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IMPROVING OF THE NORMATIVE AND LEGAL MECHANISM OF PROVIDING SOCIAL PROTECTION SERVICES IN UKRAINE

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УДОСКОНАЛЕННЯ НОРМАТИВНО-ПРАВОВОГО МЕХАНІЗМУ НАДАННЯ ПОСЛУГ СОЦІАЛЬНОГО ЗАХИСТУ В УКРАЇНІ

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УСОВЕРШЕНСТВОВАНИЕ НОРМАТИВНО-ПРАВОВОГО МЕХАНИЗМА ПРЕДОСТАВЛЕНИЯ УСЛУГ СОЦИАЛЬНОЙ ЗАЩИТЫ В УКРАИНЕ

Проведено проблемний моніторинг питань соціального захисту населення України на основі аналізу нормативно-правового механізму надання послуг соціального захисту. Визначено основні принципи та концептуальні ідеї покращення державної соціальної політики завдяки удосконаленню нормативно-правового механізму надання послуг, який має гарантувати надання якісних послуг соціального захисту щодо компенсації соціальних ризиків та сприяти стабільності та благополуччя споживачів послуг.

Ключові слова: нормативно-правовий механізм, соціальна політика; соціальний захист; соціальні виплати; соціальні послуги.

Рис.: 1. Табл.: 1. Бібл.: 14.

Проведен проблемний моніторинг вопросов социальной защиты населения Украины на основе анализа нормативно-правового механизма предоставления услуг социальной защиты. Определены основные принципы и концептуальные идеи усовершенствования государственной социальной политики благодаря усовершенствованию нормативно-правового механизма предоставления услуг, который должен гарантировать предоставление качественных услуг социальной защиты при компенсации социальных рисков и способствовать стабильности и благополучию потребителей услуг.

Ключевые слова: нормативно-правовой механизм, социальная политика; социальная защита; социальные выплаты; социальные услуги.

Рис.: 1. Табл.: 1. Библ.: 14.

The problem monitoring of the issues of social protection of the population of Ukraine was conducted on the basis of analysis of the normative and legal mechanism of providing social protection services. The basic principles and conceptual ideas of improvement of the state social policy are defined thanks to the improvement of the normative and legal mechanism of providing services, which should ensure the provision of quality social security services in order to compensate social risks and promote stability and well-being of service users.

Keywords: normative legal mechanism, social policy; social protection; social payments; social services.

Fig.: 1. Tabl.: 1. Bibl.: 14.

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Formulation of the problem. Over the years of Ukraine's independence in the social sphere there were a lot of attempts to intensify targeted programs, to develop modern approaches of improving social protection system, the most important component of which is social services.

Growing importance of social services is caused by the fact that the aggravation of social problems at the present stage of Ukraine's development is due to economic reforms, political instability, deepening of the crisis of public life, all this factors led to a sharp stratification of the population by the standard of living, and, consequently, to the rapid increase in the number of citizens who are in need of state support. In the conditions where in the social sphere the incompleteness of reforms has given rise to certain deformations that are destructive in nature, the living standard of the population is rapidly decreasing, which deepens the polarization of the population, increases inequality in access to services, dissatisfaction with the level and content of social security. Such a state of social problems requires the search for ways to optimize social spending, to actualize and to increase the efficiency of the system of service delivery by public authorities, since this component is an important criterion for social protection of the population and the efficiency of public administration.

Analysis of recent research and publications. The coverage of social problems, theoretical aspects, practical issues of the development and implementation of social policy is disclosed in the works of leading Ukrainian scientists, among which are the works of Libanova E., Polyakova S., Cherenko L., Galushka Z., Dlugopolsky O., Bogdan D., Shevchuk P. and others.

Selection of a previously unsolved part of the general problem. Despite the fact that considerable attention by leading scholars is paid to social problems, the problem of overload of normative and legal base connected with the social protection of the population remains unresolved. Along with the adoption of new regulatory documents that are necessary for reforming the social sphere in general, the revision of the existing regulatory framework that impedes the process of reforming the state social policy should be reviewed.

The purpose of the article is to analyze the normative and legal framework of Ukraine in the field of providing social protection services to the population. Taking into account that the system of social services should meet the principles of state social policy and the needs of citizens, and effective social protection is not defined solely by the availability of socially guaranteed payments by the state, the issue of development and efficiency of the social services network is being actualized by the need to improve the normative and legal framework for the provision of social services protection.

