



ACCESS TO HEALTHCARE FOR UNDOCUMENTED MIGRANTS IN SWITZERLAND POLICIES



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ACCESSING HEALTHCARE IN NOWHERELAND - THE SITUATION IN EUROPE

In most European countries, undocumented migrants are at risk of being excluded from elementary healthcare services. This poses a risk to their health and that of their children, but also negatively affects public health and public health expenditures (i.e. through the potential spread of infectious diseases or the increase of emergency care provision).

Switzerland is among one of a few European countries in which undocumented migrants have the right to access healthcare services beyond emergency healthcare (i.e. life-threatening situations or situations that pose a serious risk to health). According to the EU project NowHereLand, this is only the case in France, Italy, the Netherlands, Portugal, Spain and Switzerland

(see www.nowhereland.info).

Migration in Switzerland in a nutshell

	End of 2009	In % of total resident population
Total resident population	7,785,800	100%
Foreign resident population	1,714,000	22%
EU/EFTA	1,077,600	14%
Other Europe (Serbia-Montenegro, Turkey)	402,200	5%
Foreign net migration	+79,000	
Asylum seekers (in procedure)	40,300	
Estimated number of undocumented migrants in 2004*	80,000 – 100,000	1-1.3%

Sources: Swiss Federal Statistical Office 2010, see <http://www.bfs.admin.ch/bfs/portal/en/index/themen/01/07/blank/key/01/01.html>;
* Estimation on behalf of the Federal Office for Migration (Gfs.bern 2005, *Sans Papiers in der Schweiz: Arbeitsmarkt, nicht Asylpolitik ist entscheidend*. Bern)

THE SITUATION IN LAW

In Switzerland, undocumented migrants have the right to access basic healthcare when in need! This right is based on the Swiss Federal Constitution and regulated by the Public Health Insurance Law.

Possession of health insurance is the main instrument to regulate healthcare access in Switzerland.

According to the Public Health Insurance Law, every **person living in Switzerland longer than 3 months** and not having health insurance in another country **has the right and the duty to take out 'basic health insurance'** (Grundversicherung). This right and obligation also applies to undocumented migrants. Persons living in a modest economic situation may apply for subsidies to pay for the insurance premiums.

Health insurers as well as health providers **may not report** any personal data of undocumented clients to a third party, except for information required by the insurance for purely administrative purposes.

Basic health insurance covers primary and secondary care if a person falls ill or has an accident, maternity care, psychotherapy, preventive check-ups and tests, as well as rehabilitation measures.

UNDOCUMENTED MIGRANTS are persons who reside in a country for an unspecified period of time without having valid residence documents (e.g. visa, residence permit) due to various reasons (e.g. non-prolongation of residence permit, rejected asylum application). In Switzerland, undocumented migrants are often referred to as 'Sans-Papiers'.

Persons without health insurance are also entitled to receive basic medical assistance when in need.

Based on the Swiss Federal Constitution and following the Swiss Federal Office of Public Health and the Federal Tribunal, persons who are not insured also have the right to receive basic medical assistance when in need.

Costs for basic health insurance are significant (several hundred Euro per month) **and present a substantial obstacle for undocumented migrants to obtain health insurance.**

Costs for basic health insurance include:

- Monthly insurance premiums (ranging on average between 230 CHF in the canton Nidwalden and 420 CHF in the canton Basel-city in 2009)
- Annual excess fee (ranging from 300 – 2,500 CHF per year). Children, as well as women for prenatal care and birth services, pay reduced fees
- Patient's contribution of 10% of the costs of all health care services consumed annually, but no more than 700 EUR per year
- Hospitalisation fee of 15 CHF per day (except for maternity care, children and young persons in training)

Treatment costs for persons not covered by health insurance may be covered by the canton or the municipality from their solidarity and social funds, the healthcare-providing organization or the patient (payment of full costs required).

§ Relevant legal regulations

- Federal Constitution of the Swiss Confederation, Article 12:
Persons in situations of distress have 'the right to be helped and assisted and to receive the essential resources to lead a dignified human existence'.
- Federal Constitution of the Swiss Confederation, Article 41b ('Social Objectives'): The federal state and the cantons are obliged to ensure that 'everyone has access to the health care that they require'.
- Public Health Insurance Law: Every person has the right and the duty to take out basic health insurance.
- Public Health Insurance Law, articles 84-86: Insurance companies are not allowed to pass on data on the residence status of their clients.
- Swiss Criminal Code, article 321: persons bound by professional secrecy (e.g. health staff) may not report any personal data of a client to third parties.

