



Australian Government

Department of Health, Disability and Ageing

Consultation Paper – Outlawing private health insurance (PHI) product phoenixing

Background

Under section 66-10 of the *Private Health Insurance Act 2007* (PHI Act), private health insurers must apply to the Minister for approval to change premiums on **existing PHI products** (premium approval power). The Minister must approve a change unless ‘the Minister is satisfied that a change that would increase the amount or amounts would be contrary to the public interest.’

By convention, this process occurs via an annual PHI Premium Round process managed by the Department of Health, Disability and Ageing. The department consults with the Australian Prudential Regulation Authority (APRA) throughout this process. APRA’s role in relation to the Premium Round is to advise the department whether premium increase requests from private health insurers would result in an adverse prudential outcome for individual insurers.

A legislative loophole means that an insurer can open a new product at any time at a premium of their choosing without Ministerial scrutiny. Therefore, an insurer can circumvent the Premium Round process by closing an existing health insurance product to new members and then opening a very similar new product. A particular concern is when the new product is priced much higher than the old product (referred to as ‘product phoenixing’). Closing this loophole will protect consumers from unregulated private health insurance premiums.

At a press conference on [9 December 2024](#), the Minister reserved “the right to consider legislative options to outlaw the practice into the future.” However, as the practice continued, the Minister made an election commitment on [1 April 2025](#) to outlaw product phoenixing.

Outlawing product phoenixing

The government intends to outlaw product phoenixing by amending the PHI Act to require insurers to apply to seek the Minister’s approval of the premium for a new product against a public interest test. This is proposed to be similar to the current public interest test for a

premium increase on an existing product; i.e. the Minister must approve the premium for a new product unless satisfied that it would be contrary to the public interest.

The timing of this proposed legislative change is to be confirmed. However, the Minister has previously requested that insurers cease the practice of product phoenixing. Insurers are therefore encouraged to plan their product suite on the assumption that the legislative change will come into effect within the 2026 Premium Round year (1 April 2026 – 31 March 2027).

Insurers would be strongly encouraged to apply for new products through the existing annual Premium Round process for implementation on 1 April of each year. The department is considering requiring insurers to specify the requested premium for the proposed new product in a similar manner to the requested changes for existing products, in a form similar to Template A of Attachment B used for recent premium rounds¹. The department would continue to consult insurers on the proposed form ahead of each Premium Round prior to the forms being published.

The industry weighted average premium change calculation formula is outlined in the *Private Health Insurance (Incentives) Rules 2012 (No.2)*. It specifies the industry average premium increase being the average change in premiums for each product subgroup offered by every private health insurer and weighted according to the number of people covered under complying health insurance policies in each product subgroup. The department does not propose to make any changes to this formula.

Insurers would be encouraged to only submit applications outside of the annual Premium Round process under 'exceptional circumstances'. The insurer would be requested to demonstrate there is a reason in the public interest for why the request was not made through the previous annual Premium Round process or could not wait for the next annual Premium Round process.

Insurers would continue to be able to close and terminate products at any time to protect against prudential risk from loss-making products.

In this regard, the department notes there are pressures on the financial sustainability of Gold hospital products. The department is further considering broader private health system reform through the Private Health CEO Forum². The CEO Forum aims to identify and

¹ Application forms for the Premium Round are available at [Apply to increase private health insurance premiums | Australian Government Department of Health, Disability and Ageing](#)

² [Private Health Chief Executive Officer Forum | Australian Government Department of Health, Disability and Ageing](#)

develop short and medium-term options to support the sector's long-term sustainability so that it can continue to serve the health care needs of Australian patients.

Consultation

Feedback provided to the department by **17 October 2025** via email at PHIconsultation@health.gov.au will be considered in the development of the proposed legislative option and its implementation. While feedback is open on all aspects of product phoenixing and the proposed change to the Minister's approval of premiums under section 66-10 of the PHI Act, the department is seeking specific feedback on the issues identified below.

1. Factors that the department should be aware of in relation to insurers' business practices, including approvals and timeframes, in developing and introducing new PHI products. What impact would the proposed legislative change and additional regulatory burden have on insurers?
2. What situations would insurers consider to be 'exceptional circumstances' under which they may seek to apply for approval of premiums outside the annual Premium Round process? How often would insurers expect to apply outside of the annual Premium Round process?
3. Factors that the department should consider when designing the proposed application forms (noting these would be subject to further consultation for each Premium Round, as per the current process) and in assessing and advising the Minister on whether an application for a premium for a new product should be approved under the public interest test.
4. Noting that the intent of this process is to outlaw product phoenixing, any context the insurer wishes to provide about the drivers of 'product phoenixing'. What would be the likely responses by insurers as a result of removing this loophole?
5. Any other matters the department should have regard to in relation to product phoenixing, the proposed legislative change and its implementation.