Presenting main material. The Constitution of Ukraine (Article 46) declares the right of citizens to remain secured in case of loss of working capacity (both full and partial), in the case of a person losing breadwinner or work, in old age and in other cases. This right is the fundamental right of citizens for social protection.

In Ukraine, the indicated right of citizens should be implemented through the normative and legal mechanism, which includes the creation of a network of relevant institutions of various forms of ownership, compulsory state insurance, budget, or from other sources, financing of the social sphere.

Normative and legal principles of state regulation of the sphere of social protection consist in the creation of appropriate institutes and institutional structures of legislative and executive direction concerning the development and implementation of state social policy. The Cabinet of Ministers of Ukraine (CMU), the Verkhovna Rada of Ukraine (VRU) and her Commissioner for Human Rights the Committee on Social Policy, Employment and Pensions, social ministries and departments are in charge of issues related to defining the direction of social policy, developing strategic programs, reviewing and adopting relevant legal acts, and controlling compliance with the chosen direction of social policy at the state level. The implementation of social policy at the local level is provided by the relevant departments, the Department of Social Protection of the Population, local self-government bodies and other social actors, regardless of ownership.

Social work as a professional activity originated in ancient times and evolved from the form of tribal support through the system of ethnic, confessional, state support and, in the end, at the stage of division of labor in the society it became a legitimate profession.

In order to enable citizens of Ukraine to exercise their right to social services in 2003 the Law of Ukraine "On Social Services" No. 966-IV (hereinafter referred to as the Law) was adopted, which is intended to establish the legal basis for the provision of social security services to persons who are in need of it.

The term "social services" is interpreted by the Law as complex measures aimed at subjects who are in a life situation that is too complex to overcome it on their own. The fact that those subjects that themselves are incapable of coping with the prevailing circumstances is the condition for the possibility of receiving social protection services.

The forms in which social services may be provided are shown in the figure.

The law provides various types of services for which citizens of Ukraine can pretend: social-household, -medical, -economic, -pedagogical services; psychological and legal services, services about employment and information.

Since Article 1 of the Law defines only the general term "social services", Art. 5 of the Law contains an inexhaustible list and content of each type of social services, and how exactly these services will be provided by the by-laws, which together form the normative and legal mechanism for the provision of social protection services.

The Law also explains the concept of the state standard of social services. This concept should include the content of a particular service, the amount, terms and conditions of delivery, quality indicators and other possible conditions and limitations for the assessment of both the service provided and the activity of the subject that provides the social services with the established standard.

