RIGSREVISIONEN

Extract from the report to the Public Accounts Committee on price, quality and access to treatment on private hospitals

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I. Introduction and results

1. This report deals with the public hospitals' purchase of private hospital services and the quality of these services. The report also deals with the follow-up on the consequences of employer-paid health insurance for access to hospital services. Rigsrevisionen launched the examination at its own initiative in August 2008.

The report relates to the Ministry of Health and Prevention and the regions, which are responsible for arranging the purchase of private hospital services. In this examination, the Ministry of Health and Prevention, previously part of the Ministry of the Interior and Health, is designated the Ministry of Health.

2. In recent years, a number of new healthcare initiatives have created a fertile ground for significant private hospital sector growth. Two key initiatives are the extended free choice of hospitals under the Danish Health Act and tax exemption for employer-paid health insurance under the Danish Tax Assessment Act. According to the explanatory notes to the act, the purpose of the extended free choice of hospitals is to reduce treatment waiting times and grant patients a new and fundamental right. Since the introduction of the extended free choice of hospitals, the regions have bought more private hospital services. According to the explanatory notes to the act, the purpose of exempting employer-paid health insurance from tax is to make it more attractive for enterprises to assume social responsibility by offering to pay for their employees' health treatment or insurance.

3. *The extended free choice of hospitals* was introduced in 2002. Under the scheme, patients are entitled to treatment at private hospitals, including foreign private hospitals that have entered into agreements with the regions if public hospitals cannot provide treatment within two months. In October 2007, the time limit was reduced to one month. From the outset, the scheme has been organized to offer patients the widest choice of private suppliers. More than 280,000 patients have made use of the extended free choice of hospitals.

4. The extended free choice of hospitals widens *the free choice of hospitals* introduced in 1993. Free choice means that patients referred to hospital treatment may choose to be treated at any regional hospital.

5. Moreover, regions may enter into agreements with private hospitals outside the extended free-choice scheme to purchase extra treatment capacity, for example, knee and hip surgery. In those cases, the regions may use tenders strategically to ensure patients faster treatment.

6. As part of the extended free choice of hospitals scheme, section 87 of the Health Act provides a model for concluding agreements with private hospitals and clinics. This standard agreement is designed so that the regions (formerly the counties) and the private hospitals negotiate the prices for treating patients using the scheme. The practice so far has been for the regions and the private hospitals' trade association to conclude annual agreements. If the parties fail to agree, the private hospitals may request the Minister for Health to stipulate the terms of the agreement.

Free choice of hospitals enables citizens to choose treatment at all public hospitals and a few private specialist hospitals, including hospices and treatment centres for rheumatic disorders, sclerosis and epilepsy.

Extended free choice of hospitals enables patients to choose treatment at private hospitals or clinics in Denmark or abroad, if the public hospital service cannot offer treatment within one month. This assumes that an agreement exists with the private hospital for the treatment concerned.

7. The purpose of this examination is to assess whether the Ministry of Health and the regions have organised the purchase of private hospital services under the extended free choice scheme in a way that pays sufficient attention to price and quality. It also aims to assess whether the Ministry has a general idea of the impact of the increased use of employer-paid health insurance schemes on access to hospital services.

To this end, the examination asks the following questions:

- Have the Ministry of Health and the regions fixed prices and concluded agreements under the extended free-choice scheme according to the provisions of the Health Act?
- Has the Ministry of Health followed developments in the private hospital service market to ensure that regional hospital service purchases under the extended free choice of hospitals scheme have been made with due regard to finances?
- Has sufficient attention been paid to quality in the agreements that the regions have concluded with private hospitals under the extended free-choice scheme?
- Has the Ministry of Health investigated whether the increase in employer-paid health insurance has affected access to hospital services?

MAIN FINDINGS AND CONCLUSIONS

The extended free choice of hospitals scheme was introduced in 2002 to give patients the right to private hospital treatment if public hospitals are unable to provide treatment within a fixed time limit, and thus avoid long waiting times. From the outset, the scheme has been organised to offer patients the widest choice of private suppliers. More than 280,000 patients have made use of the extended free choice of hospitals. The waiting time limit was reduced from two months to one month in October 2007. In 2007 and 2008, the use of the free-choice scheme escalated, and regional expenditure on private hospital treatment rose significantly.

