

PROBLEMS OF ENSURING HUMAN RIGHTS TO PUBLIC SERVICES FOR THE RESIDENTS OF THE UNITED TERRITORIAL COMMUNITIES OF UKRAINE

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Summary

Modern Ukraine is characterized by a period of fundamental changes in state-building and law-making. Since 2014 the ongoing constitutional reform is aimed at optimal organization of local self-government. By searching the ways to decentralize, Ukraine aims to ensure the proper functioning of basic municipal institutions. The united territorial community (UTC) is the primary element of local democracy and therefore plays an important role in addressing issues related to the daily needs of community members.

The local level authorities provide ineffective governance and they do not provide the scope of public services that residents need, especially in rural areas. The existence of an underdeveloped health care system in Ukraine has led to low quality and inaccessibility of medical care to the population, especially in rural areas.

The beginning of the rural healthcare reform was laid by the adoption of the Law of Ukraine, "On increasing the availability and quality of medical care in rural areas." The system for high-quality and affordable healthcare to rural residents can be created by: 1) optimizing delivery; 2) training; 3) access to specialized facilities; 4) telehealth; 5) creating appropriate infrastructure; 6) working conditions and living standards for healthcare professionals; 7) preventive measures for public health; 8) ensuring interaction between central and local executive authorities.

UTCs must utilize the powers granted to them by law to create a client-oriented system of public administration while protecting citizens' constitutional rights – particularly their rights to health protection and healthcare.

Keywords: decentralization, governance, healthcare system, healthcare reform, constitutional rights, law.

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1. Introduction

The process of modernizing local public authorities generated many expectations. Citizens expected, for instance, that the united territorial communities would provide public services to the residents effectively.

Most developed countries adhere to a client-oriented system of public administration, which is aimed at providing residents with all the necessary public services while respecting constitutionally guaranteed rights and freedoms, both human and civil.

In Ukraine, the existing system of local self-government cannot satisfy even the basic needs of society. The local self-government bodies perform assigned functions ineffectively or do not perform them at all. As a result, living conditions do not facilitate the development or

fulfillment of human potential; on the contrary, these conditions make them look for the best places to live (*Kavunets A.V., 2016*).

The local level authorities provide ineffective governance and they do not provide the scope of public services that residents need, especially in rural areas. To eliminate these problems the state began reforming decentralized authorities, consolidating territorial communities, and revising state policies regarding the financing of territorial communities.

The research aimed to identify the problems of ensuring the human right to public services and to demonstrate how to solve them on the example of the right to health care. The research objectives were: to characterize the role of decentralization reform in modernizing local public authorities, to identify the public service problems in Ukraine, to develop strategies on improving public services, including the right to health care. The research was conducted using a wide range of general theoretical and special scientific methods of cognition, including systems thinking, system-structural, and structural-functional research methods.

The scientific novelty of the obtained results is to propose the author's definition of the capacity of a united territorial community. It implies the ability of the united territorial community to realize at its own expense and by involving other public authorities the appropriate level of public services on its territory. The author also developed the Law-in-draft of Ukraine "On Improving the Availability and Quality of Rural Health Care", which was later approved by the Verkhovna Rada of Ukraine (Ukrainian Parliament) and signed by the President of Ukraine. This law-in-draft lays down the legal framework for creating equal opportunities for local communities to access the support provided by national, regional, and local rural health development programs.

2. The role of the decentralization reform

The voluntary unification of territorial communities is a relatively new process for Ukraine. Citizens are, on the whole, distrustful of this process. As a result, the sense of community and the level of commitment among community members in Ukraine are at the stage of their formation. Meanwhile, in Ukraine, various state, public, and international programs are being introduced. These programs have two effects: first, they stimulate the development of rural areas and local public authorities, and second, they increase ordinary citizens' confidence in both the voluntary unification of territorial communities and the decentralization reform.

The decentralization reform aims to provide a new and improved standard of living in administrative-territorial units, especially in rural areas, which have been at a disadvantage compared to big cities. The success and effectiveness of the decentralization process largely depend on the implementation strategy (*Gaidar M.Ie., 2019*).

