
PRESS RELEASE

BEITEN BURKHARDT Assists vdek with Comprehensive Negotiations with Insolvency Administrator of AvP Deutschland GmbH

Berlin/Frankfurt, 19 July 2021 – The international commercial law firm BEITEN BURKHARDT has assisted and comprehensively advised the Association of Substitute Health Insurance Funds (*Verband der Ersatzkassen e.V. - vdek*) on the negotiations with the insolvency administrator of AvP Deutschland GmbH (AvP). In addition, the team led by Dr Silke Dulle and Frank R. Primožic advised vdek on all legal issues in connection with the insolvency of the pharmacy billing service provider. The consulting services focused on prescriptions that were still outstanding when the request for opening insolvency proceedings was filed, and on resulting claims from the pharmacies and hospitals formerly served by AvP.

As a result, the Association of Substitute Health Insurance Funds concluded a trustee agreement with the insolvency administrator of the pharmacy billing service provider AvP. According to this agreement, the six substitute health insurance funds (TK, Barmer, DAK-Gesundheit, KKH, hkk and HEK) will pay outstanding claims for remuneration from pharmacies into the account of a neutral trustee (hww) until the pharmacies have clarified the controversial legal situation with the AvP insolvency administrator.

To explain this:

The insolvency administrator assumes that the pharmacies' claims that he has not released are part of the AvP's insolvency estate. Some of the affected pharmacies and their representatives do not fully share that legal opinion. The substitute health insurance funds had made extensive payments on account to AvP up to and including August 2020 for receivables from prescriptions that were assigned to AvP for billing. As a consequence of the insolvency, however, these monies were no longer paid to the pharmacies.

vdek points out that the substitute health insurance funds are not allowed to make direct payments to the pharmacies due to the insolvency proceedings that have been opened. The pharmacies can thus only resolve their possible claims with the insolvency administrator.

Overall, vdek assumes that the amounts still outstanding - especially for the public pharmacies - are significantly lower than the invoice amounts originally demanded by the pharma-

cies. The reason for this is the advance payments already made to AvP before the opening of insolvency.

AvP operated one of the largest pharmacy billing centres in Germany with about 3,500 customers and an annual billing volume of about EUR 7 billion. After filing for insolvency on 16 September 2020, it successively discontinued its business operations.

Advisors to vdek:

Inhouse:

Dr Björn Diering (vdek/Berlin)

BEITEN BURKHARDT:

Dr Silke Dulle (Social Security and Medical Law, Berlin), Frank R. Primozic (Insolvency Law, Frankfurt, both lead partners in charge), Christian Hipp, Robert Schmid (both Social Security and Medical Law, Berlin), Dr Moritz Handrup, Lutz Bachmann and Joel F. Schaaf (all Insolvency Law, Frankfurt). Dr Susanne Klein (Frankfurt) supported the team in all data protection law issues.

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Information about BEITEN BURKHARDT

- BEITEN BURKHARDT is an independent international commercial law firm with a focused range of services and some 270 lawyers working in eight locations.
- Through our long-established offices in Germany, Brussels, China and Russia we advise large and mid-sized companies and corporate groups from various industries, banks and financial institutions as well as the public sector.