

LEGAL ASPECTS OF MEDICAL CARE AND REHABILITATION OF WAR VETERANS IN UKRAINE

Petrenchenko, Svitlana¹; Kuryliuk, Yurii^{2*}; Yuryk, Olha³

¹Department of Administrative Activity, Bohdan Khmelnytskyi National Academy of State Border Guard Service of Ukraine, Khmelnytskyi, Ukraine

²Department of Theory and History of State and Law, National Academy of Management, Kyiv, Ukraine

³Laboratory of Neuroorthopedics and Pain Problems, Institute of Traumatology and Orthopedics of National Academy of Medical Sciences of Ukraine, Kyiv, Ukraine

[*kuryliuk.yurii@gmail.com](mailto:kuryliuk.yurii@gmail.com)

Abstract

Wars and armed conflicts bring physical and psychological trauma. Therefore, the issues of effective and full realization of the medical rights of war veterans are important. Soldiers should know on the basis of which legal acts and how the issues of their medical and psychological rehabilitation are resolved. To reveal the range of services that war veterans can use, to single out the algorithm of actions when transferring a veteran patient for treatment abroad, to acquaint foreign experts with the structure of medical care for persons who have the status of a participant in hostilities. The study covered 391 patients who were examined at the Institute of Traumatology and Orthopedics of the National Academy of Medical Sciences of Ukraine in the period from 2014 to 2020. The paper also uses statistical data for 2019–2020 and the legal framework for medical care of war veterans in Ukraine, as well as scientific works of Ukrainian and foreign researchers. Methods of analysis, analogy, deduction, comparison, monitoring and generalization are applied. The study identified problems of practical implementation of state policy to provide war veterans with the necessary means of rehabilitation, qualified (in certain cases provided by law) free medical services, including those that can be provided abroad, formed a list of rights of war veterans in the medical field.

Keywords: *medical law, rehabilitation, medical care, human rights, war veterans, combatant*

Introduction

Given the existence of a significant number of local wars in the world, including the Russian Federation's aggression against Ukraine [1], medical care for war veterans is becoming one of the global problems. This is due to the fact that, as rightly noted by Petryshyn et al., taking into account the results of reports on the human rights and quality of health care, we can conclude that the provision of adequate health care is one of the central problems in world practice [2].

Ensuring the medical rights of persons with special legal status, as well as solving problems of treatment and rehabilitation of servicemen, is especially important.

Today there are more than 1.1 million war veterans and almost 200,000 military service veterans in Ukraine. Prolonged hostilities in eastern Ukraine have resulted in casualties and numerous injuries among servicemen. The observations of the authors of this study showed that in combat annually from 0.3 to 3.4% of fighters receive combat spinal injuries, about 16-18% injuries of the extremities with damage to peripheral nerve fibers, more than 25% contusions brain and spinal cord. In addition, servicemen receive mine blasts (68%) and gunshot wounds (32%), which are often combined with damage to the upper and lower extremities. Ukrainian doctors diagnose astheno-vegetative syndromes (72%), cognitive impairments (46%) and radial nerve injuries (15%), reveal numerous multifracture fractures of limb bones, unconsolidated fractures of forearm, shin and foot bones, often injuries of large joints are complicated by the emergence of contractures of the extremities.

Armed conflict brings more than physical trauma, causing short-, medium- and long-term problems – psychological problems such as post-traumatic stress disorder [3], because according to Caddick and Smith, the proportion of veterans who chronically experience this disorder is 15-20% [4].

That is why the issue of exercising the medical rights of war veterans effectively and in full remains very important. In order to receive benefits guaranteed by the state to war veterans, it is necessary to know on the basis of which regulations

will regulate such issues as free dentures, priority hospitalization, priority service in pharmacies, transfer abroad for treatment and more.

Pashkov and others rightly point out that Ukrainian legislation is fragmented on the issue of rehabilitation of servicemen involved in hostilities and does not meet international standards contained in international instruments [5]. Currently in Ukraine there is no clearly developed mechanism for ensuring the rights and interests of servicemen [6, 7, 8], their psychological and social integration at the community level. The problem of involving war veterans in the public life of the community and activating them in the public sector to prevent conflicts remains quite relevant. Fighters returning from eastern Ukraine often remain in so-called "isolation", although society should create conditions for their "inclusion" in the process of solving community problems. Another problem is the danger of post-traumatic stress disorder in combatants and their families, which requires the creation of conditions for the provision of appropriate psychological assistance, to train community members to solve such problems independently, to involve psychologists and experts.

The treatment and rehabilitation of war veterans is often the subject of study by medical researchers and rehabilitation specialists, but lawyers address the issue of military medical rights in fragments and inadequately. This requires conducting and finding ways to improve medical care for combatants, including taking into account the ever-changing social attitudes and practices of medical care in this area, and identifying the range of medical services that war veterans can count on.

