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Medical insurance: ways of incipience

The acceptance of principal legislative acts regulating insurance relations, and the fact that the state is no longer has a monopoly in implementing such relations, has begun a new period in the development of insurance legal relationships in Ukraine.

Due to the constitution of Ukraine the state's duty is to facilitate the realization of human rights, in particular those related to life, health and social defence of the population. However, the mechanism of realizing these rights entirely by the state's methods is nowadays insufficient. Therefore the possibility of realizing given rights is provided by contractual regulation, as only with the help of citizens can a suitable situation be created to realize those rights guaranteed by the Basic State Law and the other regulations of rights and freedoms.

The institute of insurance in the present environment is required to guarantee the defence of economic interests, in order to maintain a suitable level of prosperity and health.

Nowadays insurance belongs to the number of those spheres of activity which are developing dynamically. The institute of insurance has long been known to the civil law of Ukraine. But as for the relations in the sphere of medical insurance a great problem arises, as medical insurance in Ukraine is still undefined.

The importance of this question is that medical insurance is a form of protection from risks that threaten the most valuable aspect of human relations – man's health and life. Medical insurance as a form of social defence in the field of health protection guarantees the provision of medical care under all circumstances, including illness and accident.

According to Article 49 of the Constitution of Ukraine, every person has a right to health protection, medical care and medical insurance. The state creates the environment for providing all the citizens with effective and accessible

medical service. In accordance with Article 18 of the Legislation Background of Ukraine regarding health protection the state is responsible for the creation and functioning of the system of medical insurance for the population[1].

Medical insurance deals with an insurance risk related to expenses resulting from medical care when the insured accident occurs. Medical insurance guarantees the payment of fees for treatment of the ailment for which the insured person is covered by means of insurance contributions.

Medical insurance may be defined as a defence of the citizens' interests in the event of bad health for any reason, including illness and accident, and it is related to compensation of expenses in the form of payment for medical care and other expenses related to health support: hospital or ambulatory treatment, purchasing medicine, dental care,, carrying out preventive measures etc. The defining feature of medical insurance is a method of providing an insurance defence and it is given in the form of medical services.

The legislative background of the development of non-state medical insurance has been the Law of Ukraine "On insurance" by Article 6, where obligatory medical insurance is provided. In particular, it should be defined as obligatory medical insurance of citizens who arrive to Crimea rest, which was introduced in 1997 as an experiment because of the necessity to compensate the expenses of local sanatoria for treatment of citizens during their rest in the resort on the peninsula[2].

According to V.V. Kostytskiy, one of the reasons for insufficient development of free-choice forms of medical insurance is institutional. Absence of a clearly and properly compiled legislation regarding the functioning of free-choice medical insurance and relative state control, on the one hand – it does not allow to create the reliable non-state systems of medical insurance being clear for public; on the other hand – it generates criminal financial organizations that undermine the public trust[3].

The other reason for the slow development of free-choice medical insurance is the public mistrust of private insurance companies and non-state social funds.

The next reason is economic, namely unstable growth in productivity and real income. Financial difficulties prevent people from investing extra money in non-state insurance companies. Only those with high and stable income can afford to avail of such services.

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1 The Law of Ukraine «The Legislation Background of Ukraine about health protection» dated November 19th, 1992 together with changes and amendments in the wording dated January 1st, 2013.

2 The regulation of Cabinet of Ministers of Ukraine dated on June 28th, 1997 "On carrying out an experiment of providing the citizens coming to Crimea for rest with compulsory medical insurance".

3 V.V. Kostytskiy, *Social economical and legal challenges of establishing medical insurance in Ukraine*, "The Law of Ukraine" 2001, No. 12, p. 94–99.

As world experience testifies, reduction of financial possibilities of the state financing of medical programmes must be accompanied by the development of systems of private medical insurance, but the private systems do not reject the problem of financing of the state medical care.

The complete fulfillment of citizens' rights to medical insurance may only be realized by the improvement of the existing system of free-choice medical insurance and by the establishment of comprehensive medical insurance, which is included in the Legislation Background of Ukraine regarding health protection and comprehensive state social insurance[4].

In world practice medical insurance is a part of medical care system determined as a defence that is given to its members by public activities and carried out in the form of obligatory medical insurance, private medical insurance, paid and free medical care and special additional medical programs. The obligatory medical insurance is financed by insurance premiums and founded on solidarity and mutual support in the event that insured parties need medical service.

Free-choice medical insurance is a form of defence of citizens' interests in the event of ill health for any reason. It is related to the citizens' compensation expenses for fees for medical care, and related to health support:

– by visiting doctors and by clinical treatment;
– by purchasing medicine;
– by hospital treatment;
– by being given dental care or dental prosthesis;
– by providing preventive health measures etc.

In different countries there are different systems of medical care, but they are united by the fact that their national policies are based on the law which suits the accepted international rules and standards written in most international legal regulations of the United Nations Organization (UN), the European Council (EC), the World Health Organization (WHO) and others. For example, Article 25 of the Universal Declaration of Human Rights states that everyone has a right to medical care necessary to maintain their health and the health of their family[5].

