

Wrocław, the 22st of May 2015

Care Insurance in the Federal Republic of Germany

A Doctoral Dissertation by Ariel Przybyłowicz

Summary

The following dissertation deals with legal regulations of social security for non-independent people in the German social law. What makes one of the main reasons for discussing that subject is social significance of the issues connected with securing proper care for non-independent people, particularly the elderly, in the context of social, economic and demographic changes taking place in the modern societies. The German solution, being the first in the world, was the example for other countries. Considering the fact that the problem becomes more and more serious also in Poland, a closer analysis of the German solutions may inspire the discussion on how future Polish solutions in that field may be shaped. Therefore, the considerations included in this work focus on both the advantages of the solutions and concepts accepted by the German legislator, as well as their disadvantages and practical issues connected with applying the legal regulations of care insurance.

The dissertation has been divided into six chapters preceded by an introduction and summarized in a conclusion.

The first chapter discusses the genesis of care insurance in the Federal Republic of Germany. Particular stress has been laid on the causes that gave an impulse to launch works on a systemic solution aimed at securing the needs of a growing number of non-independent people in a better way: mostly demographic issues resulting from social and economic development. The chapter also presents briefly legal regulations of benefits that had been available for non-independent people before care insurance was introduced, and which were regarded as highly insufficient.

Chapter Two has been devoted to propositions of solving the issue of non-independency. Those propositions were characterized by their large variety, which proves that securing the needs of non-independent people is possible within various welfare systems, although the German legislator finally decided to accept the solution compliant with the tradition of the social law, i.e. within the frames of social insurances. The plurality of the

proposed solutions, including their advantages and disadvantages, may be an interesting indicator for the Polish legislator as for potential possibilities of securing the needs of non-independent people in Poland in a better way.

The third chapter deals with the rules of care insurance that the whole legal regulation is based on, which are: the rule of a free choice, the rule of rehabilitation activity primacy, the rule of community support primacy, or the rule of basic security, which was a novelty in the system of social insurances and a specific departure from the classic model of that institution. Moreover, the chapter presents general premises for acquiring rights for the benefits. A part of the dissertations has been devoted to the legal definition of non-independency as the notion with basis significance for the whole regulation.

Chapter Four presents the benefits that are available for the non-independent people within the care insurance together with detailed premises for acquiring rights for particular benefits. It also discusses a vast catalogue of benefits within community support and institutional care, as well as a number of other benefits and rights that are aimed at securing humanitarian care and proper life quality for the non-independent people.

The fifth chapter presents the rules of organizing and financing the care insurance, including its division into two parts: social and private insurances. The subjective scope of the care insurance has been discussed, as well as the rules of financing it, including a theoretically interesting question of a differentiated value of the insurance premium for child caretakers and childless people. The dissertations are also connected with the rules of granting the benefits - social care insurance granted according to the rule of benefits in kind, which implies arising of the so-called trilateral legal relationships characteristic for sectors of the social law granting benefits in such a form.

The last, sixth chapter includes theoretical and legal dissertations on placing the non-independency, as a social phenomenon, in the system of the social law, considering the evolution of that phenomenon mostly in the context of relations between social insurance and social care, as well as a systemic role of those two sectors of social law. A part of dissertations is also connected with departures of the legal regulation in shape of care insurance from the classic model of social insurance.

Prace naukowe