The purpose of this study is to analyze the mechanism for providing services related to the rehabilitation of combatants, the provision of free medical services provided by law, as well as to eliminate obstacles to such servicemen in the medical field.

Methods

The study is based on interviews with patients is war veterans who received the status of a participant in hostilities during the fighting in eastern Ukraine. The study covered 391 patients

who underwent a comprehensive neurological examination at the Institute of Traumatology and Orthopedics of the National Academy of Medical Sciences of Ukraine in the period from 2014 to 2020.

The paper also uses statistics for 2019-2020 on medical care for war veterans in Ukraine, as well as the Ukrainian legal framework and research papers of Ukrainian and foreign researchers. The methodological basis of the study in accordance with the purpose and objectives also is the materialist theory of cognition, the leading approach was dialectical.

Results

There is a lot of information on the Internet and in the media about medical rights and benefits for war veterans, advice on their psychological and social rehabilitation, but the information is not structured [9]. Soldiers who are accustomed to a clear and regulated lifestyle have doubts about the accuracy of such information. Returning from hostilities to civilian life, demobilized servicemen are often in so-called "isolation" from society.

Today, every community has war veterans who cannot solve their problems on their own, in fact they do not have specific ways to solve them, they cannot establish cooperation with local governments and public authorities at the system level. Veterans have specific needs at the community level, because that is where they return from the conflict zone, it is in the community that veterans need to defend their interests in the future, because, as Romaniuk and Kidd rightly point out, the experience of psychological adaptation of veterans military service, characterized by large losses (cultural, social, etc.) [10].

The legislation of Ukraine classifies war veterans, persons with disabilities as a result of the war, and participants in the war as war veterans. Participants in hostilities, in accordance with the Resolution of the Cabinet of Ministers of Ukraine "On approval of the Procedure for granting combatant status to persons who defended the independence, sovereignty and territorial integrity of Ukraine and participated directly in the anti-terrorist operation, ensuring its implementation" from 20.08.2014 No 413 [11] recognized persons who defended the independence, sovereignty and territorial integrity

of Ukraine in the context of the anti-terrorist operation.

The general rights of patients in the field of health care are enshrined in the Constitution of Ukraine [12], the Civil Code of Ukraine [13], the Law of Ukraine "Fundamentals of the legislation of Ukraine on health care" [14], in particular: the right to medical preventive measures; the right to medical information; the right to access in the field of health care; the right to consent to medical intervention; the right to refuse medical intervention; the right to quality medical care; the right to medical secrecy; the right to safe medical care; the right to an individual approach to treatment; the right to be warned of the possibility of suffering and pain. The right to innovation is especially highlighted, which includes: the right to reproductive technologies; the right to a medical-biological experiment; right to donate; the right to change sex; the right to therapeutic cloning, as well as the right to freedom of choice: the right to choose a health care facility; the right to freely choose a doctor; the right to replace a doctor; the right to treatment abroad in case of impossibility to provide such assistance in health care institutions of Ukraine; the right to choose treatment methods in accordance with the doctor's recommendations.

These are general rights, but war veterans also have special rights in the field of health care. For example, the right to free medical care is provided by such special and general legislation as the laws of Ukraine "On social and legal protection of servicemen and members of their families" [15] and "On the status of war veterans, guarantees of their social protection" [16]. Although this right is guaranteed to all citizens, Article 11 of the Law of Ukraine "On Social and Legal Protection of Servicemen and Members of Their Families" stipulates that conscripts, servicemen and reservists called up for training and special training have the right to qualified free medical care.

In addition, war veterans are entitled to priority free dental prosthetics (except for prosthetics made of expensive materials), free provision of sanatorium treatment or compensation for the cost of independent sanatorium treatment, free receipt of drugs and prescription drugs, medicines and prescription drugs. doctors, priority care in

treatment and prevention facilities, pharmacies and priority hospitalization, payment of temporary disability benefits in the amount of 100 percent of the average salary, regardless of length of service, annual medical examination and medical examination, which requires the involvement of necessary specialists.

However, unfortunately, the situation with dentures is difficult, as the financing of this type of care is entrusted to the local budget of each city. Therefore, local authorities are called upon to provide such expenditures, although from a formal point of view this obligation should belong to the state. Benefits such as dentures are not provided and not provided in full to war veterans and those to whom the law provides benefits.

We have already noted the importance of psychological rehabilitation of war veterans, because, as noted by Roberts et al., The use of exercise and recreation programs are highly effective strategies for promoting a healthy lifestyle for veterans. Both psychological (mind) and physical (body) improvement is a struggle with social isolation, low motivation and high levels of irritation [17].

