

An Analysis of the Construction of the Rule of Law Path for the Financing Mechanism of Long-Term Care Insurance

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Abstract: With China's transformation into an aging country, the size of the disabled elderly population has increased and the long-term care insurance system has been established, and the financing mechanism has become an important requirement to ensure its smooth implementation and sustainable development. However, judging from the current practice in pilot cities, there are many shortcomings in China's financing mechanism. Therefore, based on domestic and international practical experience, we should focus on building the rule of law path for the financing mechanism, and put forward strategies such as clarifying the structure of financing elements through separate legislation, learning from international mature models, and designing supporting mechanisms, so as to outline the rule of law regulatory strategy and systematic construction plan for the financing mechanism, and promote long-term care insurance from a "pilot policy" to a "mature rule of law". This will promote the long-term care insurance from "pilot policy" to "mature rule of law", so as to better cope with the challenges of the aging society.

Keywords: Long-Term Care Insurance; Financing Mechanism; Rule of Law Path; System Construction

1. Introduction

China entered the aging era as early as 2000, and by 2023, the number of elderly people aged 65 and above in the country will be as high as 200 million, accounting for 15.4% of the total population. Data from the Fifth Sample Survey shows that elderly people who are unable to take care of themselves account for 11.6% of the total number of elderly people. Against the backdrop of a declining fertility rate and increasing average life expectancy, the long-term care insurance system was first mentioned at the Fifth

Plenary Session of the 18th CPC Central Committee. In 2016 and 2020, the Ministry of Human Resources and Social Security, the National Health Insurance Bureau and the Ministry of Finance issued documents on the pilot system and decided to launch the pilot system in a total of 49 cities. Although the work has been steadily progressing and some progress has been made, the system still faces the challenges of lack of legislation, unclear responsibilities and serious fragmentation of the system. The CPC Central Committee has clearly proposed to "explore the establishment of a multi-channel financing mechanism for mutual assistance and shared responsibility", so it is necessary to solve the problem of hidden dangers, with the aim of promoting the construction of the rule of law of the legislative form of the financing mechanism and the systematization of the elements, choosing the appropriate form of legislation and analyzing the elemental structure of the financing mechanism, and exploring the path of the rule of law of the financing mechanism that meets China's national conditions on the basis of domestic and foreign experience. Based on the experience at home and abroad, we will explore the path of the rule of law of the financing mechanism in accordance with China's national conditions, and enhance the efficiency of the rule of law in the development of long-term care insurance.

2. Model Selection and System Design of China's Long-Term Care Insurance System

The model applicable to the long-term care insurance system determines both the legal field to which it belongs and the identification of the various legal relationships in the financing mechanism. Scholars are divided on the choice between the social insurance model and the commercial insurance model. For the commercial insurance model, opponents argue that it is expensive and carries risks such as adverse selection; supporters argue that it does

not impose a serious financial burden on the government. Some scholars also argue that the two models should run in parallel. The two rounds of pilot work in China have clarified the social insurance characteristics of LTCI, and most scholars agree. As the number of one-child families increases and more female workers enter the market, the long-term care needs of the disabled elderly are no longer a family responsibility, but a risk that should be solved by the whole society. The high premium of commercial insurance determines that its coverage will be limited to people of high economic level, but since it is backed by sufficient funds, it means that long-term care insurance will not become a rigid demand of this group, but rather tends to play its financial function, but insurance is not the optimal investment product, and they can afford to hire private caregivers or other kinds of long-term care or other kinds of insurance. It can be seen that the commercial insurance model does not make much sense either for the universal benefit of the majority of low- and middle-income elderly groups, or for the high-income elderly groups who have the full right to choose. Therefore, at the same time, in view of China's social insurance system has five major insurance mature practical experience, China's long-term care insurance system should choose the social insurance model, and in the scope of social security jurisprudence, is in line with the current national conditions.

The urgent need for the law to be clear is not only the requirements of jurisprudence, or the need for practice, the lack of direct, specific legal standards will affect the efficiency of the judge's handling of the case, and even cause the practice of judges to apply the law difficult. Some judges believe that the long-term care insurance system is based on the guidance of the Ministry of Human Resources and Social Security pilot reform, belongs to the category of social insurance, so refer to the relevant provisions of the Social Insurance Law to confirm the division of powers between the relevant administrative organs and the agency. This is in line with the views of most scholars, but it is also worth noting that the rule of law for long-term care insurance has an important value.