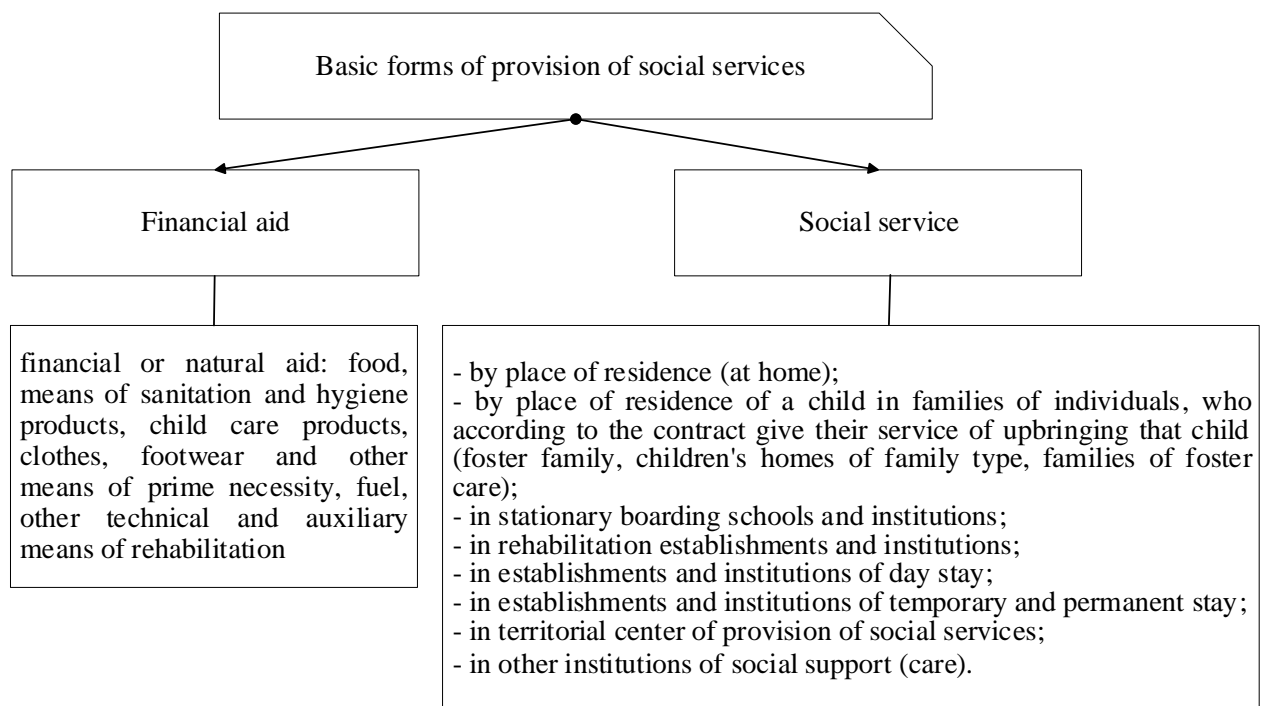


Fig. Basic forms of provision of social services in accordance with Art. 5 of the Law

As of 01.01.2018, the Ministry of Social Policy of Ukraine (hereinafter the MSPU) has already approved standards for the provision of certain types of social services. Let's consider, for example, the "State standard of care at home", approved by the order of MSPU of 13.11.2013 N 760 (hereinafter referred to as the Standard), in which the concept of "provider of social services at home" has a slightly different definition than the concept of the subject-provider of social services in the Law and provides the presence of professionals - competent personnel in the field of social protection, while in practice home care is most often carried out by relatives who have been in difficult circumstances or neighbors, with corresponding payments and enrollment opportunities to the insurance period of the care period.

The standard really includes such essential concepts as the definition of individual needs, the content of social care at home, and mechanisms for assessing compliance with a standard of care at home, which, on the whole, does not apply to individuals who also have the right to be social services providers under the Act.

The main principles of the provision of social services should be to prevent the occurrence of difficult living conditions, as well as to create conditions for a possible independent solution of these circumstances. It is then that the principle of the most effective use of budget and extrabudgetary funds, as provided in Article 3 of the Law can be implemented.

Article 12 of the Law emphasizes that the sphere of social services includes both the state and non-state sectors, that means they use and develop all forms of ownership.

The main problems of today's social protection system are [10; 12]:

- congestion of legal framework: a variety of benefits, both of social and occupational character, social benefits, compensations and provided services in Ukraine under 58 laws and more than 120 regulations. This problem arises from the fact that one and the same social group is entitled to benefits or social services in several normative and legal acts, but in different sizes and in different conditions.

- an overly branched system of benefits and social payments does not correspond to the financial possibilities of the State Budget, and therefore, in practice, cannot be realized. According to various estimates, the cost of benefits declared in the current legislation is from 3.8 to 5.8 billion United States dollars per annum, but actually only part of them is funded. In Ukraine there are more than 130 categories of people entitled to various social benefits. 70 of them receive benefits on a social basis, and about 50 - on a professional basis. In general, there are over 120 types of benefits, as well as more than 60 kinds of social and compensatory payments;

- lack of a unified system that would account different categories of recipients of benefits, social payments and social services, and the lack of statistical accounting of private activity of providers of social services.

Automated systems for the performance of social protection bodies of their functions are developed by the State Enterprise "Information and Computing Center" [13]:

- ASOPD / COMTEH - processing of documentation related to the appointment and payment of benefits;

- ASOPD / COMTEH-W - automated processing of documentation relating to the appointment and payment of pensions.

The abovementioned projects also allow to formulate reports in accordance with the current legislation (statistical, accounting) and to formulate documents for the payment of pensions or benefits.

- "Single State Register of persons entitled to benefits" (YEDARP) - provides automated registration of citizens who belong to the category of beneficiaries.

- "Housing Subsidies" - aims to automate the appointment and recalculation of housing subsidies, enables them to formulate appropriate reporting.

- "Doing a single statement" - due to this programmatic complex all types of social assistance should be carried out on a single application.