CHALLENGES FOR IMPLEMENTATION IN PRACTICE

Although the legal framework regulating undocumented migrants' healthcare access is quite inclusive in Switzerland, in practice there exist various problems that prevent effective implementation of the regulations. The main obstacles can be identified in:

- a) Different cantonal practices
- b) Different practices of insurance companies

To ensure compliance with the existing regulations, the Federal Social Insurance Office and the Federal Office of Public Health in 2002 issued orders to the insurance companies and the cantonal authorities reiterating their duties to monitor and implement the health insurance law.

a) There are significant variations between cantons and communities with regard to health care provision for undocumented migrants.

Switzerland is a highly federalized country, placing a strong emphasis on direct democracy. The 26 Swiss cantons not only implement federal outline laws, but also have large regulatory powers in many areas subject to cantonal authority. This distribution of powers has resulted in large regional variations with regard to irregular migration and health care provision.

In the area of social and health policies, the cantonal authorities monitor health insurance coverage of the local population under the obligatory basic health insurance plan and are responsible for the coordination of health care provision, for disease prevention and health education as well as for supporting persons in need through general welfare benefits, including health-related benefits.

Within this framework, cantonal authorities have chosen different ways of dealing with access to basic health care for undocumented migrants. For example, until recently health insurance was not equally included in all cantonal emergency aid plans, through which persons in need are supported with financial and in-kind benefits (see amendment to the Public Health Insurance Law of 6th July 2011) .

Regarding the costs of basic health insurance, significant cantonal variations can be observed: The monthly insurance premiums for basic health insurance are regionally graduated. Moreover, the level and conditions for cantonal premium subsidies vary across the cantons. Depending on the place where one lives in Switzerland, costs for health insurance may thus differ significantly.

b) Little is known on the practices of insurance companies.

Health insurance companies offering basic health insurance by law have to accept every person living in Switzerland irrespective of residence status. However, little is known about the actual practices of insurers regarding undocumented clients.

Consequently, access to basic health insurance, and thus to basic health care, is not equally available for undocumented migrants in all the Swiss cantons.

Detailed steps: What is needed in order to obtain basic health insurance?

- Contact an insurance company
- State the full name, date of birth, a contact address and a bank account (need not be the own)
- Pay the monthly insurance premiums, as well as the annual fees

OVERVIEW ON ACCESS TO BASIC SOCIAL RIGHTS for undocumented migrants in Switzerland

Type of right	Access	Conditions	Identified obstacles to access rights
Housing	NO	Renting requires registration at the cantonal authority	n.a.
Education	YES	9 years compulsory education	Cantonal legislation partly lacking
Labour rights	YES	Labour rights according to tax and social security requirements irrespective of residence status	Enforcement of right may result in detection
Social security including health insurance	YES	Right to be insured with old-age, sickness, survivors and invalidity, and unemployment insurance for all employed persons	Actual claiming of benefits (unemployment, old-age, and invalidity) possible only with legal residence status, or when returned to the country of origin.
		Obligatory health insurance for all persons residing in Switzerland for more than 3 months; allows access to basic health care	High costs; different practices of health insurers; different cantonal practices regarding implementation and monitoring
Basic subsistence	YES	Essential resources to persons in distress, including 'basic' health care irrespective of residence or insurance status according to article 12 of the Federal Constitution	n.a.

Source: Bilger/Hollomey 2011

This fact sheet was written within the framework of a study entitled "Access to Healthcare for Undocumented Migrants in Switzerland", which was conducted in close collaboration with the EU project Healthcare in NowHereLand.

The Swiss study was commissioned by the Swiss Federal Office of Public Health (FOPH) to the International Centre for Migration Policy Development (ICMPD). Together with the Swiss Forum for Migration and Population Studies (SFM) at the University of Neuchâtel and the Trummer & Novak-Zezula OG in Vienna, the ICMPD collected information on policies, practices of healthcare provision and healthcare needs and strategies of undocumented migrants in Switzerland as well as performed an assessment of selected practice models.

The full reports and all factsheets (policies, people, practices) are available at:

http://www.nowhereland.info/?i_ca_id=410.

For more information please visit the following websites:

www.nowhereland.info; www.research.icmpd.org; www.migration-population.ch

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