The U.S. Department of Veterans Affairs reports that approximately 31% of Vietnam War veterans have experienced post-traumatic stress disorder, 10% of Gulf War veterans, 11% of Afghanistan war veterans, and 20% of Gulf War II veterans [18]. The results of our study showed that depressive disorders of servicemen who took part in the war in eastern Ukraine are at the level of 33% and are slightly higher than among veterans of the Vietnam War. That is why war veterans who resigned from military service after direct participation in hostilities, the Law of Ukraine “On Social and Legal Protection of Servicemen and Members of Their Families” guarantees the right to free medical and psychological rehabilitation in the relevant centers of such services, taking into account reimbursement for journey.

One of the most important rights of war veterans, arising from the possibility of loss of military personnel during the fighting of limbs or other organs, as well as complicating their socialization, is the right to prosthetics and other means. The best

restoration of mobility and motor functions is the cornerstone of rehabilitation programs after amputation of the lower extremities [19]. That is why the Resolution of the Ukrainian Government of April 5, 2012 No 321 determines the procedure for providing technical and other means of rehabilitation of combatants, which are: means of transportation (including wheelchairs), furniture and equipment, prosthetic and orthopedic products, etc. [20]. Also, in the absence of the necessary latest technical means of rehabilitation in Ukraine, another resolution of the Cabinet of Ministers of Ukraine dated October 1, 2014 No 518 regulates some issues of prosthetics with high-functionality products using the latest technologies and manufacturing technologies that are not available in Ukraine, and/or special products for sports. This procedure is defined specifically for persons who participated in the anti-terrorist operation or in the implementation of measures to ensure national security and defence, repel and deter armed aggression of the Russian Federation in Donetsk and Luhansk regions, and / or ensure their implementation and lost limb or limb functionality [21].

War veterans are not limited to the possibility to put separately defined prostheses, but also have the right to receive financial assistance for prosthetics and/or prosthetics of the limb with high-functionality products of the latest technologies and manufacturing technologies that are not available in Ukraine (once every 6 years for lower limb prosthetics and once in 5 years – the upper extremity). However, such assistance may not exceed the equivalent of about 65 thousand Euros (in 2021), which does not include value added tax.

Despite the seemingly clear system of prosthetics and the corresponding financial compensation created in Ukraine at the state level, in practice veterans face a number of problems. First of all, it is necessary to collect a significant number of documents, the number of which is almost a dozen.

Thus, in order for the expert group to be able to consider the issue of prosthetics for a war veteran, it must provide: 1) a statement; 2) a copy of the passport; 3) a copy of the document with data on the registration number of the taxpayer's account card; 4) referrals for the provision of technical and

other means of rehabilitation; 5) an extract from the medical history; 6) the decision of the military medical commission; 7) photo and video materials on the state of the limb (stump) and the available volume of movements; 8) a certificate from the place of work; 9) a copy of a document certifying participation in hostilities.

In addition, during the round table of the Health Committee in 2018, it was found that the assistance of specialists in training the use of prostheses and aids is not included in the provision of rehabilitation aids. Also, 35% of surveyed war veterans pointed to the inadequacy of rehabilitation facilities. For example, one victim stated that the prosthesis provided to her was not suitable due to complications due to injury, but she was told that the institution would not be able to provide all the uniform and individual means. This is a gap in the state's policy regarding transparency in the implementation of assistance to combatants in practice, as 37% of respondents in 2018 said that they purchased the necessary funds for rehabilitation at their own expense, and some – sought help abroad due to lack of funding, for example for the purchase of a wheelchair [22].

In general, in accordance with the above-mentioned resolution of the Cabinet of Ministers of Ukraine dated October 1, 2014 No 518, the state covers: providing financial assistance to the participant of the operation and non-cash transfer of funds to a foreign provider of specialized care, warranty and post-warranty maintenance of prosthetic and orthopaedic products. and complete set of the product of the increased functionality on manufacturing technologies which are absent in Ukraine, providing information on stages of prosthetics, manufacturing technologies, application of computer diagnostics and modelling, realization of necessary measures for formation and development of skills of operation of such product, movement on a final design in case of prosthetics lower extremities (walking), the responsibility of the parties and the provision of specialized assistance by a foreign provider to the participant in the operation of the act of work performed.

Subsequently, the Ukrainian government was forced to adjust this order. In accordance with the changes in funding for war veterans also began to

include funds for specialized assistance: travel, food and accommodation of the participant in the operation, for the needs of the services of an interpreter, in accordance with the terms of the contract.

