



Sociaal Economische Raad
Social Economic Council



LETTER OF ADVICE

To the Minister of Public Health, Social Development and Labor
The Honorable Mr. Emil Lee
Soualiga Road #1, Pond Island
Sint Maarten

Philipsburg, November 5th, 2018

Our reference: SER /18/SA/024

Re: Letter of advice concerning the revised draft national ordinance regulating a mandatory general health insurance [in Dutch: Landsverordening, van de houdende regeling van een verplichte uniforme verzekering tegen Ziektekosten]

Honorable Minister Lee,

In reply to your request for advice which was received via e-mail on June 30th, 2017, concerning the revised draft national ordinance regulating a mandatory general health insurance we inform you as follows:

The term of the board of the Social Economic Council (SER) concluded on April 30th, 2017 and a new board was reappointed on October 23rd, 2017. As a consequence, the board met for the first time in December 2017. In absence of a board, the SER could not submit its advice to government. With a new board installed, the SER had to process a backlog of pending advices as well as process urgent advice requests that were sent in the meantime. Additionally, due to the complexity of this subject, it demanded extensive, broad and in-depth discussions. As a result, the revised draft national ordinance regulating the mandatory general health insurance was tabled for discussion in the SER meetings of March 8th, 2018, April 19th, April 26th, May 3rd, May 17th, June 7th, June 28th and July 5th, August 30th, September 7th, September 20th, September 27th, October 11th, October 18th and November 1st, 2018.

As the draft law is compiled in Dutch, and the letter of advice in English, certain laws and words mentioned between brackets [...] are in the Dutch language.

Background on the draft national ordinance regulating a mandatory general health insurance:

On September 26th, 2016, the SER submitted its letter of advice on the first version of the draft national ordinance regulating a mandatory general health insurance (hereafter: the draft national ordinance). In that letter of advice, the SER concluded that:

- The draft national ordinance regulating a mandatory general health insurance in the present form was not ready to be implemented and advised the government to reject it;
- The concerns of the SER and other stakeholders had to be addressed in drafting a new feasible and sustainable ordinance;
- The Explanatory Memorandum of the draft national ordinance regulating a mandatory general health insurance should contain relevant, up to date, correct and sufficient information.



Sociaal Economische Raad
Social Economic Council

On June 30th, 2017, the SER received the revised draft national ordinance regulating a mandatory general health insurance (hereafter: the revised draft national ordinance).

The Explanatory Memorandum of the revised draft national ordinance outlines various issues and bottlenecks with the current health care system and the need for reform. Some of the problems mentioned are the fragmented system (due to the different legislation regulating health care and packages for different groups of persons) and inequality in access to care including the unsustainable financial situation of the sickness funds. As a result of the fragmentation, persons are uninsured because due to pre-existing conditions or age they are unable to buy private insurance. In addition, next to the high administrative burden for health care providers as well as the executing agency, the current system makes it difficult to contain costs. Causes of the financial situation of the sickness funds are high pharmaceutical costs, high number of medical referrals, open-end financing and the changing social-economic landscape of the island among others. Taking the aforementioned into consideration, the revised draft national ordinance aims to create equal access to health care while ensuring affordability and quality of care¹.

The SER convened several meetings with the Ministry of Public Health, Social Development and Labor² on various topics regarding the revised draft national ordinance to gain in-depth understanding and clarity of the proposal. The SER's comments and questions concerned the financial sustainability and viability of the proposal, the collection and levying of premiums, solvency, the insured, the impact of Hurricane Irma on the proposal and the absence of updated essential data etc.

The SER notes that the revised draft national ordinance is more extensive than the first version and commends the government, in particular the Ministry of Public Health, Social Development and Labor for including the continuation of the consultation process with stakeholders, as recommended by the SER in its previous advice. These meetings were arranged from January through June 2017 while ensuring stakeholder representation was broad³. The SER also recognizes that not all the stakeholders' concerns and recommendations as mentioned in the Explanatory Memorandum were addressed. However, some of the recommendations included were:

- * to include more information in the financial paragraph;
- * to allow the current private insured persons to remain privately insured (private insurers keep clients)
- * to only allow private insurers to offer supplemental insurance and not the SZV;
- * to provide more detailed explanation on the choice of SZV as the executing entity;
- * to ensure that the most important national decrees containing general measures are deliberated on in Parliament;
- * to keep the projected premium amounts reasonable by capping the amount of income over which premium will be levied.
- * supervision by the Central Bank of Curaçao and Sint Maarten amongst other.

¹ See Introduction pages 1-3 of the Explanatory Memorandum. Freehand translation to English.

² February 15th, February 20th, May 31st, June 7th, August 21st, in 2018 respectively.

³ The stakeholders are: Algemene Bond Van Overheid en Overige Personeel Sint Maarten, Centrale Bank van Curaçao en Sint Maarten, Commissie voor Georganiseerd Overleg in Ambtenarenzaken, Sint Maarten Seniors and Pensioners Association/Sint Maarten Consumer Coalition, St. Maarten Hospitality & Trade Association, St. Maarten Insurance Brokers Association, Sint Maarten Insurance Association, Windward Islands Civil Servants Union/ Private Sector Union, Windward Island Chamber of Labour Unions, Windward Islands Federation of Labour.



Sociaal Economische Raad
Social Economic Council

The SER emphasizes that it recognizes government's efforts to reform the health care system to create equal access and good quality care for all. In principle, the SER agrees to equal access to quality care but it needs to be affordable. Nonetheless, the SER remains concerned that the proposed reform in its present form will not meet its intended objective⁴. The SER's opinion is based on the *concerns* outlined below with respect to the mandatory general health insurance (hereafter: NHI).

Concerns:

1. The SER cannot properly assess the potential impact of the NHI due to insufficient information
2. The children, determined group of insured and opt-out payment
3. The SZV being the only institution in charge of executing the NHI
4. The financial sustainability of the NHI fund
5. The Executing Agency being both purchaser and health care provider in exceptional circumstances
6. Lack of explanation premium adjustment loss of wages
7. The role of Private Insurers
8. Post Hurricane Irma effects, external shocks and the implementation of NHI
9. Short, medium- and long-term planning and execution to address the concerns.

We kindly refer to attached Elucidation (page 8) for further elaboration on the abovementioned points.

