



**INSPECTORATE
MINISTRY OF PUBLIC HEALTH,
SOCIAL DEVELOPMENT AND LABOR.**

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SMN News
Attn. Mrs. B. Shaw

Our number: IVSA - 412/2016 **Division:** Healthcare
Subject: LOB request regarding report on medical referral USZV employee

Philipsburg, 2 november 2016

Dear Mrs. Shaw,

With reference to your e-mail dated October 25th, 2016, in which correspondence you request – with reference to the Ordinance on open government (Landsverordening openbaarheid van bestuur, hereinafter "LOB") – to receive the full Inspectorate reports of three investigations, you are hereby informed as follows.

Pertaining to the request to receive a copy of the investigation report of the medical referral of the USZV employee, the Inspectorate has decided to partially honor your request. Attached to this document you find the report, whereby personal information of the concerned employee has been made unreadable in order to protect this employee's privacy to the maximum extent while honoring the principle of transparency as laid down in the LOB.

In addition, the Inspectorate has decided not to disclose copies of the annexes to the report as the content of these annexes has been summarized in the report itself and – as a consequence – the Inspectorate has fulfilled its obligation to provide the requested information in accordance with article 7 of the LOB.

The Inspectorate will decide on your other requests as soon as the other reports mentioned in your e-mail have been finalized.

Trusting to have informed you sufficiently,
Sincerely,


Dr. E.W.A. Best, Inspector General


If you do not agree with this decision, you can – within 6 weeks after the date you have received it – to lodge an objection with the Inspectorate (address: Kanaalsteeg 1, Philipsburg). In the notice of objection you have to mention the decision it pertains to (reference number) and the grounds for objecting. Please do not forget to also state your name and correspondence address and to date and sign the document.

Report



Inspectorate Public Health, Social Development and Labor

Kanaalsteeg # 1 (Above Diamond Casino) Tel. 5422059/79 Fax 5422936

INSPECTORATE REPORT

Dossier name and number: Medical referral of SZV employee - IVSA/03- 2016

Date investigation: October 12th -20th 2016

Date final report: October 28th 2016

Investigator(s): John Connor, Health inspector and
Ashanti van Heyningen, substitute Inspector general

Mailing list: Ms. J. Deelstra, LL.M, HBNLaw
Mr. G. Carty, CEO USZV
Mr. R. Dennaoui, COO USZV
Mrs. S. Daniels, supervisory board USZV

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1. Introduction

As a result of the October 5th 2016 media report of an SZV staff member receiving preferential treatment by SZV when referred abroad for medical purposes, the Inspectorate started an investigation in order to establish the existence or absence of policies and procedures for the medical referrals of SZV employees and determine if these were followed by SZV. This was done in anticipation of the general audit on medical referrals by SZV which the interim CEO of SZV agreed to in the presence of the Minister of Public Health, Social Development and Labor and the Inspector General on July 5th 2016. This agreement was announced in the media on July 6th of 2016 (annex A).

a. Investigation process at SZV:

On October 12th 2016 the Inspectorate requested SZV to provide it with copies of specific relevant documents in connection with the medical referral of the SZV employee via letter IVSA-365/2016 (annex B).

SZV refused to comply with the Inspectorate's request to provide copies of the requested documents at that time and informed the Inspectorate that it would, insofar as any obligation thereto existed, provide the documents in the course of that week (annex C).

By letter of that same day, SZV disputed the Inspectorate's authority to investigate this case and indicated its willingness to let the Inspectorate review the file of the relevant employee, who was identified by SZV as [REDACTED] (annex D).

An official report (proces-verbaal) was drafted following SZV's refusal to cooperate with the Inspectorate's demand for cooperation. This 'proces-verbaal' was submitted to the Public Prosecutor's office, of which SZV was notified (annex E).

By letter of October 13th, 2016 (ref IVSA 372/2016), the Inspectorate rejected SZV's offer to inspect the file used by SZV to assess her recent referral, provided further clarification about its authority to investigate this case and granted SZV a final term to comply with its previous demand (annex F).

In its response to this letter, SZV partially disputes the facts as written down in the 'proces-verbaal' and SZV's position about the lack of authority is repeated (annex G). Also, the offer to peruse the file is repeated but the condition is added that this right is only granted if the Inspectorate is able to explain exactly what the legal basis for its authority is.