3. Consensus on the Rule of Law and Experience in the Financing Mechanism of Long-Term Care Insurance Outside the

Region

Extraterritorial long-term care insurance mechanisms have been developed earlier outside the region, and the system is more mature. In terms of the construction of the rule of law, most countries have established the institutional framework through a separate legislative model, clarifying the relationship between the rights and obligations of the government, society and individuals, and providing rule of law guarantees for fund-raising. In terms of financing channels, generally showing multi-level, diversified characteristics [1], both emphasize the main responsibility of individuals to pay premiums, but also pay attention to the whole society risk sharing, play the complementary role of government subsidy policy [2]. In terms of financing, the rates are differentiated to balance regional differences and intergenerational equity [3], and a rate dynamic adjustment mechanism is established to regularly adjust the rates by integrating factors such as demographic changes. In terms of fund management, the principle of earmarking is adhered to, and separate accounts are established for individual management [4], and some countries also prohibit the diversion of funds through legislation [5], so as to enhance financial sustainability. Extraterritorial experience in the formation of the financing mechanism after decades of development is worth studying and learning from, which will help us to take less detours in the process of the rule of law in the financing mechanism.

4. Forms of Legislation and Structure of the Elements of the Long-Term Care Insurance Financing Mechanism in China

4.1 Forms of Legislation

At present, there is no special law on long-term care insurance in China, and the specific provisions of the financing mechanism are not yet available. In the pilot practice, the legal basis for the implementation of long-term care insurance in many places for the local government regulations [8], and there has been a fixed-point service organization fraud medical insurance fund and other chaos, the use of funds raised and the linkage with the payment link and other issues, legal loopholes will lead to lawless elements to drill legal loopholes in the implementation of criminal acts, seriously hinder the implementation of the system, so China urgently needs to establish and improve the

funding mechanism of legal norms.

Academics for long-term care insurance should be considered an independent insurance basically reached a consensus, but is it should be taken to introduce the "long-term care insurance law" of the separate legislative model [9], or will be included in the "Social Insurance Law" as "five insurance" under the new chapter to be provided [10-11]? The author believes that the results of the pilot policy should be integrated and separate laws should be enacted by adopting the mode of "relatively centralized legislation supplemented by decentralized legislation", i.e., focusing on the process of legislative dynamics, and introducing a series of separate laws or regulations on various aspects of long-term care insurance, such as benefits, financing, supervision, etc., in phases and at different targets as practice develops. A series of separate laws or regulations on various aspects of long-term care insurance, such as benefits, financing and supervision, will be introduced in stages and with different objectives as practice develops, and will eventually be consolidated into a comprehensive long-term care insurance law when the time is ripe. The separate law on the financing mechanism should consolidate pilot policies and standardize rates and responsibilities to ensure that the basic financing rules are consistent nationwide and change the current status quo of a fragmented system with large differences among localities. Localities should also be allowed to adjust rates according to their respective economic development, population size, care needs and other different realities, and explore the establishment of a dynamic rate adjustment mechanism. The reasons for this are, firstly, that specialized legislation has strong advantages in terms of relevance and systemic nature; secondly, although the financing mechanism of long-term care insurance can draw on the mature experience of the basic old-age insurance system, it should essentially focus on differentiation and not be a rigid copy of the substantive content of financing channels, premium collection, responsibility and supervision for the sake of formal integration, but should be tested in practice; thirdly, although long-term care insurance is social insurance, it belongs to a different field from the other five types of social insurance and involves different objects and purposes. Thirdly, although long-term care insurance is social insurance, it belongs to a

different field from the other five types of social insurance and involves different objects and purposes. Therefore, reference should be made to the model of separate legislation adopted by countries such as Germany and Japan.

4.2 Elemental Structure

4.2.1. Main body benchmark: the main body in charge of financing

The main body of financing includes both the administrative organs in charge of and supervising the implementation of financing work, as well as enterprises and individuals capable of making the system run smoothly as the main body of contributions, and the government as the main body of financial subsidies. As for the subject of supervision, China is currently responsible for the budget and operation supervision of funds by the medical insurance management organization in the coordinated area, which is under the Medical Insurance Bureau, and may be used in the future according to the department's workload and other factors, continue to follow this provision or relegate the work to the Bureau of Human Resources and Social Security. For the main body of contributions, China's current pilot cities follow the medical insurance system, but the regulations vary from place to place (see Table 1), the future should be unified contribution coverage of the population, maintaining the medical insurance model for urban workers to implement mandatory enrollment, urban and rural residents voluntary enrollment model, but the residents should be adopted the principle of synchronization of medical insurance and long-term care insurance contributions, and the high-income areas can be appropriately increased the proportion of the responsibility of enterprises to finance.

