PREMIUM PRICING AND TRANSPARENCY in German Private Health Insurance

HILA-AIDA SUMMIT, ATHENS 2014

Prof. Dr. Manfred Wandt
Goethe-Universität Frankfurt am Main

German system of health insurance

- mandatory insurance
  - either statutory health insurance (90% of the population) or
  - private health insurance (civil servants, self-employed persons, and employees who exceed the compulsory insurance limit)

- Law on private health insurance
  - until 1994:
    - preapproval of standard terms by the supervisory authority
    - supervisory law (Act on the Supervision of Insurance Undertakings/VAG)
    - no provisions in Insurance Contract Act (VVG 1908)
  - since 1994 (EU-deregulation):
    - no preapproval of standard terms by the supervisory authority
    - instead: provisions on private health ins. VVG 1994/2008

What are consumer needs in private health insurance?

Access to an insurance contract

- **providing coverage for the costs of medical treatment**

> obligation to contract for the **basic tariff** (regulated coverage: analogous to the cover of public health insurance (GKV), no risk surcharges, no carve-outs)

- **at affordable premiums**

> basic tariff: premium may not exceed the average maximum contribution payable in the **GKV**

- **lifelong**

> ordinary termination by the insurer is forbidden in **substitutive health insurance** (cost-of-illness, daily sickness allowance insurance and longterm nursing care insurance)

Substitutive health insurance (outside basic tariff)

Consumer needs in general as shown before but partially covered by the basic tariff,

therefore **no duty of the insurer to contract** outside the basic tariff

But:

Many (**semi-) mandatory provisions** restricting the principle of freedom of contract,

esp. concerning calculation and alteration of the premium

Act on the Supervision of Insurance Undertakings/VAG - Section 12

Substitutive health insurance

•(1) …shall be operated in Germany only in accordance with the technical principles of life insurance, i.e.

•**premiums shall be calculated** in accordance with **actuarial principles** on the basis of probability tables and other pertinent **statistical data**, specifically taking into account any relevant assumptions with respect to *the risk of invalidity and illness, to mortality, to the dependence of the risk on age and gender and to the probability of cancellation*, also taking into account **safety loadings** and other loadings and a technical interest rate,

Act on the Supervision of Insurance Undertakings/VAG - Section 12, 11 II

Section 12

(4) … for substitutive health insurance. The **premiums for new business** may not be lower than the premiums for the insured of the same age under the existing portfolio of insurance contracts, not including their ageing provision.

Section 11

Premium calculation …; **equal treatment**

(1) ….

(2) All factors being equal, the same principles must be used to calculate premiums and benefits.

Regulations additionally apply to substitutive health insurance

esp.

•Regulation on the Actuarial Methods for Calculating Premiums and the Ageing Provision in Health Insurance (Kalkulationsverordnung - KalV) of 18 November 1996.

Calculation must be:

–age-dependent for each person

–separate and sufficient for each tariff

–separate for each class of a tariff („Beobachtungseinheit“: men, women, children)