Summary

The SER emphasizes that it recognizes government's efforts to reform the health care system to create access for all. In principle, the SER agrees to equal access to quality care but points out the need for effectiveness and sustainability of the reform. However, as part of its advisory role, the SER signals concerns with the draft national ordinance. The revised draft national ordinance regulating a mandatory general health insurance (NHI) is a framework ordinance whereby the necessary decisions still have to be worked out via national decrees, containing general measures. These national decrees were not sent to the SER simultaneously with the revised draft national ordinance nor was current up to date financial information (post Hurricane Irma) available. Without the relevant information, the SER cannot properly assess the social, economic and financial impact of the implementation of the NHI. The concerns in this letter of advice range from the group of insured under the NHI, the SZV, financial sustainability and post Hurricane Irma impact on the NHI, amongst others. Also, the SER views the SZV as the only institution in charge of the NHI as difficult, as the SZV has been challenged over the past years with the management of the various sickness funds, of which most are showing growing deficits. The SER recognizes that deficits can be partly justified by non-compliance issues, an unhealthier insured population, little preventative measures and high medical referrals. Additionally, the SER questions the preparedness of the SZV to execute the NHI.

⁴ "...toegang tot betaalbare gezondheidszorg van een goede kwaliteit te garanderen voor de bevolking, waarbij de zorgkosten effectief en duurzaam worden beheerd...".



Sociaal Economische Raad
Social Economic Council

With respect to the financial sustainability of the NHI fund, the SER is of the opinion that government has underbudgeted its share of contribution and the SER concludes that this should increase. Moreover, the SER is concerned that the draft actuarial report and forecast model show a structural deficit from the introduction of NHI in a pre-Irma situation. This deficit is forecasted over a period of ten (10) years. While the forecast model does not consider the new hospital and other ongoing reform projects, the SER recommends to update the forecast model accordingly. As a result of Hurricane Irma, the SER anticipates that (un)der employment and less economic activity in general, will generate less income for the NHI fund than projected. This will impact the sustainability of the NHI (fund).

The SER is of the opinion that once the NHI is implemented, the only way to adjust it is to increase the premiums by increasing the maximum premium income (wage limit), increase compliance, or the premium itself. The SER believes that raising the maximum premium income above NAf 100,000, will not generate significant revenue, as the group of persons earning above this amount is limited⁵. The expectation is that in such a case most of the additional revenue will be obtained by premium increases. As a consequence, high earners are encouraged to go to friendlier destinations, along with businesses closing up shop because of the increasing cost of doing business. This will result in additional deficits for which the only option is to raise premiums. This will affect everybody in the end. Prices will go up, and Sint Maarten's competitive position will deteriorate.

Lastly, the SER sees two essential conditions which need to be in place prior to the NHI being implemented which are a vibrant economy and trust. Other related issues that will affect the NHI such as immigration, labor and non-compliance are matters that must also be addressed prior to considering implementing NHI.

Reading guide: The letter of advice begins with an introduction and background and proceeds with the SER's concerns (points 1-9) followed by the SER's majority advice points (A-D). Subsequently, the SER's dissenting views are presented. The Elucidation on page 8 is the explanation of the nine (9) concerns and serves to substantiate the advice points.

⁵ See SER advice: Boost Sint Maarten! A Conditional Cash Transfers Program to reduce poverty in Sint Maarten. Page 13. Population income distribution graph; Department of Statistics. Census 2011. Census 2017.



Sociaal Economische Raad
Social Economic Council

Advice:

Given the information that was provided, **the majority** of the SER in its meeting of November 1st, 2018, advises the Government as follows:

- A. Not to implement the NHI as is currently drafted in the revised draft ordinance.
To implement points B through D.
To adjust the revised draft ordinance NHI in accordance with the recommendations of the SER.
- B. To separate the following from the revised draft for immediate adjustment and implementation:
 - To start counteracting the fund-fragmentation by initiating the restructuring, equalization and merging process of the various funds managed and administered by SZV including ZV/OV, OZR⁶, FZOG
 - To increase the employee contribution of civil servants to same level as ZV/OV
 - To adjust the maximum premium income (wage limit) for contribution of all funds (including AVBZ) to ANG 100.000, -
- C. To continue efforts to improve the efficiency and reduce misuse of the health care system.
- D. Not to implement the mandatory general health insurance due to the post Irma effects as explained in chapter 8 of this letter of advice which includes forecast reports of the Central Bank of Curaçao and Sint Maarten and to execute an analysis regarding the economic development in 3 to 5 years, as a healthy economy is an essential condition prior to the implementation of NHI.

Dissenting views of the minority:

Members Louis Bute and Stanley Lint, representing the Chamber of Commerce & Industry

Uninsured

The recommendations to government in this advice, do not consider the current uninsured population problem that government is trying to solve. These are mainly all persons over 60, taxi/ bus drivers, sole proprietors, anyone who does not qualify for ZV/OV/medical aid and also excluded from private insurance, etc. (all whom are excluded by the existing laws regulating sickness insurance). The uninsured group is also a result of being excluded by private insurance companies due to age or pre-existing conditions or too high premiums which make the private insurance not affordable.

Financial

The presentation provided by the Minister of VSA on August 21st, clearly indicated that the current financial situation of the funds which are regulated by the various ordinances are unhealthy, and at risk of becoming bankrupt in the direct future. The introduction of the National Health Insurance does not directly lead to a positive reserve; however, it definitely shows an improvement on the current situation.

- The NHI includes at least 30% more of the population (more persons insured and can get care)
- Figures show that in order to financially sustain the current regulations an average premium increase of 25% is needed.

⁶ Civil servants and medical card (PP) administrations combined are referred to as OZR.



Sociaal Economische Raad
Social Economic Council

- Introduction of 1 NHI fund will significantly decrease the administrative burden of the implementing agency is, as the amount of funds (AVBZ/ZV/OV/FZOG) to be managed will drop from 4 to 1.
- The OZR regulation which is currently administrated by SZV will also be included in the NHI managed/implemented fund.