By letter dated October 14th, 2016 (ref IVSA 387/2016) the Inspectorate responded to the content of SZV's October 13th 2016 letter and announced that it was considering to take measures against SZV (annex H).

On October 15th, 2016, the Inspectorate informed SZV about its intention to impose a non-compliance penalty (last onder dwangsom) and invited SZV for a hearing, which was scheduled on October 18th 2016 (annex I).

SZV attended the hearing arranged on October 18th, 2016. The hearing was suspended to allow the Inspectorate to respond in writing to questions raised by SZV and was continued after SZV had received this written response (ref IVSA 390/2016, **annex J**). That same date, the Inspectorate informed SZV that it had decided to change the deadline for compliance mentioned in its letter of October 15th, 2016 (**annex K**). In response to this letter, SZV informed the Inspectorate by letter dated October 19th, 2016 that it still disputed the Inspectorates authority to investigate this case and the need to obtain copies of relevant documents instead of accepting the offer to inspect specific documents (**annex L**).

By letter dated October 19th, 2016 the Inspectorate informed SZV that it had, taking into account the questions raised by SZV during the hearing, decided to impose two non-compliance penalties onto SZV (ref IVSA 391/2016, **annex M**).

By e-mail dated October 19th, 2016, the Inspectorate announced that it would come to peruse the file the following day, October 20th, 2016 (**annex N**).

By letter dated October 20th, 2016, SZV requested the Inspectorate to reconsider its decision of October 19th, 2016. In the letter, reference is made to the special relationship that existed between the concerned SZV employee and the Inspector-General, and concerns are raised about the infringement of her privacy if copies of her personal documents would be submitted to the Inspectorate. In addition, one of the legal bases for the Inspectorate's authority to investigate is disputed (**annex O**).

On October 20th, 2016, Mr. Connor and Ms. Van Heyningen visited SZV and perused the documents mentioned below in this report.

By letter dated October 25th, 2016, the Inspectorate responded to SZV's letter of October 20th, 2016. In the letter, the Inspectorate informs SZV about its decision to withdraw both non-compliance penalties and a 'final warning' that any future failure to comply with the Inspectorate's justified demands will result in measures being taken against SZV, which measures may include new non-compliance penalties and administrative fines (**annex P**).

b. Other investigative steps taken:

The Inspectorate requested and obtained the medical file of the SZV employee in question from the SMMC.

2. Inspection findings at SZV

On October 19th 2016 the Inspectorate informed SZV that it would review the relevant documents in connection with the medical referral of the SZV employee in question on October 20th, 2016 (see annex N). Shortly before leaving to SZV, the Inspectorate received a letter from SZV's attorney (see annex O) which contained the following statements:

- SZV disputes the basis of the Inspectorate's supervisory power in the auditing of the medical referral of its employees;
- SZV is not obliged to provide the requested documents to the Inspectorate;
- The employee in question has agreed to the Inspectorate having insight into some of the requested documents except for her medical file;
- That the following documents are not available to SZV:
 - I. agreements with the treating specialist before the referral, and
 - II. a report from Dr. [REDACTED] pertaining to the results of the medical referral.

On October 20th 2016 around 10.15am the Inspectorate arrived at SZV and was escorted to Mr. Carty's office, where they were addressed by Mr. Jeroen Veen and Ms. Dymphne Bossers, who informed the inspectors that they represented SZV (hereinafter the "SZV representatives"). Only the position of Ms. Bossers as the lawyer of USZV is known to the Inspectorate. It was not made clear in which capacity Mr. Veen was present, nor what rights and authority he had in relation to the confidential documents of the SZV employee. The SZV representatives were informed of the purpose of the Inspectorate's visit as described in the e-mail sent the previous day. They were shown a Manilla folder that (only) contained the following documents:

- a. A letter from Dr. [REDACTED], [REDACTED] in Curacao located on the [REDACTED], dated September 9th 2016 addressed to the SZV employee in question;
- b. A document containing a table with an overview of the daily allowance per destination for the different categories of insured persons (ZV, FZOG, PP card holders, former national civil servants) and SZV employees;
- c. A document containing a breakdown of the compensation paid to the SZV employee including the daily allowance, accommodation costs, tax and transport costs for the SZV employee in question during her stay abroad;
- d. Proof of payment by the SZV employee in question for a stay at the Renaissance hotel from September 28th, 2016 till October 10th 2016 via a debit or credit card;
- e. A copy of the Insel Air ticket bought by SZV for the SZV employee in question (ticket # [REDACTED]);
- f. A copy of the email containing the Insel Air ticket bought for the daughter of the SZV employee in question by her father (ticket # [REDACTED]);
- g. SZV brochure "Frequently asked questions, Medical referrals abroad".