–only risk-adequate premiums

–…

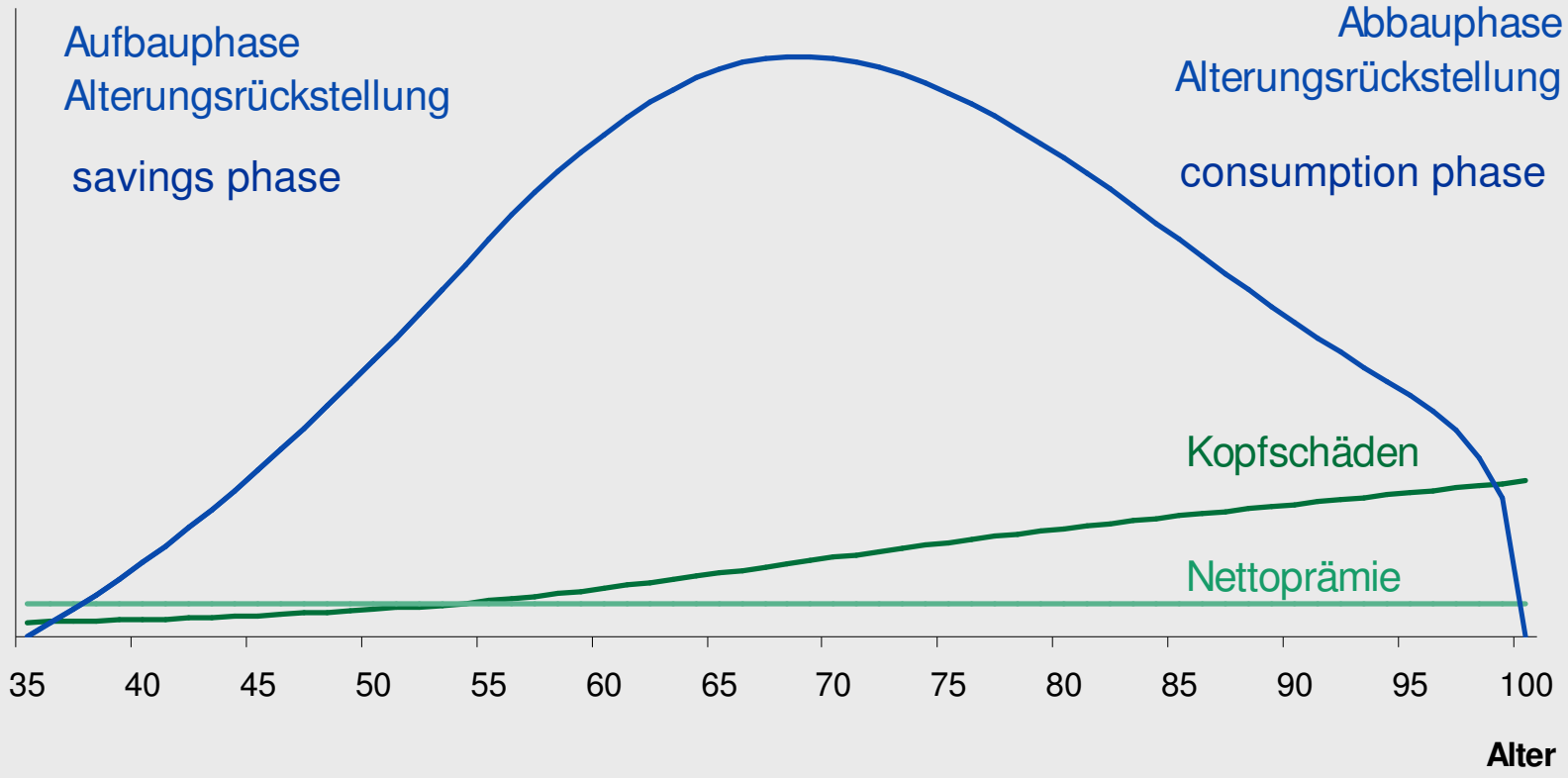
–…

Actuarial science

$$
\begin{aligned}
A_z &= \int_0^z f_t(x)dx = \int_0^t g_t(x)dx + \int_t^z h_t(x)dx \\
&= \int_0^t \left(-\frac{3}{t^2}x^2 + \frac{4}{t}x \right) dx + \int_t^z \frac{t^2}{x^2} dx \\
&= \left[-\frac{x^3}{t^2} + \frac{2}{t}x^2 \right]_0^t + \left[-\frac{t^2}{x^2} \right]_t^z \\
&= -t + 2t - \frac{t^2}{z} + t = 2t - \frac{t^2}{z}.
\end{aligned}
$$

formula only for illustration

Premium rates must not increase because of increasing age



Level premium does not include /neutralize increases of health care costs

⇨ **right of the insurer to alter the premium** or the conditions correspondingly, **ICA Section 203:**

(2) **If**, in the case of health insurance, the insurer's statutory right of termination is ruled out by law or contract, the insurer shall be **entitled, to re-determine the premium** (except negligent miscalculation),

- in the event of a not only temporary change
- to one of the bases of calculation,
- insofar as an independent trustee has reviewed the technical bases of calculation and has agreed to the adjustment of the insurance premium.

BGH VersR 2004, 991: review by courts only with regard to the documents given to the independent trustee by the insurer

PREMIUM PRICING AND TRANSPARENCY ?

Transparency by mandatory provisions on the **initial calculation**, in particular:

- actuarial bases and methods of the calculation of any tariff
- only risk-adequate premiums
- premium rates must not increase because of increasing age

Transparency by mandatory provisions on the **adjustment of the premium**

- duty of the insurer to annual review of changes
- by maintaining the original factors of calculation (= the insurance benefits and the probabilities of death),
- insofar as an independent trustee has reviewed the technical bases of calculation and has agreed to the adjustment of the insurance premium.

PREMIUM PRICING AND TRANSPARENCY ?

In order to protect insurer´s legitimate interest in confidentiality of bases of calculation:

•court proceedings may be in camera
•the public may also be excluded from the pronouncement of the reasons for the decision or a part thereof by a special ruling of the court
•the court may obligate the persons present to observe secrecy in respect of facts of which they become aware in the course of the hearing or through an official document relating to the matter

BVerfG VersR 2000, 214

Conclusion: transparency on premium pricing only for experienced experts