Report to the Federal Parliament:

The management of sickness and invalidity insurance benefits

19 May 2011 – In its report, the Court of Audit examined how controls aimed at detecting and recovering the sickness and invalidity insurance benefits that health insurance funds sometimes pay by mistake are carried out. The Court noted that the time limits for detecting undue payments and the waiver of recovery rights that are provided for in the "Charter of the insured person" are not always respected. It confirmed the usefulness of controls but recommended a comprehensive approach that would highlight the means employed and the financial goals achieved. It also analyzed the penalties and incentives intended to promote effective internal controls. These penalties are not proportionate to the financial loss and the workload induced by a slack recovery process.

An insured person who is unable to work for medical reasons is entitled to get compensation for the loss of his/her earned income. This support scheme is organized by the National Institute for Sickness and Invalidity Insurance (Inami/RIZIV), in cooperation with the health insurance funds. In 2009, these compensation payments amounted to over 4,9 billion euros.

When calculating and paying the sickness and invalidity insurance benefits, health insurance funds can make mistakes. This is due to the fact that there are many granting conditions to be fulfilled, which have to be periodically checked with several external data relating to the insured person. Consequently, it may happen that undue benefits are paid.

In its report, the Court of Audit evaluated the controls that had been implemented by the Inami/RIZIV and the Supervisory Board of Health Insurance Funds (OCM/CDZ) in order to ensure the detection and recovery of benefits which were erroneously paid by health insurance funds. It examined the payments that health insurance funds do not recover as well as the Inami/RIZIV's policy as regards waiver of recovery rights. It also investigated the impact of the Charter of the insured person on the recovery of undue benefits and, finally, analyzed the penalties and financial incentives intended to promote effective internal controls within health insurance funds.

The Court noted that the detection and recovery procedures are deficient. Health insurance funds are given a time limit of two years to detect undue payments. After this period, the benefits may no longer be recovered and will be borne by the insurance scheme. However, according to controls carried out by the Inami/RIZIV - but this latter did not put any figure on the amount of the financial loss suffered - undue payments are not always detected in time.

Besides, since 1997, the Charter of the insured person forbids to recover benefits that have wrongly been paid to a bona fide insured person. However, in such cases, the Inami/RIZIV and the health insurance funds usually continue to recover undue payments. Since 2009, they rely on the sickness and invalidity insurance law, which allows health insurance funds to recover undue payments that would stem from an error on their part during one year. According to the Court, this interpretation does not offer sufficient legal guarantees, whereas it is the Inami/RIZIV's responsibility to ensure the correct application of the Charter by health insurance funds.

In the procedure which enables it to waive recovery of undue payments, the Inami/RIZIV should first check the legality of recovery under the Charter.

Generally, the Charter of the insured person has strengthened the need for effective internal controls in health insurance funds so that benefits can not be erroneously granted.

Even if the Inami/RIZIV's administrative and thematic controls are useful, they do not give an overall view of the internal controls that have been established in the health insurance funds. Indeed, the Inami/RIZIV is not able to globally quantify the undue payments detected by each health insurance fund, and neither can it follow-up if they have been recovered. Besides, the controls it carries out in cooperation with the OCM/CDZ do not make it possible to compare the human and technical means assigned to internal controls in each health insurance fund. The Court therefore recommended a more comprehensive approach of the internal control processes, which would highlight the means employed and the financial goals achieved.

Furthermore, penalties and financial incentives intended to promote effective internal controls in health insurance funds do exist. Within this framework, the accountability system for health insurance funds, as managed by the OCM/CDZ, allows for administration costs depending on the quality of their management. However, this system does not include the procedures meant to guarantee that benefits are correctly paid. The Court recommended to mention these procedures among the awarding criteria for administration costs.

In addition, in the specific context of the prescription rules and the Charter of the insured person, health insurance funds do not cover undue payments that can not be recovered because of an error on their part. Moreover, the legal penalties are not in line with the financial loss resulting from slack recovery procedures. The Court therefore suggested that these undue payments should be charged to the health insurance funds' administration costs.

Lastly, the health insurance funds receive, by way of incentive, a percentage of the amounts recovered from the insured persons. However, this percentage does not vary according to the workload required to recover the undue payments. The Court considered that, when calculating this incentive, a distinction could be made between recovery related to an occupational accident or disease and recovery under the rules of common law, as the former requires a limited administrative workload whereas the latter generally involves heavy administrative work and judicial procedures.

The Minister for Social Affairs and Public Health promised that the Inami/RIZIV would gain a better insight into the origin and monitoring of undue payments and that it would have to take into account the management of undue payments when assessing the functioning of the health insurance funds by means of performance and quality indicators.