In addition, consideration should be given to introducing a requirement for pensioners to contribute a proportionate amount to their pensions in order to increase the sustainability of financing; to introducing a system of mutual recognition of accumulated contribution years for the floating population in order to ensure a good connection of protection in the case of interregional mobility; and to introducing the German system of "childlessness surcharges", whereby a certain percentage of surcharges is levied on insured persons without children to compensate for the lack of family care. In Germany, a system of "childlessness surcharges"

has been introduced, whereby a certain percentage of surcharges is levied on insured persons without children to compensate for the lack of family care. For the main body of subsidies, the central government can set a uniform minimum rate for the whole country and set a certain range of fluctuating rates for local governments to adjust according to their own practices. In addition, a differentiated subsidy policy could be formulated, and financial transfers to less-developed regions in the central and western regions could be increased to relieve local fiscal pressure.

Table 1. Funding Bodies in Pilot Cities.

The main body of the contribution	First and second pilot cities
Urban workers' medical insurance participants and urban and rural residents' medical insurance participants	Suzhou, Shangrao, Qingdao, Jingmen, Chengdu; Hohhot, Xiangtan
Urban workers' medical insurance participants	Chengde, Chongqing, Anqing, Ningbo, Qiqihar; Tianjin, Jincheng, Panjin, Fuzhou, Kaifeng, Nanning, Noshanbuyi Miao, Zuzhi, Kunming, Hanzhong, Urumqi, Gannan Tibetan Autonomous Prefecture
Urban workers' medical insurance participants and urban and rural residents' medical insurance participants over 60 years of age	Shanghai
Excluding residents of rural areas and students of universities and colleges who are under 18 years of age	Shihezi
Excluding residents of rural households	Changchun, Nantong
18 years old and above	Guangzhou
Excluding students and children	Shijingshan District, Beijing

(Note: The data in the figure are derived from scholarly papers [12].)

4.2.2. Target benchmark: composition of mobilized insurance funds
China's long-term care insurance currently relies

heavily on medical insurance for funding (see Table 2), some scholars have statistics, in 2013, 225 regions of the country's urban workers' medical insurance coordination fund for the current period of income does not cover expenses, 22 regions coordination fund accumulated balance deficit [12], so this model is conducive to the rapid spread of long-term care insurance system, Therefore, although this model is conducive to the rapid expansion of the long-term care insurance system, as the economy continues to grow and the demand for care continues to rise, there is a risk that it will be unsustainable in the long term, which will affect the foundation of the system. In the future, an independent long-term care insurance fund pool should be set up, which is different from medical insurance and is accounted for separately, and various financing channels should be explored, including collecting premiums from the main contributors, financial subsidies from the government for specific groups of people, and charitable donations and the social lottery business to help. At the same time, we can explore the new "public welfare tax" and other taxes, individual types of enterprises to collect taxes. For example, a public welfare tax for poverty alleviation can be appropriately levied on MNCs in China: first, it is a manifestation of corporate social responsibility; second, it can be a way to pay for itself while improving the business environment; and third, as foreign enterprises are usually entitled to preferential policies or tax exemptions, the levying of a small public welfare tax for poverty alleviation can help balance the burdens of foreign-funded enterprises with those of local enterprises and promote fair competition. In addition, innovative instruments such as "care bonds" can be explored to attract the injection of social capital.

Table 2. Sources of Funding for Pilot Cities.

Source of funds	First and second pilot cities
Transfers from the health insurance pooled fund	Shanghai, Suzhou, Ningbo
Allocation from the health insurance pool fund plus individual contributions	Chongqing, Qiqihar, Tianjin, Fuzhou, Xiangtan
Allocation from the health insurance pool fund plus individual contributions plus financial subsidies	Qingdao, Guangzhou, Jingmen, Chengde, Chengdu, Anqing, Nantong, Changchun, Kaifeng,

	Kunming, Shijingshan, Hanzhong, Jincheng, Urumqi, Hohhot
Health insurance pooled fund transfers plus unit contributions	Nanning
Allocation from the health insurance pool fund plus individual contributions plus financial subsidies plus unit contributions	Shangrao, Panjin
Allocation from the health insurance pool fund plus individual contributions plus financial subsidies plus welfare lottery fund	Shihezi, Qianxinan Prefecture

(Note: Data in the figure are from a scholarly paper [13])

