Activities of the Estonian Health Insurance Fund (EHIF) upon carrying out public procurement of healthcare services

Has EHIF complied with the Public Procurement Act when organizing procurement of specialized medical care and nursing care, and signed contracts with institutions that have the capacity to provide the service in accordance with rules and regulations?

Summary of the audit results

What did we audit?

During the audit, the National Audit Office assessed whether

- the public procurements of healthcare services organized by EHIF in 2018 were organized in accordance with the Public Procurement Act;
- EHIF ensured that, as a result of the procurement, contracts were awarded to institutions that were able to provide the service in accordance with rules and regulations;
- The Health Board supervision ensures that the activities of the healthcare provider comply with the requirements that have been the basis for the issue of the activity license.

Why is this important to taxpayers?

EHIF organized public procurements to order healthcare services from institutions not included in the Hospital Network Development Plan (HNDP). In order to ensure transparent, efficient and economical use of health insurance money, it is important that EHIF's activities in organizing procurements comply with the requirements of the Public Procurement Act.
The patient's well-being and treatment outcome depend on the healthcare service. It is therefore important that procurements result in contracts being awarded to service providers that are able to provide patients with the necessary high-quality services.
As a result of audited procurement of specialized medical care and independent inpatient nursing care, EHIF signed contracts with 102 healthcare providers, the estimated cost of which in the period from October 2018 until September 2021 will total almost 215 million euros.

What did we find and conclude from the results of the audit?

In the opinion of the National Audit Office, EHIF has in most cases complied with the Public Procurement Act when conducting public procurements for healthcare services.
There were shortcomings in the qualification conditions and evaluation criteria of public procurements for healthcare services. Therefore, EHIF could not ensure that the contracts were awarded only to those institutions that were able to provide the required service and complied with the requirements.

- **One of the qualification criteria set by EHIF was the existence of an activity license for the provision of health care services, but this criterion did not enable to distinguish between institutions that comply with the requirements.**
  This was caused by shortcomings in the Health Board's supervision over compliance with regard to activity licenses and insufficient co-operation between EHIF and the Health Board in

preparing procurements. As activity licenses are issued for an indefinite period, the Health Board has left many institutions providing healthcare services uninspected for a long time. Among the tenderers who participated in the procurement, there were institutions whose license had not been modified since 2009.

Before 2018, the Health Board did not always carry out on-site inspections when processing a new activity license, which resulted in uncertainty about whether the data on premises and equipment were correct or whether the healthcare workers entered in the activity license still worked at the institution. Thus, a tenderer whose premises and equipment did not meet the requirements could actually get chosen in the procurement process. Moreover, in some cases it was not clear what service procurement license was required to be able to provide the services procured.

- **Procurements included conditions that failed to ensure equal treatment of tenderers.** In the evaluation of tenders, an institution did not receive points if precepts and complaints had been issued to the institution over the previous three calendar years. The evaluation criterion did not take into account whether the institution had provided services during all of that period. Thus, this condition may have favored tenderers who had provided healthcare services for less than three years.

  In addition, the fact that the same number of points was awarded to an institution which had submitted health records for all or most patients during the previous year, and to an institution which had submitted two health records also caused unequal treatment. This means that no account was taken of whether the provider had consistently fulfilled its obligation to submit health records to the health information system.
- **The procurement documents lacked a condition that the number of healthcare professionals presented in the tender must correspond to the number of treatment cases.** Though EHIF had highlighted the optimal workload of a full-time physician and added the possibility of negotiations, this was not taken into account in the evaluation of tenders. Therefore, tenders that did not indicate the necessary number of physicians for providing the desired volume of services, and who refused to reduce the amount of the tender during the negotiations were also declared successful. According to the conditions established by EHIF, the number of treatment cases could not be changed without the consent by the provider.

  For example, two institutions submitted a tender for the provision of outpatient psychiatric services corresponding to a workload of 2.5 physicians. However, both institutions had only indicated one physician in their tender. Both tenderers were declared successful.

  If the contract is awarded to a tenderer who in fact lacks sufficient capacity to provide the prescribed service, it is likely to recruit physicians not indicated in the tender and whose competence has not been verified by EHIF, or there might occur problems with providing the service.
- **Some institutions, after having been declared successful in the procurement, applied for a new activity license from the Health Board and started providing healthcare services in the premises and with the physicians of the institution that had lost the contract.** This means that EHIF is invoiced by a successful tenderer, but in fact the service is provided at the same premises and partly by the same physicians as in case of a tenderer who was not successful at the procurement. This shows that the procurement procedure sometimes failed to select institutions that are actually able to provide the service. Currently, it is also not legally clear whether and under what conditions different institutions can provide a service at the same location.
- **For the most part, EHIF complied with the Public Procurement Act and the internal control system for procurement did include important measures, but there were also some shortcomings.** For example, EHIF had not divided the procurements into lots, so that, under the Public Procurement Act, contracts should not have been awarded before the end of ongoing disputes and required waiting periods. As EHIF signed some contracts before that deadline, there was a risk that the contracts could have been declared void.
- **It is unclear according to which procedure EHIF should sign contracts with non-HNDP healthcare providers.** Pursuant to the law, EHIF can, in principle, apply both the Administrative Procedure Act and the Public Procurement Act when signing treatment

financing contracts. This is despite the fact that these are procedures that are subject to different principles and rules.

What did we recommend as a result of the audit?

The main recommendations by the National Audit Office:

- amend the evaluation criteria for the proper implementation of health insurance and healthcare legislation by setting procurement conditions so as to ensure equal treatment of tenderers;
- introduce in future procurement conditions a requirement that the number of healthcare professionals correspond to the volume of healthcare services in the tender, based on the EHIF's calculations of the optimal workload of these workers;
- determine in the procurement documents, in co-operation with the Health Insurance Fund and the Health Board, what activity license is required for the provision of a service;
- for the Health Board to carry out an unannounced inspection at the service provider within 2-3 years after the issue of the activity license for the provision of healthcare services, in the course of which the compliance with the requirements on which the activity license is based is reviewed;
- determine in legislation the procedure according to which EHIF must order services from non HNDP healthcare providers.

Responses of the audited: The chairman of the board of the Estonian Health Insurance Fund and the director general of the Health Board mostly agreed with the recommendations of the National Audit Office. They confirmed that the authorities will cooperate in planning the next procurements of healthcare services. For example, as a result, the procurement documents indicate which license or licenses are required for the provision of the service to be procured. From 2019, EHIF will set out in the procurement documents for healthcare services the conditions for considering the capacity of healthcare providers. In doing so, the workload of healthcare professionals at both the tenderer and other healthcare providers will be taken into account. The Health Board will also participate in the procurement committee to assess the institutions' capacity to fulfill the submitted tenders.

The Chairman of the Board of the Health Insurance Fund claimed that the conditions set in public procurements ensured equal treatment of tenderers. He emphasized that the requirements governing healthcare relate to the conditions for the treatment of people and that EHIF cannot accept that larger institutions or those with longer history are allowed to make more mistakes.
The Chairman of the Management Board of the Health Insurance Fund also pointed out that the purpose of the qualification criteria was only to verify the fact of fulfillment of the license obligation at the qualification stage. EHIF does not have the competence to verify the correctness of the activity license and based on that distinguish between institutions that comply with the requirements. EHIF assumed that the Health Board would issue activity licenses legitimately and ensure their legitimacy in time.

The Director General of the Health Board promised that in the future, during different inspections, they will also review the compliance with the requirements on the basis of which the activity license was issued. It is planned to inspect all license holders at least once every 4 years.