It should be noted that in recent years cities have been developing rapidly in Ukraine while the population in villages is decreasing.

In Ukrainian villages, where several hundred residents typically live, the local budget is often insufficient to create the infrastructure necessary for ensuring an adequate standard of living.

The prosperity of the territories largely depends on their financial condition, which can be strengthened by ongoing support from the state. This can only be achieved through budgetary decentralization at the state level, regulation of authorities' budgetary management, and the use of financial resources.

The financial viability of a territorial community opens up many prospects for the implementation and production of various social, economic, and cultural projects, which in

turn ensures the rights of those who reside in that community. The self-sufficiency of the united territorial communities (UTC; 'ОТГ' in Ukrainian) will increase employment levels and prevent emigration and urbanization. Financial solvency is the key to the sustainable development of society and to ensuring (not merely proclaiming) the rights of individual citizens.

3. Problems of public service in Ukraine

One of the most problematic areas of public service has always been – and continues to be – in the health sector. The right to medical care and health protection has been repeatedly declared and affirmed at the international level (see the International Covenant on Economic, Social and Cultural Rights; the UN Convention on the Rights of the Child; and the European Social Charter) and in national legislation (see the Constitution of Ukraine; the Civil Code of Ukraine; and Fundamentals of Legislation on Health Protection).

At the doctrinal level, policymakers and lawmakers continually question what exactly “the right to health protection and healthcare” entails. After analyzing the approaches of domestic scientists (*Kameneva Z.V., 2004*), (*Vitkova V.S., 2017*), we can conclude that the right to healthcare means that everyone has access to receiving timely care from a medical institution or a medical organization to maintain and/or improve their health.

There are problems with access to healthcare in Ukraine. On the one hand, the existing network of medical institutions is quite extensive and developed. But on the other hand, the infrastructure of the modern healthcare system is not a compact one. This causes certain inconveniences, especially given the outdated material and technical basis of hospitals. As a result, it is sometimes impossible for healthcare providers to offer a comprehensive examination and/or treatment. For a long time, the health care system in Ukraine was based on the Semashko model and required strict management and financing procedures. This model is based on the principle of free medical care for the population. In line with this principle, the medical system is state-owned. Unfortunately, many of these hospitals have fragmented management structures and focus mostly on treating acute cases rather than on prevention. The specified system was not intended to address the current problems that many Ukrainians face and was incapable of the modernization required to meet the challenges of our time. This system was formed in a different era, in the absence of modern telecommunications and many important treatment methods and technological innovations. Some significant drawbacks of the existing healthcare system include its rejection of modern developments in patient care, its unwillingness to participate in international collaboration, and its blocking of private sector initiatives (*Finalna redaktsiia Natsionalnoi stratehii reformuvannia systemy okhorony zdorovia v Ukraini, 2015*).

Remnants from the days of the Soviet Union are motivating the push for healthcare that is free of charge for Ukrainians. Nowadays it is typical for the United Kingdom to finance from the state budget the vast majority of medical services while maintaining the high quality of such services. The most democratic countries choose the health insurance model. With Ukraine's transition from a planned to a market economy, free medical care is in decline and the quality of medical services provided free of charge is unsatisfactory.

Some of the post-Soviet states, like Poland, Lithuania, and Georgia, were able to improve healthcare access during the decentralization reform. For example, in our research, we found that Georgia demonstrated fruitful cooperation between the public and private sectors to improve the quality and access to medical services and introduce an effective health insurance system.

Georgia introduced compulsory health insurance, offering state-funded insurance for socially vulnerable and/or low-income citizens. At the same time, Georgia maintains a record of those who are provided with free medical care. This allows for more effective control over the funds allocated to assist citizens with low income.

The ineffective use of even the insignificant amount of funds allocated to the Ukrainian healthcare sector indicates a poor-quality management process. Sometimes, if a service is not provided at all either by legislation or by the price list of the medical institution itself, medical workers provide them exclusively for an additional fee. The number of such fees may make treatment cost-prohibitive, especially in rural and/or low-income areas (*Interfax-Ukraine, 2015*).