Upon reviewing the above mentioned documents the following was noted.

1. Letter Dr. [REDACTED]

The SZV employee in question was requested via a letter dated September 9th 2016 from Dr. [REDACTED], [REDACTED] in Curacao, to attend her yearly consultation. The letter indicated that her appointments to see Dr. [REDACTED] were scheduled for September 29th 2016 and October 7th 2016. The letter also contained two appointments at the Sehos hospital in Curacao for October 3rd 2016 and October 5th 2016. The letter did not contain a reference to the medical condition or the type of consultation or treatment that the patient was to undergo.

There was no referral letter available from a locally established specialist or General Practitioner.

Additional verbal information provided by SZV representatives

The SZV representatives indicated that the SZV employee in question has a known condition and is required to see a [REDACTED] in Curacao on a yearly basis. They also stated that her medical condition cannot be treated on Sint Maarten due to [REDACTED] [REDACTED] and claimed that the same procedure – whereby approval for travel abroad is approved based on the patient's need for periodical follow up with a specialist abroad without having to obtain a new referral from a local doctor – is used for ZV patients with known conditions who cannot be treated on Sint Maarten.

No documents were shown to substantiate these claims.

2. Approval of "referral" letter by SZV

The letter from Dr. [REDACTED] was reviewed and approved (signed and stamped) on September 12th 2016.

Additional verbal information provided by the SZV representatives

In response to a question by the Inspectorate who approved the referral, the SZV representatives informed the Inspectorate that the signature on the document was that of Dr. Rombley, head of SZV's medical referral department.

3. Report(s) from the specialist abroad

No reports from Dr. [REDACTED] pertaining to the medical referral were available for review.

4. Daily allowance table

According to the daily allowance table for the destination Curacao, SZV employees sent to Curacao for a medical referral are entitled to a daily allowance of NAf 60,00 per day. ZV patients are entitled to a daily allowance of NAf 45,00 per day.

5. Breakdown of paid daily allowance and compensation of others costs compensated to the employee in question as a result of the "referral"

According to the SZV document containing the breakdown of the paid daily allowance and compensated costs to the SZV employee in question as a result of the medical referral of the SZV employee in question to Curacao, the employee received 12 x NAf 45,00 as daily allowance, NAf 15,00 for transportation costs and an amount of NAf 36.40 for airport tax. In addition, an amount of NAf 4228.80 was paid as compensation for hotel costs.

Additional verbal information provided by SZV representatives

The SZV representatives stated that the SZV employee in question received a lower daily allowance than she was actually entitled to as an employee of SZV.

No reason was given for this.

6. Accommodation

The Inspectorate was shown a copy of a proof of payment for her stay at the Renaissance hotel for the period September 28th up until October 10th 2016, for the amount of USD 2323. 53 which was paid by the USZV employee.

Additional verbal information provided by SZV representatives

The SZV representatives indicated that in case of medical referrals of SZV staff, SZV employees are usually booked in the Allan or Trupial Inn hotel. In this case, the hotel accommodations were arranged as if it was a "dienstreis" and not as a medical referral. The SZV representatives explained that this had occurred because the SZV employee charged with making the hotel arrangements for SZV staff who are sent abroad for medical reasons was not available at the time because she was out on vacation and the manager of the employee responsible for making the booking made the hotel arrangements instead. The SZV representatives furthermore stated that the manager did not know how to make the arrangements with the Allan or the Trupial Inn and called the Renaissance instead to make reservations for the SZV employee in question.

No documents were provided to substantiate any of the abovementioned statements of the SZV representatives.

7. Travel arrangements

A copy of the Insel Air ticket bought by SZV for the SZV employee in question (ticket # [REDACTED]) was present. The ticket contained a journey St. Maarten – Curacao on September 28th 2016 and a return flight on October 10th 2016.

A copy of the email from the daughter's father containing the Insel Air ticket bought for the daughter of the SZV employee in question (ticket # [REDACTED]).