As you can see, each social group is accounted in a certain software complex, and after the end of the accounting period (month), social security bodies must exchange accumulated data. That is, in order to determine the total income of the family, a specialist of the social protection body must carefully check at least four databases.

And if, in accordance with the Law of Ukraine "On Compulsory State Pension Insurance" (hereinafter - the Pension Law) (Article 10), one who is entitled to different types of pensions at the same time will be appointed only one of them at the choice of this person, and to the privilege card, in addition to personal data, includes not only the list of privileges to which the person has the right but also the information on the benefits that he actually uses [4], then the same person will be entered in the ASOPD / COMTECH as many times as she receives social care benefits, which in turn leads to the wide range of errors (omission) that, in best conditions, are at the stage of formation of documents for the payment to control units of the Center on charge and implementation of social benefits (hereinafter - the Center) with centralized system of appointment and payment of social assistance.

In the Chernihiv oblast, without the involvement of the Center, some city labor and social protection departments (hereinafter – LSPD) already operate, including the departments of the Novosavodsky and Desniansky districts in the city of Chernihiv.

- the actual amount of social expenditures on the social sphere is at least 2,5-3 times higher than the amount declared in the Consolidated Budget of Ukraine for the relevant item of expenditures;

- the budgetary system of Ukraine functions according to the "precedent" principle, that is, the amount of funds allocated in the previous fiscal year is assumed in the next with a slight correction on the forecast inflation rate. Such a principle impedes the realization of planned expenditures on priority social policy directions and the provision of social services. As a rule, funds that are intended to be spent on financing social services are received by a number of institutions of the social protection system. From this funds, up to 90% of the budget is used to pay for utility costs and salaries for employees [9];

- cash payments to the population became the most widespread instrument of social protection. In Ukraine, the system of providing social services is trying not to use as a tool for the reintegration of people who are in difficult living conditions, but as an instrument for combating poverty [12];

- lack of interest in rehabilitation of people in difficult living conditions and in preventive work among potentially vulnerable social groups. Support for people in need as a result of falling into difficult living conditions involves, first of all, financing of institutions, as a result of which the lion's share of material and financial resources is distributed by heads of institutions, departments and departments of social protection at the local level.

The problem of overloading of the normative and legal base can also be considered on the example of compensation for the provision of social services to individuals:

1) who has been granted a disability pension in accordance with the Law of Ukraine "On Pension Provision of Servicemen, Commanding and Common Persons of the bodies of internal affairs, and some Other Persons";

2) in accordance with Article 7 of the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection" and receive a pension on the basis of age, disability or seniority;

3) in accordance with the Law of Ukraine "On Pension Provision of Servicemen, Commanding and Common Persons of the bodies of internal affairs, and Some Other Persons".

In addition to the types of payments specified in the table, individuals may be granted for the provision of social services in accordance with:

- Law of Ukraine "On State Social Assistance to the Disabled from the Childhood and Children-invalids";
- Law of Ukraine "On Pension Provision" and "On Pension Provision of Persons Released from Military Service, and some Other Persons";
- The Law of Ukraine "On Compulsory State Social Insurance against Accident at Work and Occupational Disease that Caused Disability".

Analyzing the Table, we see that for providing the same type of social services (in accordance with Article 5 of the Law - social services at the place of residence of a person), compensatory payments are made in the amount ranging from 4,80 UAH (without the indexation) to the subsistence minimum per person per month (as of 01.01.2018 is: for an able-bodied person, 1762,00 UAH, for the disabled – 1373,00 UAH).

In addition, according to Art. 11 of the Pension Law, only certain categories that receive assistance, premium or compensation in accordance with the applicable legislation are subject to compulsory state pension insurance. That is, providers of social services are differentiated not only by the size of compensatory payments, but also in the right to enrollment of the period of provision of social services to the insurance record.

As we see, at least 7 normative and legal documents are the basis for monetary compensation to individuals who carry out care, recognized as social services (paragraph 4 of the Order), but their services are not subject to assessment in accordance with the State standard, as they are provided by individuals (do not contradict Article 1 of the Law), but not by specialists - social workers or a group of experts in various fields (Section 1.4 of the State Standard).

Conclusions and suggestions. Analysis of the current legal framework of Ukraine in accordance with the normative and legal mechanism for providing social security services has shown that, in order for the system of services to be truly functional and to meet the needs of citizens who are in need of providing these services, methods and ways for their appointment should not only be declared in the Law, but also applied in practice due to a clearly distinguished mechanism for providing services by entities of different forms of ownership.

