

ADMINISTRATIVE AND LEGAL REGULATION OF CHILDREN WITH DISABILITIES' HEALTH CARE IN UKRAINE

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Abstract. *The scientific research is focused on the peculiarities of administrative and legal regulation of health care for children with disabilities. Methodology. General scientific and special legal methods of cognition were used during the research, in particular systemic, theoretical and legal, formal and dogmatic, comparative and legal. Results. It is claimed that administrative and legal regulation of health care for children with disabilities is the establishment legislative and regulatory powers of public authorities in the field of providing medical and rehabilitation care to children with disabilities, the legal status of rehabilitation institutions, the conditions and procedure for granting the status of a child with disabilities. Peculiarities of administrative and legal regulation of health care for children with disabilities have been determined: the powers in the field of legal regulation of providing medical care to children with disabilities are vested to the Ministry of Health of Ukraine; the status of a child with disabilities is established by the medical and advisory commission of a health care institution; there is the list of centers for medical and social rehabilitation of children; the State Standard Program for the rehabilitation of children with disabilities has been approved; it is provided that children with disabilities get permits to state health facilities at the expense of budget funds on a priority basis, the possibility of sending children with disabilities to special schools and educational rehabilitation centers has been established.*

It has been concluded that administrative and legal regulation of the health care of children with disabilities consists of the following: establishing the powers of the Ministry of Health of Ukraine in the field of providing medical and rehabilitation care to children with disabilities; determining the conditions and procedure for establishing the status of a child with disabilities, regulating the list of medical and rehabilitation services that can be provided to this category of patients; establishing the legal status of rehabilitation institutions; determining the procedure and conditions for sending a child with disabilities to special schools and educational rehabilitation centers; establishing the procedure and conditions for sending a child to health care facilities.

Key words: *child with disabilities, health care, rehabilitation assistance, powers, legal regulation, public authority, rehabilitation institution, health improvement.*

1. Introduction

Children with disabilities belong to one of the most vulnerable social groups, because they constantly need medical and rehabilitation assistance, outside care, and taking certain medications. That is the reason why the state must create appropriate organizational and legal conditions for the health care of children with disabilities. Norms of administrative law can determine the powers of public authorities in the healthcare sector for children with disabilities, the legal status of children's rehabilitation and health facilities. The listed factors determine the relevance of the chosen research topic.

The problems of legal regulation of the health care of children with disabilities were studied by such scholars as L. O. Kozhura [1] and D. V. Pereverziev [2]. The works of these researchers are focused on the rights of children with disabilities and specific features of their protection. At the same time, they do not highlight the problems of administrative and legal regulation of the health care of children with disabilities. The scientific work of V. I. Teremetskyi and S. V. Knysh, which is focused on the demarcation of administrative and civil relations in the healthcare sector [3]. It is of value to our research, although it does not directly address health care issues for children with disabilities. The problems of socialization of children and youth with disabilities in Poland and Ukraine were studied by M. V. Perfilieva and I. O. Karpynch [4]. However, the indicated research was carried out in the

field of psychology, not jurisprudence. Therefore, the problem of determining the legal status of rehabilitation institutions, the procedure and conditions for establishing the status of a child with disabilities and the powers of public authorities in this area require detailed coverage.

The purpose of the research is to identify specific features of legal regulation of health care for children with disabilities.

2. Research methodology

The methodological basis of the research became general scientific and special legal methods of cognition. The method of philosophical dialectics is worth mentioning among the scientific methods, which is revealed by using the methods of analysis and synthesis, the descent from the simple to the complex, from the abstract to the concrete, as well as the methods of modeling, abstraction, idealization and formalization. The special and legal methods used in the research combine systemic, theoretical and legal, formal and dogmatic, comparative and legal methods of cognition, as well as the method of state and legal modeling.

3. Results

Administrative and legal regulation of the health care of children with disabilities in Ukraine is carried out on the basis of a number of norms of legislative and regulatory acts. In particular, families having children with physical

or mental developmental defects get medical and social assistance in accordance with Part 2 of the Art. 63 of the Fundamentals of the Legislation on Health Care (hereinafter referred to as the Fundamentals) and in the manner established by the Cabinet of Ministers of Ukraine [5]. The indicated norm declares the general principles of providing medical and social assistance to children with disabilities.