In the consultation procedure, the Ministry of Finance and the Ministry of Health have pointed out that by increasing the use of strategic tenders as an instrument, the regions may avoid having to refer patients to private hospitals through the extended free choice of hospitals scheme. In the Ministries' opinion, this approach enables the regions to obtain rates lower than those currently agreed under the extended free choice of hospitals scheme.

The agreements between the public hospital service and private hospitals are concluded according to a standard agreement governed by the Health Act. Rigsrevisionen notes that the scheme has been implemented in compliance with statutory provisions.

The examination has shown that since 2006, the Ministry of Health has been aware that as a result of changed market terms, private hospital services could be acquired at prices lower than the fixed rates. Rigsrevisionen notes that the changed terms have not been used as a platform for setting lower rates under the expanded free-choice scheme. Against this background, Rigsrevisionen finds that the Ministry of Health has failed to ensure that private hospital services have been acquired with due regard to finances.

In April 2009, the government and Danish Regions concluded an agreement on the organization of cooperation with the private hospitals. According to the agreement, prices must be fixed on the basis of so-called reference rates reflecting the rates of the most cost-effective public hospitals. As has been the practice to date, prices must be negotiated between Danish Regions and the private hospitals. The political agreement has not yet been implemented in the legislation.

Furthermore, Rigsrevisionen finds that the regions have failed to pay sufficient attention to and follow up on the quality of the private hospital treatment under the extended free choice of hospitals scheme.

Finally, Rigsrevisionen finds that the Ministry of Health has failed to investigate whether the increase in employer-paid health insurance has affected access to hospital services. Rigsrevisionen finds it satisfactory that in future the Ministry will assess the correlation between the use of health insurance and the development in public hospital waiting times.

This overall assessment is based on the following:

The Ministry of Health and the regions have fixed prices and entered into agreements under the extended free-choice scheme according to the provisions of the Health Act. The regions have entered into agreements according to the Health Act standard agreement. In February 2006, the Minister of Health fixed private hospital service prices according to the relevant provision of the Health Act.

- The Health Act regulates how regions must jointly enter into agreements with private hospitals to purchase hospital services under the extended free choice of hospitals scheme. The agreements enable patients to choose a private hospital if public hospitals are unable to offer treatment within a specific time limit. The standard agreement requires that regions conclude agreements with the private hospitals and clinics that wish to do so.

- Negotiations between the counties and the Association of Private Hospitals and Private Clinics (SPPD) in Denmark, a trade association of some of the private hospitals, broke down in January 2006. According to the rules of the Health Act, the Minister of Health may lay down the terms of the agreement if the parties fail to reach agreement. Against this background, the Minister fixed private hospital service prices at a level between those that the Association of County Councils and the SPPD were willing to accept.

The Ministry of Health has followed developments in the private hospital service market and thus become aware that in 2006 services could be purchased at prices that were lower than the fixed rates. However, lower rates for the extended free-choice scheme have not been fixed. Accordingly, Rigsrevisionen finds that the Ministry has failed to ensure that services were purchased with due regard to finances.

Market development in private hospital services

- When the extended free-choice scheme was introduced in 2002, the market for private hospital services was limited and market testing of prices practically impossible. Within a few years, the number of private hospitals and clinics in Denmark increased significantly.

- Concurrently with the negotiations with the SPPD that broke down in January 2006, the Association of County Councils concluded agreements with approx. 100 private hospitals and clinics at prices substantially lower (equal to approx. 80% of the level of Danish Region rates) than those fixed by the Minister of Health. The consequence of the Minister's price-setting was the cancellation of the more than 100 agreements concluded by the Association of County Councils at a lower price.

- The course of events in connection with the conclusion and cancellation of the approx. 100 agreements shows that lower prices were possible in the hospital service market in 2006. However, the implementation of the standard agreement did not allow the concluded agreements to be upheld.