Additional verbal information provided by the SZV representatives

The SZV representatives stated that the daughter's ticket was bought by the father and not SZV. They also stated that the SZV employee in question did not require a travel companion and that even if she did require one her daughter would not have qualified as the travel companion is required to be at least of age.

Only the statement pertaining to the purchase of the daughter's ticket can be substantiated by the documents shown.

8. Medical referral procedures for USZV employees

When asked about the existence of any written policy or procedures that apply to the medical referrals of SZV employees, the SZV representatives responded that SZV uses the same procedure that is used for medical referrals of ZV patients unless otherwise stated in the employee's labor agreement.

The SZV representatives provided the Inspectorate with the brochure "Frequently asked questions/medical referrals aboard" which according to them contained the relevant ZV policy/procedure.

No document was provided to substantiate the statement pertaining to the applicability of the ZV procedures to medical referrals of SZV employees.

Findings SMMC

The medical file of the SZV employee in question was requested from the SMMC.

From the information provided it can be concluded that the patient is not known at the [REDACTED] department of the SMMC.

3. Discussion

If the statement of the SZV representatives is correct, that for SZV employees the procedures and policy as applicable for ZV patients, as outlined in the brochure "Frequently asked questions/medical referrals abroad" (hereinafter the 'Brochure'), is applied unless otherwise stated in the employee's labor agreement, the following basic principles should be applied to any medical referral of SZV employees:

- Page 1 of the brochure defines a medical referral as "a necessary referral abroad" for medical research and/or treatment in a medical center or by a medical specialist abroad which is not available on Sint Maarten;
- Page 3 of the brochure states the following "In order to avoid unnecessary medical referrals and/or unnecessarily long stays abroad, there is a strict review of the necessity of the medical referral and a strict control of the medical treatment abroad";
- Page 4 of brochure states that a medical referral abroad can only be requested by a general practitioner or a medical specialist, that the general practitioner or specialist can apply for a medical referral for a patient by means of filling out a medical referral form containing a medical letter in English and that the following criteria are used by SZV to assess the application from a local doctor for the medical referral abroad of a patient:
 - ✓ The investigation or treatment is not possible on Sint Maarten;
 - ✓ It is a life threatening situation/serious condition;
 - ✓ Does the investigation or treatment abroad contribute to a substantial health gain for the patient?
- Page 5 of the brochure states that SZV organizes the airline tickets (Colombia/NL) or issues vouchers for the travel agency (for flights to other destinations) for the ZV, FZOG, PP-card holders and their family and for former national civil servants and their family members;
- Page 6 of the brochure states that accompanists should be at least 18 years old;
- Page 8 of the brochure states that if there is no medical reason to stay abroad anymore, the patient and accompanist have to come back with the next available flight to Sint Maarten and that extension of stay abroad on their own initiative will be entirely attributed to the patient and accompanist.

With reference to the facts described in this report, the Inspectorate establishes the following:

- The necessity of the medical referral has not been demonstrated:

Because medical data were not made available to the Inspectorate, it cannot be established if the consultation or treatment was not available on Sint Maarten and as a result if there was a necessity to refer the employee abroad.

The 'strict review' of both necessity and the medical treatment has not been demonstrated:

Based on the documents made available to the Inspectorate, the approval for the medical referral itself (the necessity requirement as described above) and the different planned consultations (the review of the medical treatment to be received) was provided even though the 'referral letter' did not contain a specification of the type of consultation or treatment the employee was to receive. Also, no report was received back from the specialist abroad, which would allow SZV to ascertain that the different consultations took place, what the outcome thereof was and if any further tests or treatment are required and if so, when.

- The procedures for requesting a medical referral, as outlined in the brochure, were not followed:

From the documents made available to the Inspectorate it follows that the employee was called in for her yearly checkup by a specialist abroad and she was not referred by either her (local) general practitioner or local specialist. In addition, the prescribed form was not used and – as stated above – there is no evidence that the criteria for approval of a medical referral ("medical referral requests are only allowed if the investigation or treatment is not possible on Sint Maarten, if it concerns a life threatening situation or serious condition and if the investigation or treatment abroad will contribute to a substantial health gain for the patient") were applied and if this referral meets these criteria;

- The procedures relating to the length of stay, as outlined in the brochure, were not followed:

From the information shown and verbally communicated to the Inspectorate it concludes that the main purpose of the referral in question was to have the employees [REDACTED] checked. The approved referral consisted of 4 scheduled visits. The SZV employee in question first visited her [REDACTED] in his private clinic, then visited the Sehos hospital twice (on two separate days) and then returned to the [REDACTED] in his private clinic. These four visits were all planned with a 'free' day in between, resulting in a referral period of 8 days. The Inspectorate did not receive any information on the need to have 2 separate

visits to the Sehos hospital and remarks that usually scheduled [REDACTED] checkups are performed in the hospital in 1 hr. or less. As a result, the referral period could – under normal circumstances – been limited to 3 (or maximum 4) days.

