

Column

Health insurance funds: when market and command economy collide

As of 1 January 2015, the uniform contribution rate to the statutory health insurance in Germany decreases from 15.5 to 14.6 percent of the income. In order to offset the losses of revenue, health insurance funds can and have to charge an additional members' contribution rate from the beginning of 2015. If they fail to do so, board members of these insurance health funds face personal liability risks.

The legal situation from 1 January 2015 is broadly similar to the situation before 2009 when health insurance funds were able to set their own contributions. At that time, insureds "willing to change" searched for health insurances with the lowest contribution rate. Consequently it came to a partially ruinous price competition because some health insurance funds did not charge sufficient contribution rates in order to avoid losing too many insureds to other more favorable health insurance funds. Thus, health insurance funds increased their debts and had to be closed or merged (under constraint) due to lack of economic efficiency. The balancing deficits in the context of closing or merger were covered by other health insurance funds and hence ultimately by the insureds. Already in the past board members of health insurance funds which charged a non-cost-covering contribution rate were personally liable.

It is likely that this partially ruinous price competition between health insurance funds will continue from the beginning of 2015. Claims expenses of health insurance funds are increasing annually, whereas contribution incomes are likely to stagnate with the overall economic development. Furthermore, many health insurance funds currently use their reserves collected in the past years. Additionally, a reduction of the federal grant for the statutory insurance health insurance is still pending. Almost all health insurance funds would therefore have to, by 2016 at the latest, increase their individual contribution

rate which will average 0.9 percent from 1 January 2015 above 0.9 percent in order to cover their expenses.

Health insurance funds being the first which increase their contribution rate above 0.9 percent will lose the majority of their insureds who then will change to health insurance funds with a lower contribution rate. As already in 2009 many health insurance funds will therefore try not or not in the economically appropriate manner to increase their contribution rate in order to survive in this price competition.

Besides the executive boards also supervising boards of health insurance funds are responsible for charging adequate contribution rates. If it is determined in retrospect that a non-cost-covering contribution rate had been charged personal liability risks running into millions will threaten members of executive boards (already in case of slight negligence) and of supervising boards (in case of gross negligence). These personal liability risks are not always or in the full amount covered by existing D&O insurances.

Especially board members of health insurance funds who do not charge sufficient contribution rates are faced with considerable liability risks. These liability risks are in no appropriate relation to the salaries of managers of health insurance funds orienting on salary structures of the public services and not on those of the private sector. One reason for this is the highly restrictive practice of the German Federal Social Insurance Authority ("Bundesversicherungsamt") which denies the approval of above-average boards' salaries.

Consequently, board members of health insurance funds are remunerated like public servants but are liable according to standards of the private sector. One reason for this disagreement is the approach – destined to fail – to integrate market-based elements (price competition) into a social insurance system largely characterized by structures of planned economy (compulsory insurance, largely identical range of services). This cannot and will not work.

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