The recommendation under advice point B, to merge the existing funds/administrations currently managed by SZV (ZV/OV, FZOG, OZR) without the AVBZ fund (as is proposed by government) is actually only merging already depleted funds. This does not provide a solution. This will most likely lead to more deficits especially after Hurricane Irma, which has had a significant impact on government and the country's funds. This is no (short term) solution, it actually places a much bigger burden on the financial situation of the funds. Additionally, OZR (pp and civil servants) is not a fund with a legally established reserve, and therefore the equalization principle can't be applied. The recommendation to merge will mean a change in each of the ordinances ZV/OV, FZOG, medical aid and OZR which is a long process. So, until that happens the system will stay in the status-quo position. Which ultimately means no real/direct solution to the current situation. The advice also makes no mention of the so called "schoommelfonds" which government is proposing/asking to implement in its initial phase. By implementing this "schoommelfonds", the reserves of the current healthy AVBZ fund will serve as a financial buffer to the other funds which are currently in an unhealthy state.

Discussions during the board meetings have taken more of a financial twist versus focusing on the main purpose which is ensuring a fundamental human right which is regulating access to quality health care. As representative of the business community, we strongly recommend that the obligation towards ensuring one of the main components of a strong social economic protection of society, which is ensuring access to health care, cannot and should not be toyed with.

Vulnerable groups

Insured population:

Many internal discussions have been held regarding the intended insured population. Proposed in the draft is to include those that are registered at the census and residing on the island or persons who are employed and obligated to pay premiums. The latter group may indeed include persons who are not documented in our legal system (census). This ordinance regulates access to a basic human right: access to health care. And that access is provided once the premiums are paid. As representative of the business community, all employees regardless of the legal status, once gainfully employed and subjecting to their obligation to pay taxes/premiums, should not be excluded. Exclusion of this vulnerable group based on legal status also goes against ILO regulations and other international treaties, which we as members of the business community will and cannot allow.



Sociaal Economische Raad
Social Economic Council

Potential impact

While we agree that prevention of abuse and overconsumption of healthcare is definitely one of the parameters to securing financial sustainability, during the presentation held on August 21st, the Minister of VSA provided an overview of projects stemming out of the overall National Health Reform project. Examples of projects aimed at overconsumption and abuse as presented are the pharmaceutical cost containment project and the implementation of a health information management system. He further explained that the introduction of NHI is one of the many components of the entire national health reform process.

Premium process

Article 21 indicates that premiums are determined by means of a LBHAM after having heard the Executing Agency and the SER. In addition to this, the “voorhang” procedure is also applied. These steps prevent the “abuse” of political power on multiple levels. We recommend that the premiums *be* regulated by means of an LBHAM as efforts have clearly been made to secure the political and social economic input while using the legislative trajectory which is the least time consuming when making financial decisions by means of legislation.

Respectfully,

ir. Damien D. Richardson
Chairman

Gerard M.C. Richardson
Secretary-General



Sociaal Economische Raad
Social Economic Council

Elucidation:

The Elucidation below serves to provide an explanation of SER's concerns (1-9) which supports the advice (A-D).

1. The SER cannot properly assess the potential impact of the NHI due to insufficient information

The revised draft national ordinance is a framework ordinance whereby the necessary decisions still have to be worked out via national decrees, containing general measures or via Ministerial decrees. The SER's intention and dedication to render advice to the government in the most expedient way possible is contingent upon timely receipt of the necessary and relevant information. The SER learned⁷ that there will be four (4) national decree packages containing general measures regulating namely the premiums, package, the executing agency and other provisions. However, the national decree(s) containing general measures regulating the premium and package for example, were not sent to the SER simultaneously with the revised draft national ordinance nor was current up to date financial information (post Hurricane Irma) available. Instead, projected premiums are only mentioned in the revised draft ordinance and the SER took those into consideration to advise on the NHI. Without the necessary national decrees containing general measures, combined with the absence of relevant (up to date) information, limited data and the many assumptions made, the SER cannot properly assess the social, economic and financial impact of the implementation of the NHI⁸.

Additionally, the SER has concerns about the national decrees not being included in the parliamentary process. Although this is mentioned in the Explanatory Memorandum as a preliminary scrutiny [voorhang] option, the SER is of the opinion that these decisions must be embedded in the revised draft ordinance. In the opinion of SER, national decrees containing general measures or ministerial decrees should only concern issues that may need regular adjustments, such as the indexation of maximum premium income.

Recommendations:

1. To submit all relevant information and draft national decrees simultaneously.
2. To increase the confidence level in the data used.
3. To embed the consultation process with Parliament in the revised draft NHI ordinance.

2. The children

The Explanatory Memorandum (see article 22), states that children under the age of 15 are not allowed to work and are exempted from the premium contribution. What is unclear, however, is when (at what age) children above the age of 15 with an income, other than from labour, are expected to pay premium contribution.

Additionally, the SER must also highlight that for training and job placement for youth ages 15-18, the labor regulations [Arbeidsregeling] and [Arbeidsbesluit jeugdige personen] should be kept in consideration, while the Ordinance regulating Compulsory Education [Leerplichtslandsverordening]⁹

⁷ During presentations (February -June 2018) by the Ministry of Public Health Social Development and Labour.

⁸ During presentations the SER learned that the NHI is just one aspect of the entire health care system reform.

⁹ Leerplicht landsverordening (AB 2013, GT no.590).



Sociaal Economische Raad
Social Economic Council

stipulates that 15-18-year-old youth must attend school. In the opinion of the SER, the moment premium contribution is expected, taking the aforementioned ordinances and regulations into consideration, should be explicitly mentioned in the revised draft ordinance and included in the Explanatory Memorandum.

Furthermore, in context of Sint Maarten's reality, the SER is concerned about the undocumented children and their ability to access necessary care. These children are not eligible to be insured, according to article 3 sub1 of the revised draft ordinance. However, the undocumented children do attend school and interact with other children. Due to their (limited) access to health care, the undocumented children may be unable to get the necessary treatment and this has consequences for the health of all children.

Determined of group of insured and opt-out payment

Article 3 regulates the determined group of insured while article 59 regulates that persons who are privately insured can remain privately insured, under the condition that the package is similar to that of the NHI ('opt-out' option). The SER is of the opinion that all persons wishing to remain privately insured must be able to do so, under the condition that they show proof and validity of their insurance to prevent them from unexpectedly having to fall under the responsibility of NHI. Furthermore, the SER is of the opinion that all persons entering and establishing themselves on the island must have proof of valid health insurance to prevent any potential perverse incentive to establish themselves on the island because of access to health insurance. Additionally, article 59 sub 3 regulates the payment to 'opt-out'¹⁰. Though the SER understands that this is to guarantee that in the event persons choose to switch back to NHI, there are sufficient funds to cover the expenses, the SER is of the opinion that the high amount may act as a deterrent for persons wishing to stay privately insured and should therefore be lowered.

