



## Media Release 14 July 2006

### Changes to Role & Powers of the Private Health Insurance Ombudsman

On 1 July the Health Legislation (Private Health Insurance) Bill 2006 commenced. This bill amended the National Health Act 1953 (NHA) Section 82ZRC to expand the powers of the Private Health Insurance Ombudsman in dealing with complaints and conducting investigations.

#### *Summary of Key Changes & Their Implications*

- **The objective of PHIO has changed and is now stated in section 82ZPA of the NHA.**

The key phrase in the object provision indicates that the powers and functions of the PHIO are set out “so that the Health Insurance Ombudsman may protect the interests of people who are covered by private health insurance”. This makes it clear that the focus of PHIO activities is on consumer protection.

- **Expansion of persons/bodies able to make a complaint or about whom a complaint can be made.**

Currently complaints can be by an insured person, a health fund, a hospital or a medical practitioner. The bill expands this to include any health service provider (including, doctor, hospital, ancillary provider and supplier of medical devices or prostheses) and brokers.

Currently complaints can be about the actions of health funds, hospitals or medical practitioners. The bill expands this so that complaints may be about health funds or any health service provider (including, doctor, hospital, ancillary provider and supplier of medical devices or prostheses) or a broker.

However, complaints against health service providers can only be made by an insured person (or a health fund).

As indicated above, the complaint must also be about or connected with a health insurance arrangement and should involve the interests of insured persons.

- **Expansion of persons/bodies about which the PHIO may conduct investigations of procedures and practices.**

Currently the PHIO can conduct investigations of the procedures and practices of health funds.

The bill allows for the PHIO to conduct investigations of the practices and procedures of health service providers (hospitals, doctors, ancillary providers etc) or brokers. Investigations can be initiated by the Ombudsman or at the direction of the Minister.

As with complaints, the procedures and practices investigated must be about, or be connected with, a health insurance arrangement.

- **Expansion of information gathering powers to all subjects of complaints and investigations.**

Currently the legislation requires health funds to provide information and documentation to the PHIO when requested to do so as part of the PHIO's investigation of complaints or procedures and practices. The legislation provides for penalties for failure to comply with such requests or for providing false or misleading information.

At present the legislation does not impose these requirements (with potential penalties) on hospitals or doctors. The bill extends these requirements and potential penalties to all persons or bodies that may be subject to complaint or investigation (hospitals, doctors, ancillary providers, medical supply organisations, brokers).

- **Expansion of reporting/recommendation powers.**

The Act currently allows for the Ombudsman to report on investigations and make recommendations for changes to industry practices to the department or Minister, in relation to health funds. The bill will extend these powers to apply in relation to health service providers and brokers (but only related to matters connected with health insurance arrangements).

- **Introduction of compulsory mediation.**

The bill provides the PHIO with the power to direct the parties to a complaint to participate in a mediation process. It provides for penalties for any fund, health service provider or broker who does not participate in mediation when directed to do so. The bill allows for the PHIO to appoint another party (commercial mediator) to undertake mediation of complaints.

- **Authority not to deal with or continue to deal with complaints**

Currently the Act allows for the PHIO to decide not to investigate or continue to investigate a matter where it is considered that the matter is being dealt with by another dispute resolution body; is more appropriately dealt with by another body; the complaint is trivial or vexatious or where the PHIO considers the matter has been investigated and no further action can be taken. The bill includes two significant changes to this provision.

1. The authority is now expressed as “not dealing” or “no longer dealing” with the matter – to make it clear that a complaint does not have to be at the investigation stage for this decision to be taken.
2. Two additional reasons may be used for a decision not to deal or continue to deal with a matter – that the complaint is mainly about commercial negotiations (and there is not sufficient impact on consumer interests relating to health insurance arrangements) or that the complaint is mainly about clinical matters (and there is not sufficient impact on consumer interests relating to health insurance arrangements).

- **Protection from Civil Actions**

Provisions are included in the bill to protect the Ombudsman, staff, mediators appointed by the Ombudsman and anyone participating in mediation from civil action on account of any actions taken or statements made in good faith in connection with dealing with a complaint to the Ombudsman.