- In 2006, the Ministry of Health and the Danish Competition Authority estimated that the market was sufficiently mature to put the bulk of treatments to tender. It is not possible to use tenders for price-setting under the extended free-choice scheme without amending the legislation.

- During the suspension of the extended free choice of hospitals, several regions have called for tenders regarding types of treatment for which there are a sufficient number of private suppliers within a reasonable transport distance for residents in the region. Agreements in several important areas have been concluded with more than one supplier. Moreover, several regions have chosen to introduce variable payments depending on volumes to ensure that they get volume discounts. The experience most recently gained by the regions from putting patient treatment to tender confirms that they can secure prices considerably below the level previously negotiated.

The Ministry of Health's evaluation of the model agreement

- In 2006, the Ministry of Health set up a cross-ministerial committee to propose a new model for negotiating rates and resolving conflicts between negotiating parties in the event of disagreement. A draft committee report estimated that a framework model for tenders might benefit competition in the area, and also result in lower prices. This did not appear from the final report issued in September 2007

- In the consultation procedure, the Ministry of Finance and the Ministry of Health have pointed out that by increasing the use of strategic tenders as an instrument, regions may avoid having to refer patients to private treatment through the extended free choice of hospitals. This enables the regions to obtain rates that are lower than those applicable under the extended free choice of hospitals.

- Following the political agreement between the government and Danish Regions made in April 2009 about the organization of the private hospital cooperation, the role played by the Minister of Health will change, because as of January 2010, an institute of arbitration will be entitled to set prices if the regions and the private hospitals fail to agree. Setting up an institute of arbitration requires a legislative amendment. In addition, future negotiations between the regions and the private hospitals will be based on the cost levels of the public hospitals that perform the treatments concerned at the lowest cost and most cost-effectively. Rigsrevisionen finds that the existing agreement does not aim to promote competition between private hospitals.

Insufficient attention has been paid to quality in the joint agreements that the regions have concluded with private hospitals regarding the treatment of patients under the extended free-choice scheme. The regions have set higher quality requirements in the voluntary agreements made outside the extended free-choice scheme, and these requirements enable follow-up on hospital service quality.

- At a minimum, all hospitals must comply with current legislation and follow the rules on medical treatment of patients, the authorisation legislation on health care activities, etc.

- The joint agreements under the extended free choice of hospitals fail to specify quality requirements. Therefore, the regions do not have an adequate basis for following up on the quality of the hospital services supplied.

- The voluntary agreements concluded by the regions, including those concluded during the suspension of the extended free choice of hospitals, were based on thorough preparatory work. This work involved the regions setting quality requirements that they included in their assessment of which private hospitals and clinics may be considered as bidders. Thus, the voluntary agreements more accurately provide the regions with the capacity and quality required.

- Overall, the contractual basis of the voluntary agreements contributes to ensuring greater focus on follow-up than is the case for the joint agreements. One such example is the follow-up requirements stipulated by the regions, which enable them to better evaluate hospital service quality, for example, by monitoring medical malpractice, complications and re-admissions.

- Specific, more relevant follow-up requirements for private hospital treatments will give patients more security and ensure that regions also take quality into consideration when purchasing private hospital services.

- In their consultation response, the Ministry of Finance and the Ministry of Health have stated that the regions are responsible for following-up on quality requirements because basically, the same clinical quality requirements apply to public as apply to private hospitals.

The Ministry of Health has failed to investigate whether the increase in number of employer-paid health insurance plans has affected access to hospital services. The Ministry has stated that it intends to assess the correlation between the use of health insurance and the development in public health service waiting times. Rigsrevisionen finds this satisfactory.

- Rigsrevisionen finds it relevant that the Ministry of Health follows up on the consequences of employer-paid health insurance in relation to the reduction in the waiting lists for the benefit of those groups in society who cannot afford treatment at a private hospital or whose employers do not wish to pay for treatment. The examination has shown that so far, the Ministry of Health has not performed such follow-up.

- The Ministry of Finance and the Ministry of Health have stated that the Ministry of Health intends to analyse the growing popularity of health insurance and the development in public hospital service waiting times. The Ministry will approach the private hospitals to provide a basis for assessing the correlation between the use of health insurance and the development in public hospital service waiting times.