L. O. Kozhura claims that the regulatory and legal provision of health care for children with disabilities includes special orders of the Ministry of Health of Ukraine, which regulate the issue of specialized medical and rehabilitation care for children with disabilities, state support programs, standards of medical care for children with disabilities [1, p. 22]. V. I. Teremeyki and S. V. Knysh emphasize that administrative relations in the healthcare sector involve the exercise of state and authoritative powers of public authorities in relation to the management of health care institutions [3, p. 49]. Agreeing with the statements of the researchers, we try to consider in details those regulatory legal acts that regulate administrative relations in the field of health care of children with disabilities.

The tasks related to the legal regulation of providing medical care to persons with disabilities are entrusted to the Ministry of Health of Ukraine. According to subparagraphs 10 and 18 of the paragraph 4 of the Regulations on the Ministry of Health of Ukraine, it is the very Ministry that approves the procedure for providing medical care to persons with disabilities, creates, reorganizes and liquidates health care institutions [6]. It is quite clear that the Ministry of Health of Ukraine has the main powers in the field of health care for children with disabilities.

Legal principles for determining the status of a child with disabilities and providing rehabilitation assistance to such children are established in the Law of Ukraine "On the Rehabilitation of Persons with Disabilities in Ukraine" (hereinafter - the Law No. 2961-IV). First of all, the indicated legislative act regulates the procedure for establishing the status of a child with disabilities. According to paragraph 2 of Part 1 of the Art. 1 of the Law No. 2961-IV, a child with disabilities is a minor with a permanent limitation of life activity, who has been diagnosed with a disability in accordance with the procedure established by the law. According to Part 1 and Part 7 of the Law No. 2961-IV, medical and social examination for children with limitations in daily functioning is carried out by the medical and advisory commissions of health care institutions (hereinafter referred to as the MAC HCI). The commission establishes the category of "child with disabilities" exclusively for minors with a high degree of health loss or with extreme dependence on permanent external care [7]. Thus, the basis for granting the status of a child with disabilities to a minor is permanent limitations of life activities and the need for outside help.

The legal status of MAC HCI is established in the relevant provisions approved by the Government of Ukraine (hereinafter - the Regulations on MAC HCI). The commission in accordance with paragraph 3 of the Regulations on MAC HCI consists of the chairman, doctors by the specialty, a rehabilitation expert, a psychologist or a practical psychologist. Representatives of social protection agencies and psychological-medical-pedagogical consultations may participate in the meetings of the commission. According to paragraph 7 of the Regulations on MAC HCI, the commission determines the presence of a persistent disorder of the child's body functions, the child's need for medical, rehabilitation and social services, draws up an individual program for the rehabilitation of a child with disabilities and performs other duties [8]. Therefore, the key role in granting the status of a child with disabilities belongs to MAC HCI.

The procedure for establishing disability to children is also determined by a special Resolution of the Government of Ukraine (hereinafter - the Procedure for establishing disability to children). According to paragraph 4 of the Procedure for establishing disability to children, the doctor who provides primary medical care refers the child to MAC HCI with the relevant list of documents. The commission examines the child and reviews the submitted documents. Paragraph 14 of the Procedure for establishing disability to children provides the list of the main types of disorders of the child's body functions: mental functions impairment, speech disturbance and language functions, disturbed circulation, breathing trouble, digestive damage, dyshematopoiesis and metabolic disorder, dysimmunity [9]. The indicated regulatory act regulates the procedure of examining a child with impaired body functions, limitations in life activities, and determining the status of a child with disabilities.

It is worth emphasizing that the Art. 16 of the Law No. 2961-IV stipulates general requirements for the state standard rehabilitation program for children with disabilities. Such a program should establish a list of psychological and pedagogical, professional, labor, physical culture, sports and social rehabilitation services that must be provided to a child with disabilities [7]. The state standard rehabilitation program for persons with disabilities contains the list of services provided to children with disabilities. In particular, such services are established for children with oncological diseases, with disorders of the musculoskeletal system, mental and intellectual disorders, disorders of hearing, vision and internal organs. Medical, psychological and pedagogical, physical, professional, labor, physical culture and sports, social rehabilitation measures should be planned to be conducted. For example, medical rehabilitation covers restorative therapy, preventive measures, medical patronage and sanatorium treatment. Physical rehabilitation involves the provision of therapeutic massage, physical therapy, occupational therapy and kinesitherapy. Psychological and pedagogical rehabilitation involves psychological counseling and the provision of educational services [10]. Therefore, the state standard rehabilitation program for children with disabilities

involves a wide list of medical and rehabilitation services that should be provided to this category of children.

