

Background

The management of services covered by compulsory health insurance in Switzerland poses a major health policy challenge. This is true both of unrestricted benefits in “open catalogues” (medical and chiropractic services, provided these are not the subject of controversy) and of explicitly defined benefit catalogues (paramedical services, medicines, analyses, equipment and appliances, and also medical preventive measures). The sub-objective of a health system that is financially sustainable and insurance premiums that do not go sky high – a system that is thus cost-effective – is faced with further sub-objectives of ensuring fair access to effective and high-quality healthcare for insured people. These sub-objectives complement each other in some ways, but in other ways they work in opposite directions, so a certain balance must be achieved.

In addition, the landscape is shaped by the interests of the stakeholders involved – from service and advance service providers on the one hand through policy makers and payers ([FOPH](#), insurers) to patients and people covered by compulsory insurance on the other. In some respects these interests are mutually consistent and in other, not unimportant, respects they are mutually opposed to each other.

Against this background, the Federal Court was concerned with service-related questions concerning medicines in 2010 and 2011. In an initial ruling on a high-price product for the treatment of a very rare disease, the Federal Court confirmed that “The judiciary has to some extent attempted to judge the cost/benefit relationship instead of the criteria hitherto undefined at the political level.” In a second ruling, the Federal Court commented on the suitability of a treatment.

Both cases highlight an urgent need for operationalization of the criteria of efficacy, suitability and cost-effectiveness set forth in the health insurance act ([KVG](#)), which was already called for by the Parliamentary Administrative Control body ([PVK](#), report of 2008) and the Business Review Commission of the National Council ([GPK-N](#), recommendations of 2009).