Same as nationals.

UNDOCUMENTED MIGRANTS

Entitlements:

Same as nationals.

Conditions:

▶ To obtain the “STP code”.

CHILDREN

NATIONALS/AUTHORISED RESIDENTS

Entitlements:

Access free of charge for children below eighteen years.

Vaccination: Some are compulsory¹⁰, others are recommended.

Conditions:

▶ To register in the NHS and show the “health card”.

ASYLUM SEEKERS' CHILDREN

Entitlements:

Same as nationals.

Conditions:

Same as nationals.

10. Diphtheria, tetanus, polio and hepatitis B.

UNACCOMPANIED ASYLUM SEEKING CHILDREN

Entitlements:

Same as nationals.

Conditions:

Same as nationals.

UNACCOMPANIED (MIGRANT) CHILDREN

Entitlements:

Same as nationals.

Conditions:

▶ Same as nationals (they are granted a residence permit and registered in the NHS)¹¹.

CHILDREN OF UNDOCUMENTED MIGRANTS

Entitlements:

Same as nationals¹².

Conditions:

▶ To obtain the “STP code”.

DETENTION CENTRES

ADULTS

Access to “essential” health care.

CHILDREN

Children (unaccompanied or accompanied) cannot be confined in detention centres but in centres for minors and open reception centres. They access health care in health centres or hospitals of the National Health System¹³.

11. PICUM, *Undocumented children in Europe: Invisible Victims of Immigration Restrictions*, 2008, p. 50.

12. Article 35(3)(b) of the *Testo Unico*.

13. European Parliament – Directorate General internal policies, “*Conditions des ressortissants de pays tiers retenus dans des centres (camps de détention, centres ouverts, ainsi que des zones de transit), avec une attention particulière portée aux services et moyens en faveur des personnes aux besoins spécifiques au sein des 25 Etats membres de l’Union Européenne*”. Rapport de visite en Italie, 2007, pp. 10-11 (REF: IP/C/LIBE/IC/2006-181), available at www.cimade.org/uploads/File/admin/rapport_Italie.pdf. Pregnant women cannot either be confined in a detention centre (CPTA), only in open reception centres (CPA).

TRANSFER OR ACCESS TO INFORMATION BY THE AUTHORITIES

Transfer or access to information about administrative status:

It continues to be prohibited by law that health institutions and professionals denounce undocumented migrants to the immigration authorities¹⁴. The sole exception is for public security reasons or if there has been an injury connected to a criminal offence.

NON EXPULSION FOR MEDICAL REASONS

NO RESORT TO EXPULSION SANCTIONS OR SUSPENSION OF EXPULSION ORDERS FOR MEDICAL REASONS

Although it is not provided formally by the law¹⁵ according to the Italian Constitutional Court, Articles 2 and 32 of the Italian Constitution (protection of human beings « inviolable rights and everyone's right to health) and Article 2 of the "Single text on Immigration" (protection of human rights of all foreigners present in Italy or at the border according to national law and international conventions and general principles)¹⁶ constitute enough legal bases to protect seriously ill undocumented migrants against expulsion inasmuch as the expulsion can entail a irreparable harm to the migrant's right to health¹⁷ ».

RESIDENCE PERMIT FOR MEDICAL REASONS ("RESIDENCE PERMIT FOR HUMANITARIAN REASONS")

The legal regulation of this type of permit is extremely insufficient and unclear. The law provides for a "residence permit for humanitarian reasons". However, it neither clearly specifies the scope of application, nor does it define what should be understood by the term "humanitarian character". In principle, nothing seems to prevent an interpretation of this term as to include a serious illness.

WHO ?

Severely ill undocumented migrants and severely ill rejected asylum seekers¹⁸.

14. Article 35(5) of the *Testo Unico*.

15. Children below eighteen, pregnant women and mothers whose children are below six months are however protected against expulsion. This also applies to persons who risk to be prosecuted on grounds of race, gender, language, citizenship, religion, political opinion and personal or social condition. See Articles 19(1) and (2) of the *Testo Unico*.