Revision of the existing legal framework in the field of social protection and the creation of a unified accounting system for all categories of citizens who use social protection services will help to reform the state social policy and bring it into common standards.

The financing of social services should be determined by the relevant norms, the necessity of existence of which is confirmed by the Law, but the relevant normative and legal framework has not been developed. The introduction of a system for calculating the value of a service per customer can be used to establish economically justified rates of payment for social services on the part of the population on the one hand, as well as to determine the amount of funds the state provides for the necessary social services from another. The principle "money goes for the recipient of services" can and should be considered as a form of social assistance, regardless of the service provided by the subject, which form of ownership has chosen the recipient of the service.

Social justice should become a fairness not only in the area of distribution. This is, first of all, a requirement for public administration bodies to ensure equal distribution of services, rights and obligations that are granted by the state to citizens.

Consequently, the urgent need for economy, rational use of budget funds requires the improvement of the regulatory normative and legal mechanism for regulating the provision of social services. Accordingly, an active state social policy will become a solid foundation for ensuring the full development of man and achieving a decent level and quality of life for citizens.

Table

Compensation for the provision of social services to individuals in accordance with certain normative and legal acts [3; 5,6,7,8]

| Name of the normative and legal act | To whom it is intended | On which person it is intended | Amount of payment |
|---|--|---|--|
| Resolution dated April 29, 2004 No. 558 "On Approval of the Procedure for the Appointment and Payment of Compensation to Individuals Who Provide Social Services" (hereinafter - the Procedure) (in accordance with part six of Article 7 of the Law of Ukraine "On Social Services") | Non-working individuals who constantly provide social services to the elderly, disabled, disabled children, patients who are not capable of self-service and who require permanent external assistance | a) invalids of group I ; b) citizens of the elderly age, who, according to the conclusion of the LCC, need constant third-party care and are not capable of self-service; c) invalids of group II ; d) children with disabilities; e) invalids of group III; e) patients who, according to the LCC, need constant third-party care and are not capable of self-care | Based on the minimum level of cost of living for able-bodied persons in the following sizes: 15 percent; 10 percent; 7 per cent depending on the category of person providing social services |
| Resolution No. 1192 of 02.08.2000 "On the provision of monthly cash assistance to a person who lives with a disabled person of Group I or II as a result of a mental disorder, which, according to the conclusion of the medical commission of the medical institution, requires constant care of the care" (in accordance with Article 5 Law of Ukraine "On Psychiatric Care") | A person who lives together with an invalid of Group I or II as a result of a mental disorder, which according to the conclusion of the medical commission of the medical institution requires constant external care, to nurse him | Persons with disabilities of Group I or II as a result of mental illness, which, according to the conclusion of the medical commission of a medical institution, require constant third-party care | As the difference between the three subsistence minimum for each family member and the average monthly total income of the family for the previous six months, but not more than the subsistence minimum per person per month |
| Resolution No. 832 of 26.07.1996 "On increasing the amount of state aid to certain categories of citizens" | Unemployed able-bodied person who cares for the disabled group I, as well as for a person who has reached the age of 80 years | Invalid of I group , as well as persons who have reached the age of 80 years | Without the indexation it is 4.80 UAH |
| Resolution No. 261 of 02.04.2005 "On Approval of the Procedure for the Appointment and Payment of State Social Assistance to Persons Without a Right to Retire, and Persons with Disabilities and State Social Care Assistance" (in accordance with Articles 4 and 7 of the Law of Ukraine "On State Social Assistance to Persons Without Retirement and Disabled Persons") | a) persons with disabilities resulting from the war of soldiers and other persons; Persons with disabilities due to war: Group I; II and III groups, who are single and according to the conclusion of the LCC need constant third-party care; b) persons who have been granted a retirement pension (military, Ministry of Internal Affairs) and who are persons with disability group I or single pensioners and, according to the conclusion of the LCC, need constant third-party care; c) single poor people who, according to the LCC, need constant third-party care and receive a pension on the basis of age or seniority or disability; d) low-income persons with disability group I who receive a pension on the basis of age or length of service or disability | – | Based on the subsistence minimum for persons who have lost their ability to work in the following sizes: 100 percent; 50 percent; 30 percent; 25 percent; 15 percent depending on the category of person to whom the aid is intended |

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