

Private Health Insurance
OMBUDSMAN

QUARTERLY BULLETIN NO 14
(January to March 2000)

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INTRODUCTION

This quarter's bulletin will discuss some of the issues surrounding exclusionary products and the associated question of products fit for purpose.

Exclusionary products have had a place in the industry, they have assisted in reducing the price of the product for certain groups of consumers, but they have created significant problems for other groups who were attracted by the price but didn't understand the consequences attached to the purchase. They have also come in for a fair degree of criticism from the medical profession who contend it is difficult for the layman to understand the breadth of the exclusions which are generally sold with minimal real description as to the extent of the exclusion.

CARDIAC EXCLUSIONS

This case was forwarded to the Office by a private hospital and has not yet resulted in a complaint. The hospital and the fund are working on the issue. It does however highlight some of the problems associated with cardiac exclusions, both for the consumer and the providers.

A 42-year-old woman was brought to the hospital in the early hours of the morning with "acute food poisoning" being the diagnosis of the ambulance officers.

On arrival, her condition deteriorated rapidly. A cardiac cause was determined and she was transferred under heavy drug treatment direct from Accident and Emergency to the Cardiac Catheter Laboratory where she underwent angioplasty and stenting.

At the time of her arrival in the A&E she was noted to have a policy with exclusions, but her diagnosis was food poisoning. Her rapid deterioration saw her in the Catheter Laboratory within an hour of presentation. Her policy was subsequently noted to have a "cardiac intervention exclusion" leaving a rejected claim of \$7,685 from her fund.

Talking to her cardiologist, he is unable to accept that this type of policy can be allowed in the market place. On this occasion the member's request for private care was made with an expectation that her fund would pay. When her cardiac event was diagnosed, she was not capable of discussing the matter. Her cardiologist has also stated that her clinical situation deteriorated rapidly and it would not have been clinically appropriate to return her to an ambulance for transfer to a public hospital.

The hospital CEO went on to suggest two options to resolve this and like problems.

- A. *Cardiac Intervention Clauses be outlawed; or,*
- B. *Cardiac Intervention clauses be limited to elective procedures only, to enable members and hospitals to confirm eligibility in an orderly fashion.*

It would make life for the consumer far more certain if his first suggestion was universally applied. Indeed some funds have found so many difficulties in interpretation of specific cardiac intervention clauses and disputes around their specificity and what can be reasonably contained in a brochure that they have removed them from their exclusion lists.

It is the second recommendation made though that warrants very serious consideration.

Far too often cardiac exclusion products are sold to consumers whose expectation is, because of their age and relative good health; they won't need access. Unfortunately there are numerous examples where persons in their 40s and 50s had sudden onset heart attacks. Given the relatively small number of occasions when someone who has a cardiac exclusion product actually has to use it for emergency purposes, it wouldn't seem to be too costly an adjustment, to make an allowance for emergency procedures.

PRODUCTS FIT FOR PURPOSE

The next issue that arises is whether certain exclusion products, sold to particular groups of individuals are legally fit for purpose.

Section 71(2) Trade Practices Act 1974

Where a Corporation supplies goods to a consumer in the course of business and the consumer, expressly or by implication makes known to the corporation.... Any particular purpose for which the goods are being acquired, there is an implied condition that the goods supplied ... are reasonably fit for the purpose, whether or not that is the purpose for which the goods are commonly supplied.

The complainant was in her mid eighties and suffered a fall and break in her hip when alighting from a bus. She was transferred by ambulance to a country regional public hospital and then to a private hospital on the basis she had private health insurance. She remained a patient of the private hospital for 14 days, following joint replacement surgery and at no time did the hospital seek from the fund her membership status. Instead they relied on the word of her aged and distressed husband who proffered his single membership card and said hers was the same. The fund denied full benefits on the basis the product did not cover joint replacement in a private hospital and paid around \$14,000 of a total bill in excess of \$20,000. The hospital placed the remainder of the bill in the hands of a debt collection agency.

Six months prior to the incident, the couple went to the office of their fund in the country town in which they lived and asked how they could reduce the cost of their health insurance as they were finding things a bit tough. The male was in his mid eighties and the lady in her early eighties. They were sold an exclusionary product that denied benefits in a private hospital for hips, eyes and coronary procedures. In this instance the product only covered them for treatment in a public hospital. The members were not adequately informed and it is questionable under any circumstances if this type of product is fit for purpose for people in this age bracket.

Another case that is also very difficult to defend against a claim of “product not fit for purpose” relates to a product sold with a “benefit limitation period”.

Again an elderly lady in her mid seventies transferred from one funds 100% hospital table to another's 100% table. She had held private health insurance for over forty years. At the time of applying, the lady readily admitted to her having significant heart problems.

She was sold a product, which had a benefit limitation period for cardiac episodes of one year for transferring members. The lady subsequently had a heart pacemaker inserted within the twelve month benefit limitation period at one of the major private hospitals. The claim was initially denied due to the existence of a benefit limitation period.

In both these instances there is little doubt “the consumer... By implication makes known to the corporation ... any particular purpose for which the goods are being acquired.”

COMMENT

Whilst exclusion products may have had a real place by allowing a marginal reduction in the cost of health insurance when the industry faced declining clientele, it is questionable if the same rationale can be used now that the market has stabilised and the cost has been subsidised by the rebate. In the past this office was of the view that as the cost of insurance was paramount in the consumers' mind, that price reductions associated with exclusion products outweighed their obvious disadvantage. This is not the contemporary view. This Office now regards these products as not being good value and would caution consumers about their appropriateness.