Recommendations:

1. Explicitly state if and when children are expected to pay premium and adjust the Explanatory Memorandum accordingly.
2. To set the opt-out payment to a more realistic amount and to adjust the Explanatory Memorandum accordingly.

¹⁰ This amount is set at NAf 5.000, -.



3. The SZV being the only institution in charge of executing the NHI

The government presents reasons for selecting SZV as the main executing institution namely:

1. The approval of the Principle document [“Uitgangspunten document Nationale Ziektekosten Verzekering Land Sint Maarten”] by the former Executive Council in 2010.
2. The analysis of the discussion that took place during the conference General Health Insurance, organized by the Ministry of Public Health, Social Development and Labor on January 26th and 27th, 2017.
3. The fact that a public entity already exists (SZV) that has been tasked by law to execute health insurances and that this public entity has experience with the execution of social health insurances.

The SER is of the opinion that although the Principal document was approved in 2010, at that time the consequences of the choice for SZV could not have been foreseen. This opinion is based on the fact that from the inception of the SZV, various funds were not managed successfully. This is also reflected in the 2011-2016 annual reports. The SER analyzed the SZV annual reports from 2011 to 2016 and noted that some of the (health care) funds managed by SZV are financially healthy such as the AOV fund¹¹ whereas other funds have deficits throughout the years, such as the fund for sickness insurance of retired civil servants [Fonds Ziektekosten Overheidsdienaren (FZOG)] and sickness and accident insurance fund [Ziektekostenverzekering en Ongevallen verzekering (ZV/OV)] (see table 1).

| Table 1 | SZV Annual Report Year | | | | | |
|---------------|------------------------|------------|------------|------------|------------|------------|
| Fund Reserves | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
| FZOG | -/- 2.18M | -/- 3.3M | -/- 5.07M | -/- 5.60M | -/- 8.97M | -/- 11.11M |
| ZV | 6.85M | -/- 22.32M | -/- 27.74M | -/- 9.64M | -/- 23.54M | -/- 51.17M |
| OV | -/- 93.000 | -/- 5.44M | -/- 9.74M | -/- 13.47M | -/- 16.04M | -/- 18.66M |

The SER acknowledges that the following factors are probable reasons that prevent the SZV from managing the funds successfully.

1. Compliance:
 - * Government is not consistent with payments and has payment arrears of NAf 75.8 million guilders¹²;
 - * SZV estimates that employers are about 70% compliant in honoring their premium payment¹³. However, it should be noted that SZV, has a back-log of (disputed) assessments so likely the 70% is much lower¹⁴;
2. The SZV insured population, mainly the ZV/OV insured, has a high consumption pattern, high medical costs and lack of cost awareness;
3. Little focus on preventive healthcare;

¹¹ AOV: 307M; AVBZ: 73M. Year report SZV. 2015.

¹² Year report SZV. 2015. SZV purchased the new Government building. NAf 25 million went toward the settlement of the arrears. Government still owes NAf 20 million while the division of assets will go toward the remaining NAf 30 million.

¹³ SZV: Estimated 200 million guilders owed in premiums. The Daily Herald. February 17, 2017. Information SZV.

¹⁴ SZV Audit team collects extra NAf 28 million in premiums. The Daily Herald: January 17, 2017.



Sociaal Economische Raad
Social Economic Council

4. Varying medical specialties are not available on Sint Maarten which result in significant medical referrals abroad¹⁵.

Next to problems with managing the various funds, the SER remarks that the government has a history of non- payment of its legislated financial obligations to the various social insurance funds¹⁶, which raises the concern if the yearly financial obligation to the NHI-fund will be complied with¹⁷. At the same time, the SER is aware that the compliance of the employers could be improved and therefore the SER is of the opinion that, taking the post Hurricane Irma economic effects of businesses into consideration, SZV must increase its enforcement and collection efforts to improve the financial obligations toward the fund within its own capacity.

SZV's spending on health care varies among the insured groups¹⁸. While various factors determine health care consumption, this can also be a result of poorer health of this group or due to insufficient focus on preventive health care. The Health Survey 2015¹⁹ for example, established that compared to 2001, chronic illnesses have not declined on the island. The SER recognizes that although some effort is made, there is insufficient focus on preventive health care of chronic illnesses, which could potentially reduce the high medical consumption pattern in the long term. The SER will submit an advice on preventive health care in the near future. Moreover, the SER is also concerned about the responsiveness to consumer/patient preferences by having one entity execute a large part of the mandatory insurance.

The SER recognizes that the structural deficits can be partly justified by the abovementioned factors however, the SER still has concerns on whether SZV will be able to manage the mandatory NHI- fund optimally and questions the preparedness of the SZV to execute the NHI.

Recommendations:

1. To revisit alternative options for the execution of the NHI.
2. Strategically restructure SZV to improve management and training of human resource capacity.
3. To start focusing on preventive health care and creating cost awareness of health care (patients and health care professionals).

4. The financial sustainability of the NHI Fund

According to article 20 of the revised draft national ordinance and in the Explanatory Memorandum, the resources of the mandatory general health insurance fund (hereafter: the fund) comprises of premium income, income from a nominal premium, a yearly contribution by government and other income.

¹⁵ In 2014 and 2015 costs for medical referrals (excluding civil servants) amounted to NAf 15.3 M and NAf 13.0 M respectively.

¹⁶ ZV and AVBZ premium contribution halted up until 2018, for example.

¹⁷ NAf 20 million guilders to the NHI-Fund and NAf 4.5 million guilders to the guarantee fund [waarborgfonds].

¹⁸ In 2015: ZV/OV insured (the largest group) NAf 63.4M; FZOG (smaller and older group) NAf 8.9M; OZR NAf 33.8M

¹⁹ "How Healthy is Saint Martin-Sint Maarten" Health Survey Report. 2015.