16. See Article 2 of the *Testo Unico*.

17. See Judgement of the Constitutional Court n. 252 of 17 July 2001.

18. Article 5(6) of the *Testo Unico* and Article 11(1)(c ter) of the *Decreto del Presidente della Repubblica N. 394* of 31 August 1999. As for rejected asylum seekers, see Article 32(3) of the *Decreto legislativo n. 25 - Attuazione della direttiva 2005/85/CE recante norme minime per le procedure applicate negli Stati membri ai fini del riconoscimento e della revoca dello status di rifugiato* of 28 January 2008.

19. See Article 34(5) of the *Decreto Legislativo n. 251* of 19 November 2007.

20. The following provision could refer to the duration but it is not clear as to whether it is applicable: Article 5(3) (e) of the *Testo Unico*. See also Article 11(1) of the *Decreto del Presidente della Repubblica n. 394* of 31 August 1999: “the duration will never exceed the time of the documented necessity (*“non può essere superiore alle necessità specificamente documentate”*)”.

21. Rejected asylum seekers with a residence permit on humanitarian grounds have the same rights than those recognised to persons with “subsidiarity protection”. See Art. 34 of the *Decreto Legislativo n. 251* of 19 November 2007.

22. Judgements of the Regional Administrative Court of Liguria, n. 218 of 15 March 2006 and of the Regional Administrative Court of Lazio I-ter, n. 5344 of 9 June 2006.

CONDITIONS:

- ▶ “Serious humanitarian reasons”.

Two situations:

- If the applicants are undocumented migrants:
 - ▶ Competent authority: “*Questura*” (police).
- If applicants are rejected asylum seekers:
 - ▶ Asylum has been rejected.
 - ▶ The law specifically provides that this permit will be granted by the “*Questura*” of the area of residence upon request of the authority dealing with the application for asylum¹⁹.

DURATION:

- ▶ No clear applied legal provision. According to practice, the duration is typically one year²⁰.

ACCESS TO HEALTH CARE:

- ▶ They are entitled to register with the National Health Service and access health care on equal grounds as nationals and other authorised residents²¹.

The jurisprudence has gone beyond this weak legal regulation. In fact, based on the abovementioned ruling of the Constitutional Court, the Administrative Courts have stated several times that “*undocumented migrants residing in Italy have the right to obtain an appropriate residence permit on medical grounds for the necessary time to access “urgent medical care” or “care that they cannot receive in the country of origin”*”²². This jurisprudence however still needs to be reflected in the Italian legislation. In any case, even the jurisprudence lacks precision for instance, it does not give any guidance for cases where the treatment is available and accessible in the country of origin, but he/she cannot travel due to medical reasons.

IN PRACTICE

THE VISION OF MÉDECINS SANS FRONTIÈRES²³ ITALY REGARDING THE SITUATION IN PRACTICE²⁴

Access to health care for undocumented migrants – adults and children:

Obtaining the STP code is rather easy and there are not major barriers. However, the existence of wide legal entitlements does not automatically guarantee the effective of rights by undocumented migrants. The main practical obstacles that undocumented migrants encounter concern language and cultural barriers, lack of information, and the fear to be requested to pay or fear to be reported to the police (even if the law forbids doctors to denounce them). These circumstances prevent migrants from seeking health care sometimes even at clinics run by volunteer organisations.

Free-of-charge access to dental or mental care is not easy and can be considered as a structural problem that also affects Italian nationals. There are typically long waiting lists.

Undocumented children face similar obstacles as adults. However, it is important to note that they do not have access to a paediatrician.

Since 1999, Médecins Sans Frontière has managed health assistance projects in areas where there are many undocumented migrants and asylum seekers facing a situation of serious exclusion and marginalization and without any access to health care. The main activities carried out are direct basic health care assistance, cultural mediation to avoid language barriers, outreach to raise awareness among migrants, advocacy to raise awareness among health institutions, and demonstrations to raise awareness among political institutions and local population. The goal of Médecins Sans Frontière is to cease medical assistance activities and cultural medication as soon as these tasks are taken over by the local health institutions.

Each year, in some areas of Southern Italy, a massive flow of seasonal migrant agricultural workers takes place. Local authorities either do not deal with this trend at all or, in some sporadic cases, adopt certain measures only applicable to authorised migrants. Despite legal entitlements, seasonal workers are not granted access to health services and live in grave conditions of marginalisation and social exclusion. This is determined both by the lack of information services catering the immigrant community, and to the lack of first-line clinics focused on undocumented migrants.

