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Document :	AEMH 05/028
Title:	National Report Germany
Author :	Prof. Nolte
Purpose :	Information
Distribution :	AEMH Member Delegation, Participants at the 58th AEMH Plenary Meeting
Date :	25 April 2005

58th AEMH Delegates Meeting 2005 in Athens

Item on the Agenda: **Reports by the National Delegations**

The German delegation concentrates its report this year on four points which, in the opinion of senior hospital physicians, have formed the crux of political discussion regarding the German health system during this period.

1 New remuneration scheme for in-patient services

On several occasions in the past years, the German delegation has reported on the introduction of a new remuneration scheme for in-patient services. The legislators have decided that a performance-related, flat rate payment scheme for the remuneration of general hospital services should be introduced, and that this scheme should be standard for all hospitals. The German Hospital Society, together with the Associations of Health Insurance Companies, have agreed to introduce a diagnosis-related remuneration system similar to that in operation in Australia, the medium-term object of which is to set prices for hospital services which are the same throughout any given federal state, thereby grouping of the greatest possible number of different hospital services – with the exception of certain areas such as psychiatry – within in a flat rate system.

Having now reached the end of an almost four-year preparatory phase, the step-by-step introduction of this system began on 01.01.05. During what is termed the convergence period, the rates charged at present by individual hospitals for their separate services will – in a five phase programme extending over the period 2005 to 2009 - be aligned to a standard payment level for individual services which will apply throughout the federal state. By 2009 there will be one price only for each hospital service, with no cost fluctuations within the federal state borders.

The legislators' intention in implementing this system, it can be assumed, is to bring about a reduction in the number of hospitals in Germany. Experts predict that by the close of the convergence period in 2009 there will be approximately 20% fewer hospitals in the country than today. The VKL estimates the hospital spread will suffer, and a deterioration in hospital services to the population within the vicinity of their homes will result.

2 First appraisal of the *Law Governing the Modernisation of the State Health Insurance Scheme*

In our last year's report, the delegation explained that the Law Governing the Modernisation of the State Health Insurance Scheme had come into force in this country on 01.01.04. The aim of this legislation is to guarantee in the future that all those insured, irrespective of age, sex and income, will receive the necessary medical attention they require, while at the same time ensuring both high quality care and acceptable insurance contributions over a long period.

This legislation places a huge added burden on those insured under the scheme through additional obligatory charges for medical care, coupled with a reduction in services and an increase in the share of medical payments they are responsible for. The introduction of what is termed a surgery fee of €10.00, which every person insured has to remit on their first contact with a doctor each quarter, is the most glaring example.

Most recent statistics show that in 2004 the insurance companies made savings amounting to €4.2 billion as a result of this legislation. The vast majority of this money has been used for the repayment of debts the insurance companies had incurred in the past. Only a fraction of the amount was used to reduce the level of insurance contributions. Despite assurances to the contrary, it is unlikely that in the current year either the new legislation will result in lower contributions.

Clearly, the Law Governing the Modernisation of the State Health Insurance Scheme has so far failed to reach one of its prime objectives and, with regard to the reduction in insurance contributions announced by the legislators, must be seen as a failure.

3 Integration of hospitals into out-patient care

Germany is indeed the only country in Europe in a position to indulge in a strict division between in-patient and out-patient care. A total of 301,000 working doctors are registered in Germany, of which 132,000 are engaged in out-patient care. 144,000 are employed in the hospital sector, with the remaining 25,000 working for local or government authorities and corporations, and in other areas such as industry.

The fields of activity in the out-patient sector are strictly segregated from those in the hospital sector; only in a very small number of cases do we find examples of doctors with overlapping responsibilities, such as general practitioners who also care for a certain

number of patients in hospitals, or hospital doctors who are empowered to care for patients at home.

The law makers, through implementation of the Law Governing the Modernisation of the State Health Insurance Scheme discussed above, intended to relax the borders precisely in this area. A new regulation contained within the context of this legislative package provides for the possibility for health insurance companies - in addition to existing out-patient care already catered for - to enter into contractual agreements with hospitals which will enable the hospitals to undertake out-patient care in highly specialised areas, as well as to treat rare illnesses. The precondition is that these highly specialised areas and rare illnesses are listed in a catalogue which itself is governed by legislation.

The fact is however that almost one and a half years after the introduction of this regulation not one single such contact between hospitals and health insurance companies has been signed anywhere in Germany. The reason for this is quite simply the fact that a further regulation was included in the legislation package which states that the health insurance companies must pay additional monies for the out-patient care carried out by the hospitals. Clearly, the health insurance companies see no reason to enter into contractual agreements with hospitals which will incur additional expenses for themselves, and decline from using the possibility included in the legislation to integrate hospitals into the out-patient sector.

Here too, the Law Governing the Modernisation of the State Health Insurance Scheme has failed to reach its objective.

4 German legislation governing time spent at work

In its last year's report, the German delegation outlined the reaction of German legislators to the decision of the European Court of 09.09.03. This decision, it is remembered, confirmed that the verdict reached on 03.10.01 - that the time personnel on call spend at the work-place is to be judged as full working time - is also valid for Germany. As a result, German legislators amended the German labour laws hitherto in force. The essence of the amendment to the law which governs time spent at the work-place, which will take effect on 01.01.06, is the restriction in the number of hours worked per day to a strict maximum of 8, and the provision that any deviation from this resolution should be placed in the hands of the unions and management. A solution is now in the process of being reached, whereby unions and management have agreed to opening provisos which will permit the rational implementation of the EU regulations and the Legislation Governing Time Spent at the Work Place into hospitals.

Given this situation, the discussion initiated by the EU commission at the present time concerning a review of Regulation 93/104EU is of little help. It seems the very strict definition that all on-call duty is automatically equated to full working time – the definition contained in the original European regulation mentioned above - may now be modified, and a distinction made between categories referred to as active and inactive time.

This idea is met in Germany with acceptance or rejection depending on which side you stand; either that of the employers – hospital management – or that of the employees, the hospital doctors.

As the commission is at present clearly not able to define exactly which direction it should take, and the European Parliament has yet to pass judgement on the issue, it can be assumed that a reworking of the EU regulation governing time spent at work will not take place within the medium term, and that the legislation governing time spent at the work-place with the opening provisos agreed by unions and management - the essence of which is outlined above - will become effective in this country on 01.01.06.