

Decision of a Health Insurance Company and its Judicial Review

Abstract

This thesis deals with decisions of public health insurance companies, which usually address an insured person. It focuses on the possibilities and scope of their judicial review in proceedings against a decision of an administrative authority, as well as other selected related procedural aspects.

Judicial review of decisions of health insurance companies has attracted the attention not only of legal professionals, but also of the general public, especially regarding the reimbursement of health services otherwise not covered by health insurance, generally also referred to as extraordinary reimbursement. This work reflects these current issues by focusing on extraordinary reimbursement while describing multiple theoretical concepts. However, decisions health insurance companies are still examined in the full breadth of their scope, as stipulated in the Public Health Insurance Act.

In order to introduce the issue comprehensively, the thesis summarises various means by which health insurance companies exercise public administration. These include not only public law decision-making powers but also methods of private law.

Due to the focus of this work, the decision a health insurance company is analysed according to its so-called material formal concept, as defined in the second chapter. Subsequently, third part of the thesis first characterises different types of acts of a health insurance company in formal terms, namely payment order, statement of arrears, consent to reimbursement of health services and administrative decision. Furthermore, regarding the material aspect of the decision, the fourth chapter distinguishes the main areas of decision-making of a health insurance company, depending on the affected public subjective rights or obligations of the insured person. On this basis, it is concluded that all acts of a health insurance company set out in the Public Health Insurance Act are subject to judicial review, as they fulfil both formal and material conditions.

Therefore, the following fifth section examines possible application of the statutory exclusion of judicial review based on the dependence of the decision on the assessment of the insured person's medical condition. In this context, this thesis also analyses related current legislative proposals. The final sixth chapter deals with the participation in the proceedings of judicial review, with particular regard to the position of the health insurance company as the defendant.

Key words: health insurance company; decision of an administrative authority; administrative justice; extraordinary reimbursement; health services otherwise not covered by health insurance