Taking into account the requirements of the state standard program for the rehabilitation of children with disabilities and in accordance with the Art. 23 of the Law No. 2961-IV of MAC HCI develops an individual rehabilitation program for a child with disabilities. The specified program should contain specific volumes, methods and terms of carrying out rehabilitation measures, which should be carried out in relation to a child with disabilities [7]. The Regulations on the individual rehabilitation program of a person with disabilities was also approved by a certain Resolution of the Government of Ukraine. This document defines the optimal types, forms, volumes, place and terms of carrying out medical, psychological and pedagogical, physical, professional, labor, physical culture and sports, household and social rehabilitation, the need for technical and other means of rehabilitation, medical products for a specific child with disabilities [11]. It is the individual rehabilitation program that contains the volume of medical and rehabilitation services that a child with disabilities should receive. The services listed in the individual program determine the specific features of health care for a child with disabilities.

We can conclude that administrative and legal regulation of protecting children with disabilities consists in establishing the procedure for acquiring such a status, the powers of medical and advisory commissions of health care institutions, establishing a list of medical and rehabilitation services that can be provided within the framework of the rehabilitation program.

Legislative and regulatory acts determine the legal status of rehabilitation institutions that carry out measures to protect the health of children with disabilities. In particular, paragraph 23 of Part 1 of the Art. 1 of the Law No. 2961-IV establishes the definition for a rehabilitation facility as an institution, enterprise or establishment, including their departments or structural subdivisions, regardless of the ownership form, which carries out rehabilitation of persons with disabilities and children with disabilities in accordance with state social standards in the field of rehabilitation [7]. We should note that the above definition is focused on rehabilitation services for children with disabilities.

Various rehabilitation and health care institutions are named in the legislative and regulatory acts, which can provide rehabilitation and medical services to children with disabilities according to their purpose. Children's homes for children with physical or intellectual disabilities under the age of four, educational and rehabilitation centers for children who need correction of physical or mental development are among the rehabilitation institutions according to the Art. 12 of the Law No. 2961-IV [7]. The List of health care institutions includes rehabilitation centers for children with organic nervous system disturbance, centers for medical and social rehabilitation of children, centers for medical rehabilitation and palliative care for children and children's health facilities [12]. The provision of medical and rehabilitation services according to the state standard program for the rehabilitation of

persons with disabilities is entrusted to rehabilitation institutions, rehabilitation departments of health care institutions, sanatoriums and resorts, inclusive resource centers and educational institutions of all types [10]. Thus, administrative and legal regulation of the health care of children with disabilities provides for the establishment of the legal status of various rehabilitation institutions that can provide medical and rehabilitation care to children with disabilities.

Legislative and regulatory acts provide the procedure for sending children with disabilities to specialized institutions for care, support, provision of educational and rehabilitation services. In particular, children with defects of physical or mental development requiring medical and social assistance and special care may, according to Part 1 of the Art. 63 of the Fundamentals, be kept in specialized children's institutions at the expense of the state by the request of their parents [5]. Part 2 of the Art. 35 of the Law of Ukraine "On Complete General Secondary Education" also provides the possibility of creating special schools and educational rehabilitation centers for children with intellectual, physical or sensory disabilities [13]. The need to send a child to special schools and educational rehabilitation centers is determined by the employees of inclusive resource centers. The tasks of such centers according to paragraph 8 of the Regulations on inclusive resource centers include the conduction of a comprehensive assessment of the child's development, determining the type and category of special educational needs, the degree of their manifestation, provision of psychological and pedagogical, correctional and developmental services to children [14]. It is the conclusion of the comprehensive psychological and pedagogical assessment of the child's development, prepared by the employees of the inclusive resource center, is the basis for enrolling a child with disabilities in a special school and educational rehabilitation center.