This Office is strongly of the view that cardiac exclusions should definitely not relate to emergency admissions. We are aware that this will require a definition of emergency, but the current policy applicable to exclusionary products is inappropriate.

With respect to products fit for purpose, a good rule of thumb for funds would be to restrict the sale of these products to those groups for which they were intended. It is acknowledged that all products have to be available under community rating to all purchasers, but! If a consumer wants a cheaper product, don't offer the exclusion product if the product is perceived by the fund as not fit for purpose. If the consumer insists, ensure you detail the fund's concerns as to the potential inadequacy of the product for the individual, in writing and don't just rely on the brochure. Fit for purpose with respect to exclusionary health insurance products has not been tested at law. Is it worth being the focus of the first case just because you didn't adhere to some simple administrative safeguards?

CANCER COUNCIL OF TASMANIA

This Office has received a request for assistance from the Cancer Council of Tasmania which we publish here without comment.

I write to draw your attention to significant discrepancies between the health insurance companies in the quantum of rebates available for breast prosthesis.

It has become evident, from discussions with staff of our Breast Cancer Support Service and members of breast cancer peer support groups, that these differences are causing added and unnecessary distress at a most stressful time.

I understand that the inequities are particularly felt by some insured ladies who have undergone double mastectomies who then seek assistance from their health insurance companies.

I would appreciate if you could consider these matters with a view to recommending more equitable benefits for women required to wear a series of prosthesis for life.

Complaints (Problems, Grievances & Disputes) by health fund

1 January 2000 to 31 March 2000

Name of Fund	Total number of complaints (1)	% of total complaints	Total number of disputes (2)	% of total disputes	Health fund Market share (3)
ACA Health Benefits Fund	0	-	0	-	0.1
AMA Health Fund Ltd	0	-	0	-	0.1
Australian Health Management	15	3.0	3	1.9	2.4
Australian Unity Health Fund	13	2.6	4	2.5	2.7
AXA Australia Health Insurance	79	15.9	40	25.0	10.6*
CBHS Friendly Society	2	0.4	1	0.6	1.0
CDH Benefits Fund	0	-	0	-	-
Credicare Health Fund	6	1.2	2	1.3	0.5
Defence Health Benefits Society	3	0.6	1	0.6	1.3
Geelong Medical & Hospital Benefits Association	3	0.6	2	1.3	1.0
Goldfields Medical Fund Inc	1	0.2	0	-	0.2
Grand United Corporate Health Ltd	1	0.2	1	0.6	0.3
Grand United Friendly Society	9	1.8	2	1.3	0.5
Health Care Insurance Ltd	2	0.4	1	0.6	0.1
Health Insurance Fund of WA	2	0.4	0	-	0.3
Health-Partners	1	0.2	1	0.6	0.6
Healthguard Health Benefits Fund Ltd	0	-	0	-	0.1
Hospital Benefit Fund of WA (Inc)	13	2.6	5	3.1	11.0
Hospital Contribution Fund of Australia Ltd	40	8.1	14	8.8	8.5
IOOF Friendly Society of Victoria	0	-	0	-	0.2
IOR Australia Pty Ltd	4	0.8	1	0.6	0.7
Latrobe Health Services (VIC)	3	0.6	0	-	0.4
Lysaght	0	-	0	-	0.2
Manchester Unity Friendly Society In NSW	13	2.6	5	3.1	1.0
Medibank Private	99	20.0	34	21.3	26.9
Medical Benefits Fund Of Australia Ltd	124	25.0	17	10.6	18.1
Mildura District Hospital Fund	0	-	0	-	0.3
Naval Health Benefits Society	1	0.2	0	-	0.3
NIB Health Funds Ltd	34	6.9	15	9.4	4.7
NSW Teachers Federation Health Society	2	0.4	1	0.6	1.5
Phoenix Welfare Association Ltd	1	0.2	0	-	0.2
Queensland Country Health Ltd	1	0.2	0	-	0.2
Queensland Teachers Union Health Society	4	0.8	3	1.9	0.4
Railway & Transport Employees Friendly Society	2	0.4	1	0.6	0.4
Reserve Bank Health Fund Friendly Society	0	-	0	-	0.1
SA Police Employees Health Fund Inc	0	-	0	-	0.1
SGIO Health Pty Ltd	5	1.1	1	0.6	1.3
St Lukes Medical & Hospital Benefits Association	4	0.8	1	0.6	0.5
Transition Benefits Fund	1	0.2	0	-	0.2
Transport Friendly Society	1	0.2	1	0.6	0.1
United Ancient Order of Druids Victoria	1	0.2	0	-	0.1
United Ancient Order of Druids Grand Lodge NSW	0	-	0	-	0.1
Western District Health Fund Ltd	6	1.2	3	1.9	0.5
Yallourn Medical & Hospital Society	0	-	0	-	0.1
Total for Registered Funds	496	100.0	160	100.0	100.0

1 Complaints = problems, grievances and disputes

2 Disputes require intervention by the Ombudsman and the fund

3 Proportion of people covered by health fund as at 30 June 1999 as reported in the PHIAAC Annual Report -

* Previously National Mutual Health Insurance Pty Ltd