23. *Médecins sans Frontières*
Italy is not a member of the HUMA network however their practice in the field of undocumented migrants' health in Italy is a precious source of information in the framework of this report.

24. About the situation in practice and the role of civil society in Italy, see also PICUM, *Access to health care for undocumented migrants*, pp. 53-59.

Access to health care for asylum seekers - adults:

Asylum seekers who do not reside in an asylum centre encounter problems to receive care from a general practitioner. They also face administrative barriers. To gain full access to health care, they need to prove that they regularly live in a house by showing an official lease or an official statement of the owner of the house. The effect of these conditions is that many houseless asylum seekers access health care on same conditions as undocumented migrants.

In reception centres (CARA) for asylum seekers, there is a lack of standardization of patient management. Pregnant women and inmates with diseases do not receive well-structured professional medical care, provided by specifically trained professionals. The care received in the centres appeared to be strongly dependent on the attitude and willingness of the medical staff working in each centre. Patients often received a placebo instead of adequate medication. Médecins Sans Frontière visited the reception centres in November-December 2008 and is currently drafting a report on this issue.

Access to health care in detention centres:

The quality of medical services in detention centres (CIE) has often been questioned, and in general the outside world is unable to see what goes on inside the centres. There is an unstructured “emergency” approach, consisting of isolated activities and sporadic management of individual cases. Inmates are rarely provided with medical documentation when they leave. This is even true for patients with known diseases. In general, it seems that some forms of health care (e.g. dental care, mental care) are postponed during the detention period. Patients often received a placebo instead of adequate medication. Médecins Sans Frontières visited the detention centres in November-December 2008 and is currently drafting a report on this issue.

Transfer or access to information about administrative status:

Italian legislation continues to prohibit health administration to report undocumented migrants to the police. Nevertheless, after the attempt by the government to erase this prohibition in 2008-2009, according to unofficial estimates of the trade unions (CGIL-CISL-UIL), the amount of undocumented migrants seeking medical help has decreased by nearly 10-20% in the first three months of 2009.

Non expulsion for medical reasons:

A permit to stay for humanitarian reasons on medical grounds can be obtained when a medical report certifies that adequate medical care is not available in the country of origin (e.g. lack of medicines, uncertainty about treatment) or

that access to health care is very expensive, or the migrant cannot travel due to medical reasons.

Many doctors do not issue these medical certificates simply because they do not know how important it is to report this information about the patient or because they have no idea about the national health system in the migrant's country of origin.

A permit on medical grounds always has to be renewed at least once per year. Throughout the procedure, the applicant cannot claim the right to shelter nor to health insurance. When the applicant gets a temporary residence permit, then he or she can ask for the right to work.

Medici Senza Frontiere - Italia

The first report of the HUMA network, available on www.huma-network.org, seeks to provide an updated overview of the different systems regulating access to health care for undocumented migrants and asylum seekers in ten Member States (Belgium, France, Germany, Italy, Malta, the Netherlands, Portugal, Spain, Sweden and the UK) and show the existing discriminations in regards to legal entitlements.

It also deals more specifically with health care entitlements for individuals confined in detention centres and the residence permits or other mechanisms established by national legislations to protect seriously ill undocumented migrants and asylum seekers who cannot effectively access treatments in their home countries against deportation.

In 2011, the HUMA network will publish an updated version of this report covering the situation in nine additional countries: Austria, Czech Republic, Cyprus, Finland, Greece, Hungary, Poland, Romania and Slovenia.



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THE HUMA NETWORK

The HUMA network's general objective is to promote access to health care on equal grounds as nationals for undocumented migrants and asylum seekers within the European Union.

It is an advocacy network active at national and European level.

It is for now constituted by 12 European NGOs, including the delegations and offices of Médecins du Monde in Europe, and a coordination team based in Paris, Brussels and Madrid.

The HUMA network's members develop activities related to health and migration and in particular, targeting undocumented migrants and asylum seekers. They also lead advocacy programs and campaigns at national and European level and contribute to the expertise and data collection of the network.

Médecins du Monde France leads the whole project together with Médecins du Monde Spain and Médecins du Monde Belgium.

For more about the project and its activities, see HUMA network website: www.huma-network.org

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