Most member states of the Economic Commonwealth and Development Organization (ECDO) when solving the issues of financing and providing health protection follow three basic principles:

1) providing equal access to health care services for all citizens based on united participation of the poor and the rich, the sick and the healthy, the young and the old not depending on residence;

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4 *Ibidem.*

5 Universal declaration of human rights dated December 10th, 1948.

2) high quality of health care services, i.e. citizens' health and satisfaction of citizens' needs with normal expenses;
3) the maximally acceptable proportion of national resources that can be used to satisfy the citizens' health care needs.

Even in countries, where they mainly rely on medical insurance, there can be special necessities for additional medical care for persons who are not enrolled in the general system or whose income does not allow them to use insurance services.

Basic principles of additional medical care:

1) medical help is based on the law and given to those categories of citizens who are not covered bylegal medical insurance;
2) all charges are the responsibility of the state or authorities;
3) when estimating needs personal wealth and extra income are taken into consideration. This calculation does not include money from some sources, for example, from little personal savings;
4) providing medical care to ensure the total disposable income of a recipient does not fall below the determined social minimum, taking into account such factors as family size and necessary expenses;
5) additional medical insurance is characterized by its charity because it is orientated to solve a particular problem and, unlike social insurance, it gives a sufficient amount of help under the condition that such adequacy is determined by the law[6].

Financing the medical insurance system is carried out by traditional methods which operate in most countries; many of them do not take costs for obligatory medical insurance from the other costs for social insurance, and workers and entrepreneurs contribute unified costs from about 9 to 20%.

In most countries in the world three models of financing health care are used: from social funds of consumption; from private funds and from mixed funds.

The particularity of financing model from social funds of consumption is that only two ways are used for collecting money to fund medical care: taxes, payments in social public funds of medical insurance or a combination of these sources. Thus, financing health protection is carried out by taxes in such countries as Ireland, Great Britain, Canada, Spain and Scandinavian countries.

The finance model has been founded on the basis of public insurance in such countries as Belgium, France, Germany, Japan, Luxemburg and Netherlands.

The second model is the system of private financing which practically does not finance health care from social funds. Such systems finance the costs exceptionally from private sources or direct payment to the provider of medical ser-

[6] V.V. Kostytskiy, *Social economical…*, *op. cit.*, p. 94–99.

vices, and also the combinations of these sources. There is no system of financing health care in the world that is founded exceptionally on private principles.

There is the third model of financing health care in many countries, namely the social-private one which provides funds in three ways:

1) from social funds and from private insurance funds (the Netherlands);
2) from private insurance funds and from social funds for serving specific groups of the population (The USA);
3) from social and private insurance funds.

For example, in Canada fees for treatment are covered by social insurance, as is purchasing medicine on prescription from clinics, but dental services are paid for by private insurance.

All models of financing health care systems have been completed with the help of world experience and the historical background unique to particular countries. They develop, change and do not exist in a "true form". However, all of them provide treatment of citizens in case of illness. Nevertheless, the measures to prevent some diseases and to protect health are not practically predicted. In many cases providing insurance excludes the provision of services which were not clearly determined.

The experience of providing medical insurance for financing health protection in Hungary, the Czech Republic, Latvia, Estonia and other countries, which are reforming the system of medical care, shows the presence of several problems that need to be solved immediately.

Firstly, there is a structural deficit generated by the payments of workers that must compensate the needs of most users of health care services, namely the disabled population.

Secondly, contribution to payments from salary extracts up to the considerable increase of labour cost, that leads to unemployment and its transfer to the informal sector.

Thirdly, the state loses control of charges, as of the level of recoupment and charges are determined by the mainly independent funds of medical insurance.

Fourthly, many problems arise in defining money distribution mechanisms between medical services providers i.e. hospitals and doctors. There is also a problem of excessive medical care (it is beneficial for the doctor to offer the patient additional and rather expensive treatment that an insurance company must pay).

To prevent this process one should forecast the limitation of taxation level (as has been the experience in Canada) and develop a carefully planned and well-regulated system of paying for particular services.

Reforming the system of health protection in Ukraine must necessarily solve at least two principal problems:

1) encouragement of the work of doctors by the possibility of being paid for the results of treatment;
2) the development of competition between state and private health care institutions.

The draft of the Law "On obligatory state medical insurance" dated April 5th, 2013, that had been offered, contains a range of conceptual defects.

In the Constitution of Ukraine obligatory state social insurance is defined as insurance payments from citizens, enterprises, establishments and organizations, and also budgetary and other sources of social care (Article 46) and medical insurance (Article 49).

The constitutional court of Ukraine noted in its judgement that the Principal State Law gives everyone the right to medical insurance. The concept of medical care, the ways of establishment of medical insurance (including state insurance), the development and use of free-choice medical services that work beyond medical care on a fee basis in state and communal health care institutions and the list of such services must be determined by the law[7].

It is impossible to avoid the fact that there will be tax pressure both on citizens and on employers, occupied with the own business of individuals, educational establishments, local budgets. In the current economic conditions, it will lead to more involvement of the informal economy, increasing budgetary charges and resulting in numerous abuses in this field.