4.2.3. Basis of Responsibility: Allocation of Responsibility for Fund raising

For the disabled elderly receiving services, a certain amount of fees should be paid when they choose to receive services as part of the payment, so as to reduce the expenditure burden of the insurance fund. At present, in practice, the main funding body and funding channels are not unified, and the funding responsibility of each contributing body varies according to regional differences. The future distribution of responsibility of the main contributors, on the one hand, should include the determination of the proportion of each party, China should implement the "government, enterprises, individuals" tripartite financing mechanism, some scholars believe that the main body of insurance should pay about 50% of social long-term care expenditure, the financial sector and other contributors to pay 30%-35%, the individual to pay 15-20% [13], the future can refer to Japan's graduated contribution mechanism, according to income level is divided into multiple rates and separate contributions, to achieve accurate financing; on the other hand, it should include the determination of the financing standard, that is, the determination of the insurance rate or subsidy amount, can be explored and the use of actuarial modeling, according to changes in the demand for long-term care and the level of the economy to dynamically adjust the rate or the amount of subsidies. Among other things, the central government can also refer to the provisions of Germany and Japan and specifically allocate a

certain percentage of the funding ratio for which it is responsible as a transfer fund to stabilize the excessive shortfalls in the payment of long-term care insurance costs in different regions [13]. Local governments can implement graduated subsidies according to economic levels, for example, reducing subsidies for areas such as economically developed first-tier cities and increasing them for less developed areas. While the government bears the responsibility, enterprises must also bear some responsibility, but a ceiling should be set on their contributions to prevent overburdening from affecting the quality of development.

4.2.4. Methodological benchmarks: clarifying funding methods

Funding methods vary in pilot cities, with a mix of fixed amount, fixed ratio, and a mixture of the two, but most scholars support fixed ratio funding [14-16] because it has the advantage of realizing fairness in the burden on the funding side and narrowing the gap between residents' and employees' health insurance [17], which is also supported by the author. In the future, a rate dynamic adjustment index mechanism should be established by linking the CPI and the aging rate, which is periodically revised every certain number of years. In addition, in practice, most of the pilot cities adopt the financing principle of "determining expenditure based on income", but some scholars believe that this fundamentally fails to respect the basic principles of social insurance [18], and there is a risk of replacing "actuarial balance" with "budget balance [19]." According to the author, in the initial stage of the development of long-term care insurance, in order not to impose a heavy burden on the public treasury and the main body of financing, the principle of "revenue to cover expenditure" should be applied, ways of maintaining a balance between revenue and expenditure should be explored, the efficiency of the use and management of funds should be improved, and a gradual shift should be made to the mode of "revenue to cover expenditure and actuarial balance" to ensure the sustainability of financing. This study was inspired by the research of [Wenjiong He, Yixin Yang] ([2011]) on [Discussion on some issues of social health insurance financing] [20]. A gradual shift should be made to the "revenue to meet expenditure and actuarial balance" model to ensure the sustainability of financing. A partial accumulation system should be applied to the

financing model to meet the challenge of high cost demands caused by the peak of population aging, and to allow insurance premium rates to fluctuate by a certain percentage above the base value in regions with a high degree of population aging and better quality of economic development, such as Zhejiang and Guangdong.

5. Supporting Mechanisms: Operation and Oversight of the Funding System and System Articulation

In Canada, the provincial governments can appoint professional organizations to invest and operate surplus funds, and our long-term care insurance fund should also be deposited in a bank account designated by the administrative authority, and part of the percentage can be set aside to be invested and operated by government-designated banks and other institutions to revitalize the surplus funds and incorporate the generated income into the funding source. This process should also be supervised by appropriate institutions, such as the Banking and Insurance Commission, to prevent misappropriation of funds. A solid accountability mechanism should also be established to severely punish misuse of funds and other behaviors. In addition, the financing mechanism is only one of the components of long-term care insurance, and the transition to the payment system as well as the connection with other social insurance financing mechanisms should be well done, so that the social insurance system will eventually be harmonized and complete as a whole. In this regard, emphasis should be placed on the gradual establishment of a mechanism for data exchange and mutual sharing among different types of insurance, as well as the establishment of a nationally unified information platform, so as to avoid duplicate financing and improve the efficiency of supervision. The establishment of an information platform will also be conducive to the realization of mutual recognition of long-term care insurance across provinces, thus facilitating the inter-regional mobility of people in need of long-term care. Emphasis should also be placed on narrowing the gap between regions, strengthening cooperation and mutual assistance between developed regions in the east and those in the central and western parts of the country, and exploring ways to provide financial support.