Because of these problems with treatment costs and lack of modernization, the Ukrainian healthcare system is in need of reform. Importantly, the reform of the medical sector is connected to the reform of the decentralization of authorities and the process of uniting the territorial communities. Citizens have more faith that the united territorial communities will provide community residents with medical services at the proper level.

4. Strategies to improve public services

It should be noted that legislation on rural healthcare is intended to resolve the issue of equal access to medical care for all people, including those who live in the village, since the conditions in the village are different from conditions in other parts of Ukraine. Reforming rural healthcare access and practices requires additional considerations on organizational efforts. At the same time, the united territorial communities should receive the obligation for the direct implementation of the new legislation in this area because UTCs are more financially sound than villages and settlement councils.

The beginning of the rural healthcare reform was laid by the adoption of the Law of Ukraine, “On increasing the availability and quality of medical care in rural areas.” This law regulates relations in the provision of affordable and high-quality services and regulates healthcare in rural areas.

Under the provisions of this law, the main directions of healthcare development in rural areas are: the maximum approximation of medical care to the population; the creation of conditions for annual visits to rural areas by medical specialists; and the introduction of modern technologies for medical care in rural areas, including the use of means of telehealth when the distance is a critical factor for the provision of care. Using telehealth requires the use of telemetry for home teleconsulting and other portable diagnostic aids. The law also prescribes the development of transportation infrastructure for providing medical care in rural areas, including creating and improving the conditions for air and water transport and acquiring special ambulances that are outfitted with resuscitation equipment. Finally, the law establishes a system of communal institutions for providing healthcare in rural areas, including centers of primary medical (and sanitary) care. These may include physician assistant (PA)-obstetric/PA posts, outpatient clinics, medical aid stations, medical offices, mobile medical offices, and pharmacy points (*Zakon Ukrainy № 2206–VIII, 2017*).

Many of the local self-government’s healthcare-related powers are defined in the Law of Ukraine, “On Local Self-Government in Ukraine.”

In 2017, the first stage of healthcare reform was launched in Ukraine. During this stage, policymakers changed the principles of financing in primary healthcare. It introduced the funding model, which preserved local governments’ powers and created opportunities for their full implementation.

5. Conclusions

New economic relations should not consist in preserving free healthcare of low quality. Instead, state and local government should provide assistance with, first, creating the infrastructure for medical institutions with modern equipment and, second, attracting qualified doctors and healthcare professionals who can deliver high-quality and affordable medical services to the average person. At the same time, medical services should be targeted at maintaining, strengthening, treating, and restoring physical or mental health.

Nowadays access to healthcare in Ukraine is a problem for certain localities, especially for Ukrainian villages with a small number of residents.

Healthcare reform in rural areas is socially significant; in fact, it is the most anticipated of all reforms currently being carried out. High-quality healthcare will ensure a high standard of living; therefore, attention should be directed to the person in need of these services. A person, with their rights, should be identified as a priority. The new health care system in Ukraine should be built on these values.

Healthcare reforms in this context require high-quality management, significant financial resources, and a lot of time. However, within the framework of reforming the healthcare system, lawmakers and healthcare practitioners can create a system for continuous provision of high-quality and affordable medical care to rural residents by taking the following steps:

1. Optimizing the system of medical care delivery to residents of rural areas.
2. Providing professional training for family physicians, to help them deliver medical care to rural areas residents.
3. Ensuring the rural population's access to specialized medical facilities.
4. Developing telehealth further.
5. Creating appropriate infrastructure in rural areas.
6. Observing healthcare professionals' rights to healthy and safe working conditions and living standards.
7. Increasing the effectiveness of preventive measures for maintaining public health.
8. Ensuring interaction between central and local executive authorities in the implementation of state policy in the field of rural medical care.

The implementation of the above steps will be made possible by close interaction between the state and the united territorial communities. To secure access to medical services for both rural and urban residents, the state should coordinate and control measures of access provision. At the same time, the united territorial communities must make rational use of state-provided funds from state and local budgets to create medical infrastructure and to encourage doctors and healthcare professionals to work in rural areas. Finally, UTCs must utilize the powers granted to them by law to create a client-oriented system of public administration while protecting citizens' constitutional rights – particularly their rights to health protection and healthcare.

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