

Submission by the
Commonwealth Ombudsman

**Consultation paper: private health
insurance reforms - second wave
December 2020**

Submission by the Commonwealth Ombudsman, Michael Manthorpe PSM

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Introduction and summary

Please note that this submission only addresses Consultation 1 as this item involves consumer matters over which the office has regular and direct contact with consumers. Other consultations address matters over which the office does not have regular or direct contact with consumers.

Background

The purpose of the Office of the Commonwealth Ombudsman is to:

- Provide assurance that the organisations we oversight act with integrity and treat people fairly
- Influence systemic improvement in public administration in Australia and the region.

We seek to achieve our purpose through:

- correcting administrative deficiencies through independent review of complaints about Australian Government administrative action
- fostering good public administration that is accountable, lawful, fair, transparent and responsive
- assisting people to resolve complaints about government administrative action; and
- providing assurance that Commonwealth, State and Territory law enforcement, integrity and regulatory agencies are complying with statutory requirements and have sound administrative practices in relation to certain covert, intrusive and coercive powers.

Consultation 1 – Increasing the age of dependents to 31, and removing the age limit for dependents with a disability

The Private Health Insurance Ombudsman (PHIO) supports the proposal to increase the age of dependants to 31, and to remove the age limit for dependents with a disability. These changes will make private health insurance more accessible and encourage more people to stay insured, especially for young people.

We note we are already receiving enquiries from the public about the changes following the Budget announcement, indicating there is public support for the proposal.

Over the past three years, the Ombudsman received the following numbers of complaints related to cover for dependents:

Year	Complaints
2017-18	35
2018-19	20
2019-20	19

While the number of complaints is relatively small, the complaints were often difficult to resolve as the existing legislation and insurer rules may leave no resolution for the complainant:

Case study

Mr F turned 21 years old on 8 April 2020. His insurer removed Mr F from the family private health insurance policy because he was not in full time study. Mr F is autistic with a mild intellectual disability and is not capable of engaging in full time tertiary or vocational training. Mr F lives in the family home and is dependent on his parents.

The insurer's response was that the policy held by his parents did not allow dependents to be covered over the age of 21. There was no option for Mr F to be covered under the family policy.

Mr F's options were to be covered on a single policy, or for his whole family to move to a policy that allowed dependents to be covered up to age 25. On reaching the age of 25, he would still have to establish a single policy.

For clarity, we provide the following responses to the specific questions asked:

1. Should the maximum age for child dependents be 31 or when Lifetime Health Cover (LHC) typically applies (i.e. 1 July following an individual's 31st birthday)?

In our view the maximum age for child dependents should be applied on the 1 July following an individual's 31st birthday. This will encourage dependents to transition from their parents' policy onto their own policies without a wait period, rather than leaving a potential gap period when they are not eligible to be a dependent and the 1 July following their 31st birthday has not yet arrived.

2. Should eligibility of a dependent continue to be limited to people without a partner?

We do not agree eligibility should be limited to people without a partner as this disregards the fact that people with partners may not be in a financial position to take out a couple's policy – for example, if both partners are in full time study.

3. Should the age ranges of different categories of child dependents be standardised for all private health insurers?

Standardised age ranges would minimise confusion for consumers. Any changes however should not disadvantage any consumers who are currently covered – the age ranges should be raised to the maximum for all insurers. This approach would provide consistency and reduce the complexity of comparing health insurance policies for families with dependents.

4. Should the conditions of dependence for the different categories of child dependents be standardised for all private health insurers?

On the one hand this would minimise confusion for consumers, on the other there are advantages to having flexibility to allow insurers to respond to unforeseen circumstances (such as the pandemic). Our view is that there should be scope for insurers to provide discretion and more generous conditions of dependence, over and above the minimum standards.

5. Should the definition of 'dependent child' be simplified?

6. What purpose does the distinction between non student and student dependents serve and should this be retained?

In our view, definitions should be simplified, provided this does not disadvantage any consumers.

If all insurers are to raise the maximum age, removing the definition of student dependent and non student dependent also removes any disadvantage to dependents that may be in part time study including those who have apprenticeships.

7. Should the current 10 insured groups be rationalised by removing groups not being used by insurers?

We support the retention of category "5(1)(a)(vi) 3 or more people, at least 3 of whom are adults" – although there is as yet no insurer offering these products. This is potentially a category in which insurers may want to offer products in future especially in regards to the ageing population and demands from consumers for more innovative product design.

8. What is the preferred criteria and mechanism for determining eligibility of people with a disability?

We support using the NDIS definition for consistency and to avoid situations where a person is deemed eligible for the NDIS yet is not eligible to remain on their parents' private health insurance policy (or vice versa). The NDIS definition is nationally recognised.

9. Should there be standardised arrangements for determining eligibility of people with a disability, or is it preferable to allow each insurer to determine its eligibility criteria?

We support standardised arrangements for eligibility. This will provide consistency across the industry and prevent insurers setting irregular eligibility criteria.

10. Should eligibility of a dependent with a disability be limited to people without a partner?

We do not support limiting eligibility to those without a partner – consider if both partners have a disability, and they are not in a position to take out a couple's policy.

We would also welcome the broadening of the definition of 'dependent', noting that the current definition limits dependents to children of the policy holders but that some people with a disability may be under the guardianship of a sibling or other person.

11. What are appropriate metrics for measuring the impact of this proposal?

We do not have a particular view on the metrics to measure the impact of this proposal as the appropriate metrics will to a large extent depend on which changes are implemented.

12. What is the regulatory burden associated with this proposal?

We note that there will be implementation costs associated with updating the **privatehealth.gov.au** website managed by the Private Health Insurance Ombudsman, and potentially also costs associated with updating the Private Health Information Statement that insurers are required to provide for each policy available for sale.

There is a demand for these changes from consumers, who will want and expect to be able to search on privatehealth.gov.au to identify policies that offer cover for dependents up to the age of 31 and for dependents with a disability. Changes to the website's Compare Policies feature are not insignificant and the Ombudsman will require sufficient advance notice and run-up time to implement any changes.

We would appreciate the Department involving the Ombudsman in any discussions of prospective changes at an early stage, so we can adequately prepare for the update.

Other considerations:

- Insurers should make it clear that dependents who become pregnant while covered on their parents' policy may be covered for the birth (if pregnancy is included on the policy) but the newborn will not be covered unless the person takes a single policy for the child or a family policy for themselves and the child.
- Insurers and the Department should also make clear that a person who is covered as a dependent is liable to pay the Medicare Levy Surcharge (MLS) if they earn over the MLS threshold. In order to be exempt, the person needs to take a policy for themselves.