6. Conclusion

As an important social security system to meet the care needs of the disabled elderly group, the construction of the rule of law of its financing mechanism is particularly urgent. The author focuses on the financing link to explore the path of the rule of law, and puts forward the construction proposals of choosing a separate form of legislation and clarifying the structure of financing elements in terms of content and form. First, based on the determination of the characteristics of long-term care insurance, the form of legislation is clarified, and the omission of the system is taken as the starting point to emphasize the necessity of the rule of law of the financing mechanism; second, drawing on the mature experience of South Korea, Germany and Japan and the successful experience of China's social security system, the legislative content of the subject of the benchmarks, the object of the benchmarks, the benchmarks of the responsibilities, the benchmarks of the method of the elements of the overall design is clarified; Finally, exploring the construction of supporting mechanisms for the financing mechanism, promoting the unification and systematization of the financing mechanism, ensuring the fairness, sustainability and efficiency of the financing link, and promoting the rule of law process of the pilot policy. The construction of a rule of law path for the financing mechanism cannot be completed overnight; it requires continuous exploration of practice and improvement of legislation to provide a solid guarantee to meet the challenges of an aging society and better safeguard the rights and interests of disabled elderly groups.

References

- [1] Jong Chul Rhee, A.B., Nicolae Done, C., Gerard, F., Anderson, D. Considering long-term care insurance for middle-income countries: comparing South Korea with Japan and Germany.
- [2] Lee, H.S., Wolf, D.A. (2014) An evaluation of recent old-age policy innovations in South Korea. *J. Research on Aging*.
- [3] Heinicke, K., Thomsen, S.L. (2010) The Social Long-term Care Insurance in Germany: Origin, Situation, Threats, and Perspectives. Mannheim, Germany: Center for European Economic Research. *J. Discussion Paper*, No. 10-012.
- [4] Seok, J.E. (2010) Public long-term care insurance for the elderly in Korea: design,

- characteristics, and tasks. *J. Social Work in Public Health.*, 25(2):185–209.
- [5] Ikegami, N. (2007) Rationale, design and sustainability of long-term care insurance in Japan—in retrospect. *J. Social Policy and Society.*, 6(03):423–34.
- [6] Yiwei Yin, Ping He. (2022) German practice and localization design of long-term care insurance financing legal system. *J. China Medical Insurance.*, (04):123-128.
- [7] Da Feng, Hong Cui. (2021) Research on statutoryization of long-term care insurance system in China. *J. Journal of Shenyang Normal University (Social Science Edition).*, 45 (06): 53-61.
- [8] Huize Liu. (2022) Research on the Legal System of Long-term Care Insurance. D. Liaoning University.
- [9] Lichen Zhang. (2023) Research on the construction of long-term care insurance legal system in China. D. Guangxi Normal University.
- [10] Chen Mu, Zhenhua Rong. (2025) Problems and countermeasures in local policies of long-term care insurance. *J/OL. Medicine and Law.*, (01): 93-99. <http://kns.cnki.net/kcms/detail/51.1721.R.20250121.1348.016.html>.
- [11] Cheng Yang. (2022) Research on Long-term Care Insurance System in the Context of Positive Aging. D. Chongqing University.
- [12] Ritu Wu. (2015) Deepening the reform of social security system to adapt to the new normal of economic development. *J. National People's Congress of China.*, (3): 36-39
- [13] Jie Sun, Xinyi Hu, Yuezhu Jiang. (2020) Financing Mechanism for Social Long-Term Care Insurance: A Theoretical Analysis Framework. *International Journal of Economics. J. Finance and Management Sciences.*, Vol. 8, No. 1, pp. 39-48.
- [14] Zhen Li, Chu Zhang. (2021) On the Reform of Individual Financing Mechanism of Resident Health Insurance from Quota System to Ratio System. *J. China Health Policy Research.*, 14(07):1-10.
- [15] Gongcheng Zheng, Linzi Tan. (2024) Individual financing policy for residents' health insurance: origin, dilemma and optimization. *J. China Rural Economy.*, (03):2-21.
- [16] Yifan Zhao, Bo Guan. (2024) Reform proposals to promote the maturation and finalization of the long-term care insurance system. *J. Health Economics Research.*, 41(12):46-49.
- [17] Yinan Chen. (2023) The current situation, limitations and optimization path of long-term care insurance financing in China: an empirical analysis based on 27 pilot policy texts. *J. Journal of Beijing University of Aeronautics and Astronautics (Social Science Edition).*, 36(02):90-99.
- [18] Wenjong He, Yixin Yang. (2021) Analyzing Several Issues of Social Medical Insurance Financing. *J. China Medical Insurance.*, (03):34-37.