Assistance from foreign partners in the field of medical and psychological rehabilitation of Ukrainian war veterans is important and quite tangible. According to the German Embassy, as of October 2020, Ukrainian soldiers affected by the war in eastern Ukraine are being flown for the tenth time by the Luftwaffe (German Armed Forces) to assist severely wounded Ukrainian soldiers [23]. In 2015, the Frankfurter Allgemeine published an article about a Ukrainian who was admitted to a German hospital and underwent more than a dozen surgeries and survived thanks to German doctors [24]. The German newspaper Der Tagesspiegel reported in August 2019 that Ukrainian wounded soldiers were receiving the necessary assistance at the Berlin Hospital of the German Armed Forces as humanitarian aid [25]. German doctors have been caring for, treating and performing operations on Ukrainian soldiers since 2014. In addition, foreign volunteers help soldiers as translators, and some provide food. From 2014 to 2019, 125 servicemen were rehabilitated in German hospitals. In October 2020, the website of the German Armed Forces [26] published information that a team of German doctors had arrived at Kyiv Central Military Hospital to examine wounded soldiers and select inoperable individuals in the absence of the necessary Ukrainian conditions and transport them to German hospitals. That is, the medical sector in Ukraine suffers from a lack of necessary means to provide and conduct operations, providing the necessary means for rehabilitation, as noted by Andreas von Schumann in his publication "Ukraine through the eyes of Germany" [27].

However, treatment is usually not enough. War veterans need further proper physical rehabilitation, the right to which is regulated by the Law of Ukraine "On Rehabilitation of Persons with Disabilities in Ukraine" [28], which requires significant financial costs. Providing rehabilitation services to military veterans with disabilities presents unique and useful challenges for rehabilitation professionals [29].

Recently, patrons and concerned citizens of our country purchased a Locomat-Pro installation for the needs of the Institute of Traumatology and Orthopedics of the National Academy of Medical Sciences of Ukraine, which costs more than \$ 0.5 million. According to rehabilitation specialists, this installation allows to improve motor activity, functional state of the musculoskeletal system in patients [30]. This indicates another important component of the medical rights of war veterans – the right to physical rehabilitation, as well as the related right to spa treatment.

Participants in hostilities, persons with disabilities due to war, participants in war and members of the families of the victims are provided with participants in hostilities and persons with disabilities free of charge for sanatorium treatment (annually for a period of 18 to 21 days) or receiving compensation for the cost of independent sanatorium treatment. This is guaranteed by the resolution of the Cabinet of Ministers of Ukraine dated February 22, 2006 No 187 and is financed by local authorities [31]. However, persons with disabilities as a result of war in accordance with the Law of Ukraine “On the status of war veterans, guarantees of their social protection” also receive free spa treatment from the Ministry of Internal Affairs of Ukraine, Ministry of Defence of Ukraine, Security Service of Ukraine and other central executive bodies.

It is difficult to define all the medical rights of war veterans in one scientific study, but we believe that it is worth noting the right to medical information and its protection. This is due, for example, to the fact that typical delays of doctors in medical books and cards, as a result of which the right to timely medical data is violated [32]. This condition negatively affects the timeliness of proper medical care and rehabilitation.

Based on the analytical review of the Helsinki Human Rights Union [33], as of 2018, the lack of information about the possibility of receiving rehabilitation services remained a problem. War veterans did not receive such information from either doctors or the district doctor. As a result, the rights of participants in hostilities in the field of health care and medicine are violated.

In addition, there are a number of problems in the information sphere due to the division of competences between several ministries. As a result, there is a violation of the integrity of the rehabilitation process, as well as the problem of complete and effective collection and analysis of statistical information, which is primarily related to the number of war veterans. In addition, the UN Monitoring Commission on Human Rights [34] found an unfortunate situation for civilians who suffered health problems as a result of injury, mutilation or contusion. From May to August 2018, the Government noted that only 93 people were injured in eastern Ukraine, which is inconsistent with unofficial data. Unfortunately, not all local authorities keep a register of the number of civilians injured. In this case, it becomes much more difficult to protect your rights and exercise the right to provide certain medical services or benefits free of charge.

Discussion

Ukrainian legislation concerning the medical, physical and psychological rehabilitation of servicemen involved in hostilities is characterized by a large number of normative legal acts of various levels, as well as by inconsistencies and non-compliance with international standards.

Although the medical rights of war veterans are proclaimed at the state level and must be provided from the state budget of the central level, many practical aspects of ensuring specific medical rights are funded by local authorities. This affects the effectiveness and underfunding of some rehabilitation programs for war veterans, including wheelchairs, prosthetics, and so on.

An important aspect of effectively ensuring the medical rights of war veterans should be its proper information base. First of all, it is necessary to solve the problem of statistical accounting and maintenance of the register among the injured war veterans. This will make it possible to carry out a proper analysis of the needs and expenditures for their provision, to plan the appropriate number of doctors, rehabilitation specialists and psychologists in the respective regions where people in need of medical, physical or psychological rehabilitation live the most.

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