Sociaal Economische Raad
Social Economic Council

4.1 Macro-economic level

With respect to the government's financial contribution from a macro-economic level, the SER has the following concerns. The Explanatory Memorandum (page 31), provides an overview of the medical costs that government is responsible for. In that overview it is evident that government has underbudgeted (NAf 10.387.458 million less) for its employees and medical card holders, compared to the actual costs²⁰. Furthermore, when considering the detainees, temporary workers, the unemployed and environmental effects, the SER concludes that government's contribution should be increased.

Medical card holders. The medical expenses of medical card holders (PP-card) and their family members are currently carried by government. In the overview provided by government, the SER observed that the medical costs of medical card holders are combined with the medical costs of civil servants²¹. The SER learned that as of October 2017 there were 1565 medical card holders and the medical costs for this group alone amounted to more than NAf 8 million²². Since Hurricane Irma there are new requests. In the opinion of the SER, government has budgeted insufficiently for this group.

Detainees. The SER notes that the costs for detainees have not been considered, as in the medical expenditures overview, an account for the medical costs of detainees is lacking. Review of the 2017 budget reveals that in 2015, the actual costs of medical care and medicines for detainees amounted to NAf 876.322 (including laboratory services). Although these costs are deducted from the budget of the Ministry of Justice, they form part of the total medical expenditures of government as a whole and should also be included.

Temporary workers and unemployed. Temporary workers have jobs for a period of time and during another period are jobless. Article 22 sub 3 of the revised draft ordinance regulates that persons working part of the year will only pay premiums for the months they have worked. In the forecasted budget of government's contribution, government also budgeted for this group [gewezen werknemer]. However, as a result of the continued medical care consumption, also when temporary workers and the unemployed are unable to pay premium contribution as a consequence of being out of a job, combined with the increase of the temporary and un(der) employed due the effects of Hurricane Irma, the SER is of the opinion that for the sustainability of the fund, government's contribution must increase to balance and offset the cost of care consumption versus the reduced premium received.

Environmental health effects. The SER refers to its previous letter of advice on waste management (advice nr: SER/16/GR/080, p 4-5), and reiterates that due to the fires at the landfill, the environmental and in particular the health effects in the short and long-term, remains a point of concern. This concerns mainly groups that are at risk because of high sensitivity and/or high

²⁰ Actual costs NAf 33.761.807. Budgeted costs: NAf 23.374.349.

²¹ In Dutch: Landsverordening medische hulp (AB 2013, GT no.68). This is for persons with limited or no income.

²² Information SZV and Social Development department. This amounts to NAf 5.000, - per card holder (includes dependents).



exposures. Highly sensitive groups to air pollution are children and chronically ill people. Since this may lead to increased health care consumption (in the short and long term), the SER deems it necessary for government to increase its yearly contribution to the fund to balance the increased costs versus the possible increased consumption patterns.

Recommendation:

1. Government contribution of 20 million must increase significantly to facilitate the above points.

4.2 Individual premiums are yet to be determined.

In the Explanatory Memorandum²³, it is stated that the financial consequences for the medical card holders is yet to be determined. Currently medical card holders pay a small fee (NAf 20, -) administration costs. Article 3 of the National Ordinance Medical Assistance states that the medical card guarantees care without payment of premium²⁴. The SER points out that for this group of insured persons it is important for them to know ex-ante if they will have to pay premium with the introduction of NHI, as this will ultimately impact their purchasing power. While the individual premiums are not yet determined, a projected premium is mentioned in the Explanatory Memorandum and presented in table 2²⁵.

| Table 2. | | | |
|-------------------------|--------------------------------|-------------------------|----------------------|
| | Current premium amount | | Proposed NHI premium |
| Employee | 5.7% (incl. AVBZ) | Employee | 5,7% |
| Employer | 9,3%-13,8% | Employer | 10% |
| Civil Servant | 2.78%-4,75% (incl. FZOG /AVBZ) | Civil Servant | 5,7% |
| Civil Servant Pensioner | 5,25%-11,5% (incl. AVBZ) | Civil Servant Pensioner | 8% |
| Medical card holder | Naf 20,- | Medical card holder | to be determined |

Based on the projected premiums, the SER notes that with the introduction of the mandatory NHI, civil servant pensioners will have a premium decrease of 3.5%, reducing their current financial burden. The employers currently pay between 9.3% and 13.8% including accident insurance. With the introduction of NHI, employers will pay 10% including accident insurance. For employers who are currently paying a premium percentage of 9.3% this will translate into a 0.7% increase in premium. However, employers paying more than 10% will have a reduction of maximum 3.8% with the NHI. For the employee currently under SZV there are no premium

changes with the implementation of NHI though, civil servants will see a premium increase to 5.7%. Simultaneously, the SER recognizes that other persons currently not insured will be covered and have access to health care.

Recommendation:

1. To establish the premiums by national ordinance.

²³ See page 38, fourth paragraph.

²⁴ In Dutch: Landsverordening medische hulp (AB 2013, GT no.68).

²⁵ See page 33 Explanatory Memorandum.



Sociaal Economische Raad
Social Economic Council

4.3 Potential impacts

The (projected) costs of the basic package have not been included in the Explanatory Memorandum, while the national decree establishing the package has not yet been drafted, therefore it is unclear for the SER if the projected premiums cover the costs related to the package and health care demand patterns (health care cost per capita) of the insured population. However, depending on the choice of package these costs may decrease or increase. Moreover, as hospital costs represents a major part of health care costs (45-50%)²⁶, the SER anticipates that there will be continuous hospital cost increases due to the building of a new hospital²⁷ and increases in the hospital tariffs due to new services being offered. The SER also learned about the ongoing reform projects²⁸ which may reduce or increase costs. However, these potential effects are unforeseen at present.

Recommendations:

1. To continue with the reform projects and once implemented, include a periodic evaluation and incorporate the data into the forecast model²⁹.
2. To include the impact of the new hospital in the forecast model.

4.4 Other income

The SER observed that the Explanatory Memorandum mentions that other income from a potential tax on alcohol and tobacco (sin taxes) or a health tax may benefit the fund. The SER recognizes that the financing of the health care system on mainly salaries alone may be unsustainable and advises government to consider general tax reform instead of only implementing sin taxes. SER recommends to simplify rather than complicate the tax system and shift from direct to indirect taxes. This tax reform must not burden employers or employees. Sin taxes or health taxes are not recommended because the nature of sin taxes is a reduction in revenue over time thus this will not structurally generate the expected funds for NHI. The NHI should be sustainable without other income. However, in the event additional income is required, the SER advises to focus on better management of government' expenses and the improvement of efficiency.