Thus, the draft of the Law "On obligatory state medical insurance" must forecasts the division of the types of activity that can be financed and fulfilled entirely by private markets and those which are characterized by important collective elements, so that costs may be more evenly distributed.

We should also bear in mind the possibility of competition between various services that can be given by the private sector; the availability of information about the use of state facilities and insurance money for health care and giving "voting rights" to the consumers of medical services.

Reforming the system of health care needs to be planned carefully and be inspected by the public.

Attention should be paid to implementing a stage-by-stage system of medical care that must provide a fundamentally new social infrastructure adapted to marketing and create the mechanisms of legal, social economic and financial interrelations between the suppliers and the users of medical services.

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[7] The judgement of Constitutional Court of Ukraine in the matter N 1-13/2002 followed by the constitutional petition of 53 Ukrainian deputies for official interpretation of the regulation, part 3, Article 49 Constitution of Ukraine "medical care is given free of charge in state and communal health care institutions" (the matter of free medical care) dated May 29th, 2002, "Bulletin of the Constitutional Court of Ukraine" 2002, No. 3, p. 19.

Citizens must be provided with an obligatory medical insurance certificate. Special attention should be paid to the process of making contracts between the medical insurance fund and health care institutions.

Nowadays the key to medical insurance development is considered to be the project "Assistance – Ukraine". The experience of organizing the systems of providing various types of help by the insured, so-called "Assistance" systems in western countries, is only partly adapted to the situation in Ukraine. Creating "Assistance – Ukraine" centres forecasts improving the organization of providing the citizens of Ukraine, foreigners and persons without citizenship with medical care; resolving issues related to the compensation of charges for medical care to the citizens of Ukraine during their temporary stay abroad; accelerating the medical insurance market and working out the basic elements of the medical insurance system[8].

Before the completion of the medical insurance system in Ukraine careful research of the experience in other countries is required, in order to avoid a number of mistakes, to understand properly the specification of these or other forms of medical insurance and finally to work out such a program of reforming health care that will be the most acceptable and effective.

The popularity of medical insurance in Ukraine is growing every year, as can be seen from the increase in both the number of signed contracts and the sums of insurance payments. There are currently approximately 30 insurance companies active in the medical insurance market, the average payments of which represent more than 60%. Statistics show that the share of medical insurance services in the general insurance market is only 2,6% of the total amount of the population, including individual insurers – less than 1%[9]. However, in the recent crisis of the Ukrainian economy, medical insurance is gradually reaching a high segment of the home insurance market, its growth rate superseded only by that of motor car insurance.

The fundamental characteristic of medical insurance is coordination of state guarantees for providing medical care with the financial resources of the system.

Today in the state there are a few approaches how to develop the system of state medical insurance:

– with the possible involvement of insurance companies;
– by the association of social medical insurance and obligatory state social insurance because of rates of temporary disability;

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[8] The regulation of the Cabinet of Ministers of Ukraine (CMU) dated December 4th, 1998 "On the creation of a range of institutions for the provision of medical care assistance – Ukraine".

[9] *Cooperation in Yalta. Medical insurance in Ukraine*, "Insurance Matter" 2006, No. 3, p. 60–61.

– providing medical insurance as a separate type of insurance with corresponding control system on a tripartite basis[10].

Establishing medical insurance standards in Ukraine must take international precedents into consideration.

Solving all these problems needs time, financial resources and corresponding specialists. The state must consider appropriate legislation that would protect all subjects' interests in the medical insurance market. Insurance companies, in turn, can make efforts to inform the public of medical insurance.

Thus, the development of medical insurance is a substantial step forward of both Ukrainian health protection and the law. The acceptance of corresponding laws will serve to establish a competitive model of medical insurance in Ukraine and to create conditions whereby the insured party has a greater choice of insurer and medical agency, to provide the public with accessible information regarding the activity of insurers and medical agencies and to allow medical organizations of different legal forms to participate in free-choice medical insurance.

Abstract
Medical insurance: ways of incipience

The article concentrates on the main reasons for the weak development of medical insurance in Ukraine and prospects for introducing medical insurance there. The author examines worldwide practice of medical insurance as a part of a system of medical support. Based on the analysis of international experiences and Ukrainian developments, the author emphasizes the gradual introduction of medical insurance in Ukraine.
Key words: insurance, medical insurance, health protection, medical services

Streszczenie
Ubezpieczenia medyczne – uwagi wstępne

Tematem artykułu jest analiza głównych przyczyn słabego rozwoju ubezpieczenia zdrowotnego na Ukrainie i możliwości jego dalszego rozwoju. Autor rozpatruje sytuację ubezpieczenia zdrowotnego jako część systemu pomocy medycznej. Na podstawie analizy międzynarodowych przykładów i sytuacji na Ukrainie, autor zwraca uwagę na stopniowe wdrażanie ubezpieczenia zdrowotnego na Ukrainie.
Słowa kluczowe: ubezpieczenie, ubezpieczenie zdrowotne, ochrona zdrowia, usługi medyczne

[10] L.I. Novoselska, *The ways of fulfilling social medical insurance in Ukraine*, "Scientific Bulletin" 2009, No. 18.