



Republic of Bulgaria
ECONOMIC
AND SOCIAL COUNCIL

OPINION

on

CURRENT ISSUES OF HEALTH INSURANCE

(on its own initiative)

Sofia, 7 April 2004

On 9 March 2004 the Plenary Session of the Economic and Social Council took decision to draw up and adopt on its own initiative an Opinion on Current Issues of Health Insurance.

The Commission on Budget, Finances, Insurance, and Social Security and the Commission on Social Policy of the Council that had been responsible for the preparation of the opinion approved a draft of the Council's opinion on 1 April 2004.

Mr. Vasko Boyadjiev – was appointed Rapporteur.

The Economic and Social Council approved this Opinion at its Fourth Plenary Session, held on 7 April 2004.

I. INTRODUCTION

On December 2003 the President of the Republic of Bulgaria approached the Economic and Social Council requesting an Opinion to be prepared in relation with the Bill adopted by the Parliament for a amendment to the Health Insurance Act and in particular the postponing of the deadlines set for the payment of outstanding compulsory health insurance contributions due for over three months.

The Economic and Social Council has seriously taken the proposal of the President of the Republic for the preparation of the Opinion because of the following interrelated reasons:

- **first**, the importance and seriousness of the problem related with the health insurance of the population and the right to equal chances for access to high-grade health services and medical attendance;
- **second**, the sharp public and international discussion in connection with many unsolved problems related with the rights, scope, procedure, terms and conditions for health insurance of the nationals on one hand and the insufficient guarantees for their unimpeded access to health service on the other hand;
- **third**, the role of the Economic and Social Council being the one to express the interests and will of the organized civil society, represented by the nationally representative organizations of the employers, employees and other organizations of the civic society voicing social and professional and class interests.

Taking into account the proposal of the President of the Republic as well as the circumstances specified,

Giving credit for the responsible behaviour of the social partners' groups – organizations of employers, organizations of employees and other representatives of the civil society, represented in the Council,

And on the authority of art. 5, para 5 of the Economic and Social Council Act,

At its Third Plenary Session held on 9 March 2004, the Economic and Social Council decided to work up an Opinion on current issues of the health insurance in Bulgaria.

The Council has pointed out that this Opinion shall be the result of a number of meetings and discussions organized by the Commission on Budget, Finances, Insurance and Social Security and the Commission on Social Policy of the Council with the participation of experts in the field of legislation and social practice on problems related with the health insurance.

The only starting point from which the Economic and Social Council can express a concrete opinion is the authentic position of the civil society. It involves both the interest of those participating as insurers and self-insured, and also the interest of the insured persons in being guaranteed with a real access to the constitutionally proclaimed rights.

The Opinion of the Council aims at drawing and attracting the attention of the public and the state bodies to some of the problems arisen and the eventual options for their solution.

While discussing the current issues of the health insurance, the draft laws deposited with the National Assembly for the amendment and supplement of Health Insurance Act have been considered, which outlined the fragment nature of the efforts made in this area so far and the necessity of giving new meaning to a number of elements in the acting model of health insurance. The following more substantial principal problems of health insurance give us grounds as to this.

II. BASIC CURRENT PROBLEMS IN THE HEALTH INSURANCE LEGISLATION AND PRACTICAL ASPECTS RELATED WITH ITS IMPLEMENTATION

1. The Constitution of the Republic of Bulgaria regulates the right of the nationals to health insurance ensuring accessible medical aid and the right to free of charge medical attendance under terms and conditions provided for by the law. There are two aspects related with the right of medical assistance for the Bulgarian nationals. *The first* one constitutes the right of the health insured persons to an accessible medical aid and *the second* one guarantees service for free also to all the other under the terms and conditions provided for by the law. Two types of social relations are concerned – the first ones are directly connected with exercising the right of labour and the second ones are redistribution relations. Grounds for such assertion come from the circumstance that social security, including health insurance, represents social security closely linked with the right to labour.

The provisions in the Constitution regarding the above were also set in the Health Insurance Act of 1998. The insurance rights are financially provided for by regulated contributions, determined by actuary analysis of the factors that influence the insurance events and by rule they accrue in the fund of the National Health Insurance Fund. From this point of view the current health insurance system differs considerably from those principles.

2. By virtue of the Health Insurance Act the scope of the **insured persons** practically involved the whole population of the country, and it is hardly 2,5 – 2,7 million people that receive incomes from occupation which are taxable and insurance contributions are paid. As far as the remaining part of the population is concerned practically the budget should provide financing of the health aid through transfers from the National Health Insurance Fund (NHIF).

