



Australian Government

Private Health Insurance Ombudsman

Private Health Insurance Ombudsman Mediation Role Frequently Asked Questions

Q. What is the Private Health Insurance Ombudsman's mediation role?

- A. The Private Health Insurance Ombudsman (PHIO) has legislative power under Division 247 of the *Private Health Insurance Act 2007* to settle a complaint by mediation. PHIO was given the mediation power primarily to resolve disputes between health insurers and healthcare providers that may adversely affect consumers' entitlements under their health insurance. This usually occurs when there is a dispute about the renewal of a Hospital Agreement.

A Hospital Agreement¹ is a contract negotiated between a health insurer and a private hospital or hospital group for the provision of hospital services at an agreed price.

If a health insurer and a hospital are not able to reach agreement about a new contract and the existing contract is terminated, members of the health insurer attending that hospital will not be fully covered and will usually incur substantial out-of-pocket costs.

In order to protect consumers who may be adversely affected by an out-of contract situation, PHIO is able to use its mediation power to assist in resolving the issues in dispute.

The aim of such mediation is to assist the parties to reach a position where direct negotiation between them is likely to resolve the matter. It does not involve PHIO ruling on the relative merits of the parties' negotiating positions or the prices they are seeking to pay or receive, which would not be considered an appropriate role for an Ombudsman.

Q. What should I do if I have a dispute about the re-negotiation of a hospital agreement?

- A. PHIO staff members are able to give general advice to staff of health insurers and healthcare providers about PHIO's mediation role in the event that a hospital agreement is terminated or not renewed.

There are also two documents on the www.phio.org.au website that are recommended reading for any organisation that is considering going out of contract with a health insurer or healthcare provider.

The first document is PHIO's "Transition and Communication Protocols", which are arrangements agreed within the private health industry to ensure adequate consumer protection and minimise undue disruption and risk to the industry when contractual agreements between health funds and hospitals are terminated.

The second document is PHIO's Mediation Guidelines, which provide information about PHIO's role and powers in mediating disputes between insurers and healthcare providers.

These documents can be found under the Complaints – Industry Resources heading or at the following address: <http://www.phio.org.au/complaints/industry-resources.aspx>

¹ Hospital Agreements are also referred to as hospital contracts or Hospital Purchaser Provider Agreements (HPPAs)

Q. Can I ask PHIO to investigate my concerns about the rates I'm being paid by an insurer?

- A. Benefits paid by insurers to private hospitals are agreed between the parties through a process of commercial negotiation. PHIO does not have a role or regulatory power to require insurers to pay particular levels of benefit to private hospitals.

Under legislation, PHIO may decide not to deal with a complaint if the complaint is mainly concerned with commercial negotiations. PHIO's involvement in contractual issues between health insurers and healthcare providers is subject to a test of whether there is likely to be a significant impact on consumers' rights under private health insurance arrangements.

Complaints about possible breaches of the *Competition and Consumer Act 2010* fall within the jurisdiction of the ACCC which regulates this Act.

Q. What is the usual outcome of mediation?

- A. Most cases that reach the PHIO are resolved through informal discussions, as parties realise the benefits of continuing their relationship with each other.

For the small number of formal mediations that PHIO has conducted, each party has been able to reach agreement either during the mediation or shortly afterwards. As with any negotiation, the terms of the agreement may not fully achieve the outcomes each party was seeking before they entered into mediation, but do enable both parties to accept the outcome as being in their best interests.

Q. Where can I obtain further information and advice about these issues?

- A. For further information and advice about contractual disputes between health insurers and healthcare providers, please contact the PHIO office:

The Private Health Insurance Ombudsman

Post: Suite 2, Level 22, 580 George Street, SYDNEY 2000 NSW

Phone: (02) 8235 8777

Complaints Hotline: 1800 640 695

Fax: 02 8235 8778

Email: info@phio.org.au

Contact information for the ACCC is available at the following link:

<http://www.accc.gov.au/content/index.phtml/itemId/3634>

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