Recommendations:

1. The NHI should be sustainable, sin tax and health tax are not recommended as alternative funding measures.
2. SER supports the many recommendations for general tax reform³⁰.

²⁶ Information SZV.

²⁷ The Daily Herald: August 8th, 2016; September 5th, 2016; March 30th, 2017, January 2018.

²⁸ During presentations and discussion with the Ministry of Public Health, Social Development and Labor.

²⁹ See draft report including forecast model Willis Towers Watson. July 2017.

³⁰ FIAS 2001 report "The environment for Foreign Direct Investment in the Netherlands Antilles"; IMF Article IV Consultation 2011 Staff report (<https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Kingdom-of-the-Netherlands-Cura%C3%A7ao-and-Saint-Maarten-2011-Article-IV-Consultation-Staff-25399>); IMF Article IV Consultation 2014; IMF: Kingdom of the Netherlands-Curacao and Sint Maarten: Concluding Statement of the 2016 Article IV (<https://www.imf.org/en/news/articles/2015/09/28/04/52/mcs052516>); IMF Country Report No. 16/276. August 2016; National Recovery Plan. Interim report 2017; SER advice on TOT and border control (SER /15/BP/19); SER advice on registration of transactions at the ports of entry and indirect taxation (SER /16/BP/31).



Sociaal Economische Raad
Social Economic Council

4.5 Financial information

The SER notes that projections, showing the viability of the fund for the years when NHI is implemented, which is a vital component to provide a comprehensive view of the potential effects of the NHI, were not included in the financial paragraph of the Explanatory Memorandum.

Moreover, the SER is concerned that the draft actuarial report and forecast model³¹ show a structural deficit from the introduction of NHI. This deficit is projected over a total forecast period of ten (10) years. In addition, the SER notes that these calculations are based on the pre-Irma situation. However, the calculations, including all assumptions made, show that the NHI fund will not reach 100% financial coverage which points to the NHI-fund being unsustainable. The SER is concerned that without additional measures these deficits will increase. The draft actuarial report sketches various scenarios. The SER remarks that in general, the scenarios do not consider a reduction of the general tax burden and how this will affect the purchasing power of the employees or impact the local businesses, or how the scenario with no contribution from government will affect the general tax burden of society as a whole. Moreover, a negative market response was not taken into considerations when doing the calculations.

Additionally, the SER points out that in the revised draft ordinance premium contribution is not mandatory. The SER emphasizes this point as the absence of a mandatory premium contribution, based on ability to pay, will have an impact on the sustainability and viability of the NHI-fund. In absence of a (mandatory) premium contribution, the SER is concerned about the *'free rider'* factor. Though the NHI is mandatory and covers those persons that fall into the categories defined in article 3 of the revised draft ordinance, whether they are able to pay premium contribution or not, the SER is concerned that there still exists the possibility that persons with income and who are able to pay will not do so, even if they can afford it, due to the absence of a mandatory contribution. This behaviour will ultimately undermine the sustainability of the NHI fund. To prevent this from happening, the SER is of the opinion that the revised draft ordinance should include a (mandatory) premium contribution based on ability to pay. This is necessary to discourage the *'free rider'* behaviour while guaranteeing long term sustainability of the fund. Furthermore, with respect to the absence of a mandatory premium contribution the SER questions the applicability of article 22 namely, the premium being indebted [verschuldigd] as well as articles 41 through 46 (the sanctions).

Recommendations:

1. More (updated) financial information must be in the Explanatory Memorandum including complete projections on fund viability as calculated by the actuary.
2. To require that premium contribution is mandatory.
3. To revise articles 22 and 41 through 46.

³¹ Draft report Willis Tower Watson. July 2017.



Sociaal Economische Raad
Social Economic Council

4.6 Cost sharing

The SER notes that the revised draft ordinance provides the option to implement various forms of cost sharing such as deductibles or co-payments (article 5, sub 3), by national decree, containing general measures. The Explanatory Memorandum states that the group of persons that fall under article 3 sub 1 under b, may be subject to a higher deductible or co-pay³². Reviewing article 3 sub 1 of the revised draft national ordinance, those insured are:

- a. Those registered at the Civil Registry, or
- b. Persons who are employed and subject to wage tax.

a) To determine who is registered at the Civil Registry, we refer to the National Ordinance of the Civil Registry³³. Based on article 5 of this National Ordinance, it can be derived that only those who are residing on Sint Maarten legally can be registered.

b) Persons who are employed and subject to wage tax. To determine who this group is, we refer to article 2 of the National Ordinance Introduction of Wage Tax³⁴.

The SER points out that, article 3 sub 1 under b of the revised draft national ordinance NHI refers to the group of people that has a valid work permit or those persons with a valid residence permit which permit allows them to work without a separate work permit. As our national ordinances cannot contradict each other, the revised draft national ordinance NHI must be drafted to be in line with the 'National Ordinance Admittance and Expulsion'³⁵ as well as with the 'National Ordinance on Foreign Labour'³⁶. Hence, the SER can be certain of its conclusion that article 3 sub 1 under b of the revised draft national ordinance refers to those who are not registered on Sint Maarten but are subject to wage tax *and* are in possession of a valid work permit. The only persons who are subject to wage tax and not registered on Sint Maarten, are those referred to in article 2 sub 2 of the National Ordinance Introduction of Wage tax. Undocumented persons therefore, do not fall under the scope of these articles. Seemingly, the revised draft ordinance seems to make provisions to accommodate undocumented migrants.

The SER points this out, because the Explanatory Memorandum (page 57) states: "*what also can be considered is a (higher) deductible..... for undocumented workers*"³⁷.

Granted that the SER understands that undocumented persons may be eligible to some form of social protection in light of international treaties which is necessary to prevent potential undesired (health) effects on the rest of society. However, the SER points out that in the context of Sint Maarten's reality there are many undocumented migrants who work on the island. On one hand this is in breach of our

³² See page 57 of Explanatory Memorandum.

³³ In Dutch: Landsverordening Basisadministratie persoonsgegevens.