In addition, the Inspectorate has established that the employee remained in Curacao until Monday, while her last doctor's visit was scheduled on Friday. Why the employee was allowed to remain in Curacao at the expense of SZV until Monday has not been demonstrated.

4. Conclusions

Based on the abovementioned facts, the Inspectorate concludes the following:

1. There is no evidence of the existence of any approved written policy or procedure for the medical referral of SZV employees.

With reference to article 7 of the USZV Ordinance (Landsverordening Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen), the Inspectorate remarks that SZV is required to obtain approval for its labor regulation (arbeidsregeling or cao) from the Minister of Public Health, Social Development and Labor and submit such to its Supervisory Council as well. In addition, the Inspectorate remarks that this labor regulation should include regulations on entitlement to medical care.

The Inspectorate is deeply concerned about the absence of a written and approved procedure for medical treatment (and referrals) because as a result of this, SZV employees and their family members are first and foremost confronted with undesired legal uncertainty about their rights to medical care (access to medical care). In addition, the lack of these written procedures and policies promotes fraud. It creates the possibility that requests for medical treatment and care are arbitrarily approved or denied, and – as a result of this – that the available financial means are abused.

2. In this specific case, no documentation was made available to the Inspectorate to support that:
 - a. there was a need to send the employee abroad;
 - b. there was a reason to have 2 pre-arranged visits to the Sehos hospital;

- c. the various doctor's appointments needed to be scheduled over an 8 day period, and that
- d. the employee needed to remain in Curacao for 3 more nights after her last doctor's appointment before flying back to Sint Maarten.

The Inspectorate is very concerned about these findings as the concerned SZV employee might have been sent to Curacao unnecessarily and remained there at the expense of SZV for a much longer period (3-4 times as long) than required. The Inspectorate is aware of the fact that the funds used by SZV are not directly regulated in a National Ordinance, but this does not justify financial waste by an entity, especially not if the entity is established by law and uses public funds to cover its operational expenses.

- 3. No report was received from the specialist abroad nor was the Inspectorate informed that such a report was due.

Under normal circumstances, where a patient is referred abroad by a local medical specialist, it is expected of the specialist abroad to report back about the diagnostic or therapeutic results. This report can also be used to verify that a patient indeed went to his/her consultations, and that the requirements for referral (e.g. health benefits) were met, and to inform the local specialist about further treatment instructions.

In this case, no report was received nor expected and – as a consequence – the “strict control of the medical treatment abroad” as is stated in the brochure, which amounts to an evaluation of both the need for the referral and the acquired health benefits cannot be performed.

- 4. The procedures for the booking of accommodations as explained by the SZV representatives were not followed in the case of the SZV employee in question.

The Inspectorate is concerned that the absence of one employee can apparently result in non-adherence to allegedly existing internal “policies” on the reservation of hotel rooms for employee medical referrals, both in the choice of accommodation and the duration of the referral and – as a consequence – the abuse of available financial means.

5. Recommendations

Based on the abovementioned facts and conclusion, the Inspectorate has the following recommendations:

1. To draft, submit for approval and implement clear policies and procedures for the medical referral of SZV employees abroad, which policies are to include strict adherence to the principles that medical referrals can only be done by locally established specialists (or GP's).
2. Have an audit performed on the necessity of medical referrals of SZV employees in the past 2-3 years whereby – in any way and not restricted to – the necessity of the referral abroad itself, the necessity for the duration of the referral and the arranged type of accommodation are investigated and – in case of established abuse – it is investigated if unnecessary expenditures can be recovered from the concerned employees.
3. Establish a proper monitoring and tracking system and procedures for all USZV employee referrals, including medical information, lodging and expenses.
4. Ensure that local (referring) specialists and specialists abroad are able to communicate directly in order to exchange medical information on a patient and keep patient files up to date.