The budget, the “Unemployment” Fund and the Employer (the Principal) are obliged to pay health insurance contributions for the following categories: pensioners, civil servants; children; students and doctorants; military men paying their military service; the needy; deprived of liberty/imprisoned, war veterans and disabled soldiers; injured in execution of official or public duty; parents, parents by adoption or spouses attending on the disabled

who need permanent outside assistance; unemployed entitled to compensation for unemployment; persons entitled to compensation for temporary disability; persons in unpaid leave, those paying an alternative military service. The specified categories constitute about *4 million persons* who do not have immediate obligations to pay the insurance contributions themselves and who shall not suffer sanctions of any form because of careless behaviour of the insurers, overdue payments or lack of information, and etc.

At the same time within the range of those subject to health insurance groups also fall groups which are obliged to pay contributions even if lacking incomes from employment or similar relations, as well as incomes under the form of transfer payments from the budget or the public funds. For example: about *300 thousand persons*, involving unemployed persons without the right to compensation in unemployment and needy persons, who do not meet the social support criteria. These criteria should be reconsidered and specified. About *200 thousand* comprise the unregistered persons – unemployed, without shelter, illiterate persons, and etc. Hence, nearly ***500 thousand persons*** do not have right of an access to health services.

3. The financial provision of the system should be ensured by the valuation of the insurance rights and collection of the funds needed through the health insurance contributions, targeted subsidies from the budget and other additional sources. Matters are set adverse in the health insurance model used in our country. There is deficiency of regulated rights for the nationals in the Health Insurance Act and they are taken out on the basis of the National Frame Agreement depending on the funds collected in the NHIF budget. This way, the impossibility for the people to use the health aid, they need, is set by regulatory means. The lack of many diseases, medical services and medicines in the NATIONAL FRAME AGREEMENT (NFA) and the accompanying lists practically makes senseless the health insurance of the persons concerned. Moreover, the financial non-coverage of the agreed clinical paths in practice impeaches the rights of the insured persons.

A considerable part of the Bulgarian population proves to be without access to medical services or receives medical care of low quality and limited range. It is a paradox that the Bulgarian nationals are entitled to health insurance but they do not dispose of guaranteed medical service.

The Constitutional provision for a free of charge access to health services is not practically realized in the present model of organization and functioning of healthcare. A lot of economic, social, and moral principles are infringed – Bulgarian nationals make many payments to get access to good quality health services:

- pay taxes;
- pay health insurance contributions;
- pay customer charges when going to the doctor;
- make additional payments of many health services, procedures, medications and consumables;

- make non-regulated payments significant by range and amount;
- make compulsory “volunteer donations” and “sponsorships” to the medical establishments.

4. The regulatory framework does not provide for **the rights and liabilities** of the secured persons yet. The established practice of interpreting those rights by the sub-law regulatory acts such as regulations, orders, ordinances, instructions, resolutions, and etc. as well as by civil contracts does not guarantee the stability of these social relations. The logics has been interfered in the acting health provision model where the obligations of the people are realized on the basis of the social security relationships while their rights ensue as regulated and on the grounds of the National Frame Agreement depending on the accumulated funds.

5. The Council is anxious also about the inadequate legal regulation of **the procedure for the cessation, restoration, and termination of the social security rights including the procedure for the settlement of disputes arisen**. The acting regulations have generated serious problems with outstanding security contributions. An equal negative attitude to all persons is present though only a small part of them have the obligation of self-insuring and in accordance with the Health Insurance Act they are subject to sanctions when they have not paid their contributions for over three months. The issue with the health insurance rights of the Bulgarian nationals living or working abroad has not been settled either.

The suspension of the security rights on the basis of lists without treating the individual fault and the liabilities of the persons concerned and the impossibility of appealing the administration acts is also a problem, whose solution cannot be effective by adopting fragmented decisions for permanent extensions of the deadline set for clearing the payment of overdue obligations.

6. The Economic and Social Council considers that **the structure and shortcomings in the management** of the NHIF constitute a serious problem. One of the dimensions of this problem is related with the construction of the NHIF management bodies – The Assembly of the Representatives and the Board of Management of the NHIF. The NHIF principle and statute as a public institution have been violated. A serious problem in the interpretation of this term is the identification of the public with the governmental institution. The main feature of the public institution is the self-governance. This principle is set forth in the Health Insurance Act but it has not found realization in practice.