³⁴ In Dutch: Landsverordening tot invoering van een loonbelasting.

³⁵ In Dutch: Landsverordening Toelating en Uitzetting (AB 2013, GT no. 498).

³⁶ In Dutch: Landsverordening Arbeid Vreemdelingen, specifically, article 2 (AB 2013, GT no 357).

³⁷ In Dutch: "ook kan worden gedacht aan een (hogere) eigen bijdrage...op de migratie van niet- gedocumenteerde werkers naar Sint Maarten".



existing laws, however there seems to be little enforcement measures applied to prevent this. On the other hand, in certain cases premiums are being deducted from those persons who work on Sint Maarten illegally. This form of tolerance has an extensive societal impact.

In addition, the SER remarks that a deductible, co-pay and other forms of cost sharing are instruments with the aim to make patients aware of the cost of care, prevent overconsumption and stimulate efficient use of care, while simultaneously improving financial sustainability. Though the SER is in favour of some form of cost sharing if necessary for financial sustainability and increasing cost awareness of the insured, the SER is against targeting one group with higher cost sharing as a means to regulate, f.i. the immigration problem (see page 57-58). Cost sharing should be implemented considering equal access and managing overconsumption of care. Lastly, with respect to immigration and labor issues, the SER is of the opinion that a multi-sectoral approach is required prior to the implementation of the NHI to mitigate potential undesired effects.

Based on the elaboration above (4.1-4.6), the SER has significant concerns about the financial sustainability of the NHI (fund).

Recommendations:

1. The SER suggests immigration and labor reform in order to decrease negative effects of undocumented migrants on society as a whole, and specifically the NHI, and to increase the enforcement of the aforementioned laws.
 2. To implement cost sharing instruments based on actual health care demand and price setting studies.
- 5. The Executing Agency being both a Purchaser of Care and Health Care Provider in exceptional circumstances**

Article 9 of the revised draft national ordinance creates the possibility for the executing agency to provide care should the purchasing of care happen insufficiently or in the event of an emergency situation where a service cannot be delivered by a contracted health care provider.

Hence, the executing agency is designated to act as a purchaser of care on behalf of its insured population. The purchasing of care via contracts is to guarantee that the insured population has sufficient health care services available when needed. However, to be a purchaser of care and a provider of care simultaneously raises the concern of potential conflict of interest.

Although the option to provide health care is considered only an emergency option, the SER is of the opinion that the executing agency as the purchaser of care, must ensure enough contracts with multiple providers to meet the population service needs. The provision of care should be the task of the contracted health care providers. However, the SER acknowledges that there can be precarious situations that warrants action from the executing agency to guarantee that health care services are available. Therefore, the SER is in favour of including a clear definition of the term 'unforeseen



Sociaal Economische Raad
Social Economic Council

emergency situation' [onvoorzien nood situatie] outlining which specific situations the executing agency can temporarily assume this role as an exception³⁸.

In addition, care should be taken with the combination of the articles 16, 18,19 that the level of influence given to the executing agency does not negatively affect the (establishment of) health care providers.

Recommendations:

1. To maintain purchaser-provider split.
2. To include a clear definition of unforeseen emergency situation.
3. To ensure that the combination of articles 16,18 and 19 does not negatively affect the (establishment of) health care providers

6. Lack of explanation of premium adjustment loss of wages

The current premium percentage for accident insurance is between 0.5-5% depending on risk category. In the revised draft ordinance government mentioned that combined with loss of wages (loonderving) the premium is estimated at 1%³⁹. The SER learned that this decision was based on historical data⁴⁰, indicating that 1% is sufficient to cover loss of wages as there are a smaller number of persons that fall within the 5% risk category. Still, the SER believes that, the (future) loss of wages for civil servants is not considered in the historical data and must be taken into account when considering the financial sustainability.

Recommendation:

1. To recalculate the accident insurance premium including the consideration of civil servants, and provide an overview of this in the Explanatory Memorandum.

7. The role of private insurers

Presently, private insurers are allowed to sell (varying) medical insurance packages. With the implementation of the mandatory NHI there will be some changes. In the proposed draft national ordinance, the position of the private insurers will be as follows:

- Execution of administrative tasks on behalf of the executing agency⁴¹
- Offer supplemental health care insurance [aanvullende ziektekostenverzekering]⁴²
- Retain the insured population they currently have. They have an opt - out option of the NHI⁴³.

In general, the SER supports room for private insurers on the health care market and persons can keep their insurance if they prefer, at the same time the SER is aware that due to risk selection because of

³⁸ The SER understands that this will be a non-exhaustive list.

³⁹ See Explanatory Memorandum page 36.

⁴⁰ Seven (7) years of historical data suggests that more than 1% is never paid out for loss of wages. Information SZV.

⁴¹ This means a customer contact office, where insured persons can get information about their claims, submit declarations, etc. See page 15, fourth paragraph of the Explanatory Memorandum.

⁴² See page 43, second paragraph Explanatory Memorandum.

⁴³ See article 59 Explanatory Memorandum.



Sociaal Economische Raad
Social Economic Council

age, preexisting conditions or premium increases over time, private insured persons will likely end up having to insure with the executing agency when they are a too high risk for the private insurers. Therefore, the SER is in favour of private insurance being sold under similar conditions (not only similar package) as the NHI. Furthermore, the SER questions what other guarantees are in place to ensure that private insurance companies adhere to the requirements of the NHI and prevent them from exiting the market in the event that adhering to the NHI conditions does not fit their business model.

Recommendations:

1. Only the private insurers should offer supplemental insurance.
2. To design a non-extensive basic package⁴⁴.
3. For private insurance companies to offer a package similar to NHI under similar conditions of NHI.

8. Post Hurricane Irma effects, external shocks and the implementation of NHI

Below, the SER considers the social and economic impact of external shocks to our economy, such as the passing of Hurricanes Irma and Maria, and the forecasted effects on the implementation of NHI.