The legal status of special schools for children with disorders of intellectual development, hearing, vision, locomotor apparatus and other disorders is determined by a separate Resolution of the Government of Ukraine. Correctional and developmental, psychological and pedagogical services in addition to educational ones are also provided to children with disabilities in such special schools [15]. Educational and rehabilitation centers involve to obtain education students with complex developmental disorders, in particular, those who do not take care of themselves and need external care and support. Educational and rehabilitation centers are being created for children with hearing impairments combined with other disorders, as well as visual impairments combined with deafblindness, severe musculoskeletal disorders requiring individual care and support [16]. M. V. Perfilieva and I. O. Karpych emphasize the need to create socio-pedagogical conditions for the socialization of children with functional limitations into the student environment. Scholars claim that the public should be informed about the problems of children with disabilities; and a comfortable psychological micro-environment

should be created for such children in an educational institution [4, p. 103]. We can summarize that an important area of administrative and legal regulation of the child's health care is the establishment of the procedure for sending a child with disabilities to special schools and educational rehabilitation centers.

An important area of health care for children with disabilities is the possibility of improving the health of such children. Children with disabilities according to paragraphs 13 and 14 of Part 1 of the Art. 1 of the Law of Ukraine "On Rest and Recreation of Children" belong to such a category of children as "children who need special social attention and support". The Law also distinguishes a category of children with special physical and mental needs who cannot stay in health and recreation facilities on their own, need individual care and creation of special conditions. Besides, the specified legislative act establishes the legal status and types of children's health and recreation facilities, the procedure and conditions for sending children to such institutions [17]. There is a separate Resolution of the Government of Ukraine focused on legal regulation of the procedure for sending children to children's rehabilitation and recreation facilities at the expense of the state budget. Rehabilitation of children with disabilities is provided as a priority [18]. Special Order of the Ministry of Social Policy of Ukraine approved the procedure for sending children for recovery and recreation to the State Enterprise "Ukrainian Children's Center "Moloda Hvardiia" at the expense of budget funds. Children with disabilities capable of self-care can receive a free permit from the structural subdivisions of the Ministry of Social Policy of Ukraine [19]. Therefore, administrative legislation establishes the conditions for receiving health care services for a child with disabilities.

D. V. Pereverziev emphasizes that the right of children with disabilities to health care needs proper legal protection. Employees of the Ministry of Health of Ukraine and the Ministry of Social Policy of Ukraine must not assume any violations of the law when making decisions in regard to the health care and rehabilitation of children with disabilities. Any restrictions on the rights of a child with disabilities can be grounds for filing an administrative lawsuit or a statement to the police about improper performance of duties by a medical employee [2, p. 83]. It is worth agreeing with the researcher that parents of children with disabilities can and should take the necessary legal measures to protect their child's rights to specialized medical or rehabilitation care.

4. Conclusions

Administrative and legal regulation of the health

care of children with disabilities is legislative and regulatory establishment of the powers of authorities in the field of providing medical and rehabilitation care to children with disabilities, of the legal status of rehabilitation institutions, of the conditions and procedure for granting the status of a child with disabilities.

The administrative and legal regulation of health care for children with disabilities is as follows:

- establishing the powers of the Ministry of Health of Ukraine in the field of providing medical and rehabilitation care to children with disabilities;
- determining the conditions and procedure for establishing the status of a child with disabilities;
- regulation of the list of medical and rehabilitation services that can be provided to children with disabilities;
- establishing the legal status of rehabilitation institutions and special educational institutions for children with disabilities;
- determining the procedure and conditions for sending a child with disabilities to special schools and educational rehabilitation centers;
- establishing the procedure and conditions for sending a child to health care facilities.

Specific features of administrative and legal regulation of health care for children with disabilities are as follows:

- the powers in the field of legal regulation for providing medical care to children with disabilities are assigned to the Ministry of Health of Ukraine;
- the status of a child with disabilities is established by the medical and advisory commission of a health care institution;
- there is the list of centers for medical and social rehabilitation of children, where a child with disabilities can receive rehabilitation services;
- the State Standard Program for the rehabilitation of children with disabilities determines the list of medical, psychological and pedagogical, professional, labor, physical culture, sports and social rehabilitation services that can be provided to children with disabilities;
- local departments of the Ministry of Social Policy of Ukraine provide permits for children with disabilities to children health care facilities at the expense of budget funds on a priority basis;
- children with severe disorders of physical or mental development may be sent to special schools and educational rehabilitation centers based on the opinion of the inclusive and resource center.

Perspectives for further scientific research may be related to the development of suggestions to improve the legislation regulating the provision of medical and rehabilitation services to children with disabilities.

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