The identifications of the subjects, spokesmen and bearers of the public interest are missing in *the Assembly of the Representatives*. For instance, in the category insured persons there are representatives of the municipalities, which are the bearers of the executive power on local level. At the same time the state dominates under various forms through its representatives in the different quotas. Moreover, this body is deprived of main control and supervisory functions. It is in charge only of some legitimization of the actions of the Board of Management and the operational management of the NHIF for certain period of time.

The non-equal position and replacement of the partnership and cooperation principle between the state, employers, and employees intensify in the formation of *the NHIF Board of Management*. Guarantees for tripartite participation are missing. Furthermore, the representatives of the employers and employees are deprived of the opportunity to influence the decisions of the Management Board.

Another dimension of this problem is the lack of an effective control including also the lack of lawful regulation of the rights, obligations and functions of *the Control Council* of the NHIF. The scope of control is not either defined, which makes the existence of this body practically senseless.

The logical conclusion is that the state dominates in the management of the NHIF and the state manages the NHIF, i.e. NHIF is not a public institution. Moreover, conflict of interests abides in these bodies – in most cases the representatives of the state are members of the professional organizations, which participate in the preparation, undersigning, control and in other activities related with the National Frame Agreement. This is due to the poorly specified definition of the notion “providers of medical aid” in the Health Insurance Act. For such providers are considered only the medical institutions and health centres but the GPs (general practitioners) or other members of the professional organizations. The medical institutions and health centres do not participate in the negotiations and the signing of the National Frame Agreement, because of which the professional and class organizations of physical persons undertake commitments on behalf of legal entities, which they do not represent. .

The Council worries about the practice that by the National Frame Agreement the interests of doctors, dentists, and pharmacists are guaranteed vs the interests and rights of the health insured persons.

Our principal opinion is that no matter what the system of management can be – one-tyre or two-tyre, the problem remains substantial and the solution should be achieved on the basis of publicly acceptable balance of the parties concerned.

7. The infringed rights and interests of the health insured persons and the conflict of interests finds expression in the **National Frame Agreement** (NFA), where the interests of the health insured persons have not been defended. The National Frame Agreement (NFA) is a frame document that regulates the social relations to a great extent. Nevertheless, by rule it has been construed on a pure commercial basis. Moreover, one of its contracting parties – the Bulgarian Medical Union exerts a substantial influence on the policy of the state in the healthcare area through its main instrument – the health insurance. A paradox is at hand – the providers of medical aid are the main subjects and their interests comprise the principal factor for using the National Frame Agreement (NFA) in spite of the stipulations of the Health Insurance Act. According to the Act this instrument is supposed to ensure the right of access to medical service and protection of the interests of the health – insured persons.

The Council has noted with anxiety that in the course of NHIF history the National Frame Agreements were signed with delay, no sanctions were envisaged for the contracting parties in case of non-feasance, no possibilities were provided for effective, prevention, current and subsequent control, which creates conditions for violating the interests of the health insured persons, overwriting of activities, medications and consumables. The result of these actions brings about the reduction of the funds in the NHIF funds and as a whole to reduced opportunities for an access to medical attendance of good quality.

8. The Council is extremely concerned about the fact that for six year now the issue of **an integrated information system** of NHIF is still a problem of the present day and has remained unsolved. The lack of an integrated information system is of many dimensions in protecting the interests of the health-insured persons:

- unsatisfactory efficiency of the control actions of the NHIF on the providers of medical aid and services;
- overwriting of activities and medical attendance not performed;
- impossibility for identification of the health insurance beneficiaries;
- negative impact on the wholesome activity of the NHIF.

9. According to the Council, the issue about the availability of a reserve under the NHIF budget besides the reserve established by the Health Insurance Act, which is necessary to cover extra costs and balance of the financial resources of the NHIF, remains still controversial and debatable.

At the same time the lack of sufficient funds has been pointed out as a reason for the violated access to medical services without concerning the quality. The Council is also worried about the current arrangements for increasing the amount of the compulsory health insurance contribution.

10. The Council is united in the opinion that the leaving of fundamental problems in the health insurance and health legislation unresolved are the main cause for considerable **under-financing of the healthcare system in the Republic of Bulgaria**.

Referring to expertise assessments, about 25 – 35 clinical paths are under-financed, hence the activity of the hospitals. A new paradox is at hand, the more medical activities a hospital provides the bigger are its financial obligations. Of particular concern is the practice of replacing less expensive clinical paths by more expensive ones; construing documents of incorrect contents, therapy different of the one prescribed to the patients; demanding considerable unregulated payments from the patients, which are not taxable and involved in the social security system.