Similar to the effects that the global financial collapse of 2008 had on the economy of Sint Maarten, the effects of Hurricane Irma are still evident today. Since the driving force of the economy is tourism, the economy will continue to experience a negative economic impact this year and the coming years. The Central Bank of Curaçao and Sint Maarten (CBCS) forecasted an economic contraction for 2017 and indicated that if reconstruction is slow, an even deeper economic contraction is expected in 2018⁴⁵. The economy was originally projected to contract by 3.7% in 2017 and 9.1% in 2018⁴⁶. However, the recent publication of the department of Statistics (STAT) has shown a real economic decline of 8.4% for 2017⁴⁷. In addition, the half year economic indicators show that compared to 2017 there is a decline in total government revenues (-29%), TOT (-27%), cruise passengers (-27%), stayovers (-75%), electricity consumption (-34%) and occupancy rates dropped to an average of 17%⁴⁸, while the total negative impact of the private (productive) sector has been quantified at \$1.2 billion⁴⁹. Although some progress is made, after 12 months the economy is not yet back to its pre-Irma capacity. The SER anticipates, based on the information currently available, that it will take some time until the productive capacity is restored. From the regional perspective, the SER is also concerned about the reduced hub-function of Sint Maarten due to the delayed economic recovery of the surrounding islands which could be

⁴⁴ It is better to gradually expand the package over time. This will also allow private insurers with a feasible business case.

⁴⁵ Centrale Bank van Curaçao en Sint Maarten. Press Release 2017-019: *Central Bank urges prompt reconstruction*. October 24th, 2017.

⁴⁶ Centrale Bank van Curaçao en Sint Maarten. Report: *Economic and Developments in 2017 and Outlook 2018*.

⁴⁷ The Daily Herald: October 16th, 2018. Page 9.

⁴⁸ Ministry of Economic Affairs, Tourism, Transport & Telecommunications. Department of Statistics. *Country Sint Maarten Economic Indicators Quarter 1 & 2 2018*; Sint Maarten Hospitality and Trade Association. *Fact sheet pre-Irma occupancy*.

⁴⁹ The World Bank. *Sint Maarten National Recovery and Resilience Plan (NRRP). A Roadmap to Building Back Better*.



Sociaal Economische Raad
Social Economic Council

compounded by other external shocks, while there is no plan to mitigate the potential extreme harmful effects of (other natural) disasters.

Though the SER recognizes that post Hurricane Irma, there are also new business opportunities, the SER believes that as a consequence of the economic decline, unemployment and under-employment will remain high⁵⁰. Employees who work less hours will earn less income. Since the NHI will be financed primarily from premium contribution based on income from labour (wages), the SER anticipates a significant decrease in premium income for the NHI fund as a result of the aforementioned (un)employment problem and less economic activity in general. Moreover, as a consequence of loss of jobs, the SER anticipates that persons will resort to requesting medical assistance via the medical card (PP-card)⁵¹. This is an indication that medical expenses for government will increase as also the dependents of medical card holders are covered⁵². Simultaneously, due to decreases in income, the SER anticipates the immediate social-economic effect will be a reduction in the purchasing power for a large part of the population and more dependence on government's (other) social assistance services.

Combined with the budget deficit of NAf 197 million⁵³, which does not include compliance for a solution for existing payment arrears nor a compensation to past deficits, it cements the question whether government will be able to meet its financial obligations to the NHI fund as projected. This adds to the concern that in the opinion of the SER, government has budgeted an insufficient amount of its financial contribution toward the fund (see chapter 4.1).

At this time, there is an absence of a healthy, resilient economy and there is a complete lack of trust between private sector and government. These are two issues that government's experts have identified as essential conditions to proceed with the NHI.

Recommendation:

1. Not to implement the mandatory general health insurance (NHI) due to the post Irma effects and external shocks on the economy as explained above, which also considers the forecast reports of the Central Bank of Curaçao and Sint Maarten⁵⁴. Additionally, to execute an analysis regarding the economic development in 3 to 5 years, as a healthy economy is one of the essential conditions prior to the implementation of NHI.

Meanwhile, the SER advises to work on intermediary measures addressing the concerns (see chapter 9).

⁵⁰ The SER notes that there is a shift for some from the hospitality to the construction sector.

⁵¹ Since the passing of hurricane Irma there were new requests. Ministry of Public Health Social Development and Labour.

⁵² In 2016 medical expenses for medical card holders were over NAf 8 million. Information SZV.

⁵³ National Ordinance stipulating the Budget 2018.

⁵⁴ Central Bank of Curaçao and Sint Maarten; Minister of Finance; National Recovery Plan 2017.



Sociaal Economische Raad
Social Economic Council

9. Short, medium and long -term planning and execution to address the concerns.

The SER outlines the following concerns that have to be addressed for financial sustainability, efficiency and the fostering of trust. In the opinion of the SER there needs to be adequate short, medium- and long-term planning to address these concerns.

These cover in summary the following points for immediate implementation (1-4):

- (1) Merging of the several funds ZV/OV, FZOG including OZR administration presently managed by SZV
- (2) increase the premium for civil servants to the ZV/OV level
- (3) determine a fixed amount payable by government for the currently uninsured
- (4) increase of the maximum premium income to ANG 100,000 (or higher)

The SER refers to its advice points under advice point B.

Overall, apart from a healthy economy, the SER considers trust as one of the primary pillars in addressing the concerns and supports the following in restoring and fostering trust among the stakeholders and partners:

- (5) adjustments to the governance structure of SZV so that there would be broader ownership (influence) of the social partners, and the establishment of more distance between SZV and government to ensure the independence of SZV.
- (6) a time-frame in which the relationship of trust could be rebuilt by government by meeting its financial obligations and being compliant as pointed out by the Council for Financial Supervision (CFT)⁵⁵.
- (7) an improvement of capacity of the SZV.

Recommendations:

1. To adjust the article 9.2 of National Ordinance Executing Agency Social and Sickness Insurance (SZV)⁵⁶ to ensure that the Supervisory Board is justly represented by the employers and employees whom are selected upon proposal by their respective organizations and increase representation from 2 to 3 members.
2. After the above concerns are addressed, then reassess in conjunction with all social partners, the necessity and feasibility of implementing a sustainable NHI.

⁵⁵ "Besluit van 8 september 2015, houdende het besluit van de Raad van ministers van het Koninkrijk betreffende het geven van een aanwijzing aan het bestuur van Sint Maarten to het oplossen van bestane achterstanden.....voorkomen".

⁵⁶ In Dutch: Landsverordening Uitvoeringsorgaan Sociale en Ziektekosten Verzekeringen (AB 2013, GT no.69).