



Australian Government

Private Health Insurance Ombudsman

Mr Robert Fitzgerald
Presiding Commissioner
Review of Australia's Consumer Policy Framework
Productivity Commission
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Dear Mr Fitzgerald

Draft Report on the Review of Australia's Consumer Policy Framework

I am writing in response to the Commission's invitation to comment on the draft report on the Review of Australia's Consumer Policy Framework. I wish to provide some background information on the role of the Private Health Insurance Ombudsman (PHIO), to assist the Commission in its consideration of issues relating to industry specific consumer regulation.

Background

The Private Health Insurance Ombudsman was established over ten years ago to take complaints and provide advice to consumers about private health insurance arrangements. The Ombudsman's key role is to protect the interests of people who are covered by private health insurance.

The Ombudsman has jurisdiction to take complaints from health insurer members, hospitals, doctors and other healthcare providers about private health insurance arrangements. Most complaints are from health insurer members in relation to their health insurer, but the Ombudsman's jurisdiction enables the office to investigate a wide range of industry practices that may impact on consumers' entitlements under their health insurance.

The role of the office has evolved over time to meet new challenges and now encompasses a substantial consumer information role. The PHIO is an independent Commonwealth statutory authority. The office is funded via an appropriation from Parliament, but there are arrangements in place to recover the cost of running the office from a levy on health insurers.

The PHIO does not have coercive powers, but is able to make recommendations to insurers in relation to complaints or industry practices. The PHIO is also responsible for providing advice to the Minister and Department of Health and Ageing in relation to industry practices that affect consumers and issues identified through complaints handling and investigation.

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Legislation

Private health insurance is an area that is regulated by an industry specific approach. The industry is regulated under the *Private Health Insurance Act 2007* and its prudential supervision is overseen by the industry regulator, the Private Health Insurance Administration Council (PHIAC):

There are a number of important consumer safeguards in place under the *Private Health Insurance Act 2007*. These include the principle of community rating, that prevents a health insurer from discriminating against people on the basis of their health or other specified grounds; the requirement for insurers to seek approval from the Minister for Health and Ageing before they can increase premiums on any of their policies; the requirement for an insurer to advise affected contributors of detrimental changes to their health insurance policy before the change comes into effect; and requirements relating to complying health insurance products, portability (ie the ability to transfer between funds) and waiting periods.

The Ombudsman is established under Part 6-2 of the Act as an independent statutory authority, to protect the interests of consumers in relation to private health insurance. The staff of the Ombudsman have an in-depth knowledge and understanding of private health insurance and the Australian healthcare system, particularly the interface between the private and public systems. The healthcare system is well recognised as a complex area for consumers to navigate. It is therefore important to have complaints about private health insurance dealt with by an experienced team that understands the legislation as well as the rules and requirements of the thirty eight health insurers.

The role of the PHIO has been reviewed a number of times to ensure it is the most effective and efficient way of assisting consumers with complaints about private health insurance. Unlike the Commonwealth Ombudsman, which deals with complaints about administrative decisions by government departments, the PHIO deals with complaints about a private sector industry. The PHIO's jurisdiction extends to the thirty eight registered health insurers, private and public hospitals, health insurance brokers, doctors, ancillary providers (such as dentists and physiotherapists) and suppliers of medical devices and prostheses. The legislation and the issues are different from those dealt with by other Ombudsman bodies such as the Telecommunications, Banking and State Energy and Water Ombudsman.

Previous reviews of the PHIO have concluded that an independent agency with a focus on private health insurance is the most effective way to ensure the provision of a high quality, independent complaints handling service to consumers in relation to private health insurance.

In this context, private health insurance meets the Report's definition of when industry specific regulation is most appropriate. (See Box 5 on page 25 of the draft report Volume 1 Summary.)

Complaint Handling

Since its establishment, the office has focussed on making its services as accessible as possible to consumers. We have a Freecall telephone number available nationwide, as well as postal, fax and internet facilities. Increasing numbers of consumers are choosing to access our services via the internet. We do not require consumers to provide written material outlining their complaint, unless it becomes necessary in order to resolve a particular issue.

In line with best practice complaint handling, we refer many consumers back to their health insurer in the first instance to try and obtain a speedy resolution of their complaint. The consumer is referred to a specialist contact within the insurer who has the expertise to deal with consumer complaints. In most cases, this results in a satisfactory resolution of the problem. Our customer surveys indicate that consumers are happy with a speedy referral to someone who can fix their problem. This leaves PHIO staff to deal with the more complex, difficult complaints and is a better use of the office's resources.

Many consumers who contact the office are vulnerable, because they are elderly or ill. This impairs their ability to deal with their issue in the way they would if they were well. PHIO staff are aware of these difficulties and take them into account to ensure an appropriate level of assistance is provided to people in these circumstances.

Referrals to Other Agencies

The office policy is to assist people who contact the PHIO with a complaint that falls within the jurisdiction of another body, such as the Insurance Ombudsman Service (IOS), by giving them contact information for the most appropriate agency to deal with their complaint. All staff have a copy of the Australian Consumer Handbook, available from www.consumersonline.gov.au, which they use for this purpose. The PHIO also receives regular referrals from other complaints handling bodies, including State based Fair Trading and Healthcare Complaints bodies. In addition, health insurers are required to place information about the Ombudsman's services in their brochures and on their websites.

Nevertheless, publicising the PHIO's services is an important function of the office and we are able to do this in a number of ways, including via our consumer and industry publications and regular reporting processes.

Consumer Information and Advice

In April 2007, the Ombudsman was given responsibility for developing and maintaining the www.PrivateHealth.gov.au consumer website, to give consumers access to independent and reliable information about private health insurance. Consumers are able to download a one page standard information statement outlining the features of their own health insurance policy from the website. They are also able to compare standard information sheets for other policies available for purchase. In addition, the site is a good resource of independent and reliable information about private health insurance.

Information Sharing

Many of the issues dealt with by the office are unique to private health insurance. As indicated, the industry is regulated under its own legislation. Consideration would therefore need to be given to whether the outcome of PHIO cases would be useful in a shared national database, although there would be areas where PHIO's experience of dealing with complaints could be useful to other bodies.

The PHIO has regular interaction with other Ombudsman and complaint handling bodies and participates in the activities of the Society of Consumer Affairs Professionals (SOCAP). These activities are invaluable for keeping up to date with developments in best practice complaints handling and consumer issues; for sharing the PHIO's expertise with other bodies and benefiting from the expertise of other consumer and complaint handling bodies.

Other Issues

Most health insurers conduct their business across several states and do encounter difficulties in ensuring compliance with the differing legislative requirements of each state. This situation is not, of course, unique to consumer protection law; many aspects of a health insurer's business are affected by different requirements in a number of areas across the states.

I understand the scope of the Commission's review is much wider than the relatively narrow field in which the PHIO operates, but I trust my comments are of assistance to the Commission's understanding of industry specific consumer regulation.

I would be happy to provide additional information or discuss any of the issues raised further with the Commission and can be contacted on (02) 8235 8709 or by e-mail at sgavel@phio.org.au.

Yours sincerely,



Samantha Gavel
Acting Ombudsman

5 February 2008