III. MAIN CONCLUSIONS AND RECOMMENDATIONS

The Economic and Social Council,

After making a thorough analysis of the problems arisen in the health insurance;

After analysing the documents submitted by the National Health Insurance Fund;

After considering and discussing the drafts for the amendment and supplement of the Health Insurance Act presented with the National Assembly;

And after taking into account the opinion of the experts and the representatives of the groups, represented in the Council,

Governed by the rights and interests of the secured persons and in execution of its function and role to voice the interests and will of the organised civil society and to consult the state bodies on the problems of the economic and social development of the country,

Is making the following recommendations:

1. The Council is convinced that all possibilities have been exhausted for fragmented improvement of the social relations in the health insurance area, grounds for which are the repeated changes in these relations. For the 1998 – 2003 period only the Health Insurance Act has been amended 21 times. At present there are 8 more drafts for amendment and supplement of the Health Insurance Act. All this shows that some social relations of particular importance and related with the health – the decisive human value for the quality of life – cannot be resolved permanently this way. The Council thinks that it is necessary to achieve public consensus for the integration of the social security systems and the codification of the insurance regulatory framework by preserving the best practices and finding solution for the accrued problems in the health insurance.

2. The Council has underlined that the principles for the setting up of the health insurance should record the global principles in the social security. It has also suggested that the health insurance should be entirely built on the social security principle while the current elements of social support should be taken out of the health insurance range. Thus the motive of the persons to get insured will go up.

3. The Council has stressed on the necessity of a precise regulation of the scope of insured persons and it is convinced that compulsorily health-insured should be only those that receive incomes from occupation or similar activities. The Council has also recommended synchronising those subject to insurance with the current regimes for social security, which corresponds also to art. 13 of European Social Charter, ratified by Bulgaria.

4. The Council has drawn the attention to the need of urgent solution for the funding of the medical services and activities, by specifying the relationships between the insurers, insured persons, NHIF, the budget and the providers of medical aid and services. The following understanding should be in the basis of this regulation: the financing of the health-insured persons has to be provided by the health-insurance contributions, targeted subsidies from the budget and other sources. For the remaining persons another procedure and other criteria for the payment of the activities performed and medical services rendered should be set up – from the budget, from public and private funds and/or to their expense and account.

5. The Council has expressed its firm position that legal guarantees should be provided for equal participation of *the representatives of the insurers* – the representative organizations of the employers, of *the representatives of the insured* – the representative organizations of the employees and *the representatives of the state, jointly with the municipalities* in the NHIF management and control bodies. A possible alternative for determining the correlation between the quotas and the election of the NHIF Management is the model of the National Social Security Institute that has proved its effectiveness.

The Council considers it advisable to charge the NHIF management bodies with control and other functions by which the NHIF shall practically transform into a public institution in compliance with the principles set in the Lisbon Strategy for the active role of the social partners in the management of the public funds and institutions.

6. The Council is convinced that changes are needed in the National Frame Agreement instrument, at least in the following elements: contracting parties; subjects, who undersigned it; rights, obligations and responsibilities of the parties; mechanisms of control on its execution; sanctions targeted mainly at the effective protection of the rights of the civilians for an access to health service of good quality and non-admission of reducing the scope of the medical aid and the health services.

7. The Council insists on taking emergency measures for the setting up of an effective integrated information system and for introducing the so called “smart cards” for the establishment of the status of each Bulgarian national and user of health services.

8. The Council considers it necessary that the principle set in art. 5, clause 4 of the Health Insurance Act about the responsibility of the insured for their own health, should be developed into a system of norms through which the health insured persons will be encouraged to take care of their own health.

9. The Council considers that the increase only of the health insurance contribution amount cannot solve the problems with the funding of the healthcare. The rise of the amount of the health insurance contribution without considering the general level of the social security burden shall bring about the reduction of the domestic consumption, shall increase

considerably the labour costs, shall drop down the productivity, and then the competitiveness, the incentives for the foreign and Bulgarian investors will go down, which will impede the creation of favourable conditions for sustainable economic growth and the capacities of Bulgaria to contribute to the attainment of the main goal of the European Union, namely transforming itself into the most powerful and highly efficient and competitive economy in the world.

The Economic and Social Council considers that the present Opinion is only a part of the enormous healthcare theme.

It is necessary to undertake measures targeted at the performing of a thorough and profound analysis, prepared with the participation of all institutions and organizations concerned, about the health reform going on in the country and its regulatory provision.