



**Australian Government**

**Private Health Insurance Ombudsman**

## **Functions and Powers of the Private Health Insurance Ombudsman**

### **Role**

The office of the Private Health Insurance Ombudsman was established under legislation in 1995. The Ombudsman's powers and functions are set out in Part 6-2 of the *Private Health Insurance Act 2007*. The role of the Ombudsman is to protect consumers' interests in relation to their private health insurance by:

- assisting people who have made complaints relating to private health insurance to resolve those complaints; and
- investigating the practices and procedures of private health insurers, private health insurance brokers and health care providers; and
- mediating between private health insurers and health care providers; and
- disseminating information about private health insurance and the rights and obligations of privately insured people.

The Ombudsman is a statutory appointment under the Private Health Insurance Act 2007. All staff employed by the Private Health Insurance Ombudsman are employees under the Public Service Act 1999. The Private Health Insurance Ombudsman (PHIO) is subject to the Financial Management and Accountability Act 1997. The Ombudsman has one national office situated in Sydney, New South Wales.

### **Functions and Powers**

The Ombudsman is an independent body that resolves problems about private health insurance, and acts as the umpire in dispute resolution at all levels within the private health industry.

A summary of the functions of the Ombudsman, as provided by section 238-5 of the *Private Health Insurance Act 2007*, are to:

- Deal with complaints and conduct investigations;
- Publish aggregate data about complaints;
- Publish the *State of the Health Funds Report*;
- Make recommendations to the Minister or Department of Health and Ageing;
- Report to the Minister or the Department about the practices of particular private health insurers, private health providers and private health insurance brokers or other related parties;
- Collect and publish information about complying health insurance products (i.e. manage the Consumer Website [privatehealth.gov.au](http://privatehealth.gov.au));
- Promote a knowledge and understanding of the Ombudsman's functions;
- Undertake any other functions that are incidental to the performance of any of the preceding functions.

## **Who can make a complaint?**

Generally, anyone can make a complaint, as long as the complaint is relevant to private health insurance. The objective of the Private Health Insurance Ombudsman is to “protect the interests of people covered by private health insurance”. The Ombudsman will look into complaints that concern private health insurance consumers, but the office may not investigate complaints of a purely commercial nature that do not have significant impact on the rights of consumers.

## **Persons against whom a complaint may be made**

Complaints may be made against private health insurers, health care providers and private health insurance brokers in relation to Private health Insurance arrangements.

## **What can the Ombudsman do with a complaint?**

The Ombudsman is able to deal with complaints by:

- Referring the complaint to the health insurer, broker, hospital or provider, with a request to report to the Ombudsman with its findings and any action it proposes to take. If the Ombudsman is not satisfied with the explanation or proposed action, the Ombudsman may further investigate the complaint and make a formal recommendation;
- Mediation;
- Referring the complaint to the Australian Competition and Consumer Commission; and
- Referring the complaint to any other appropriate body.

The Ombudsman is also able to investigate the practices and procedures of health insurers, health care providers and health insurance brokers, and the Minister is able to request the Ombudsman to undertake such an investigation.

## **What happens at the end of a complaint or investigation?**

The Ombudsman is able to recommend that:

- Health insurers, health care providers and health insurance brokers take a specific course of action in relation to a complaint; and
- A health insurer changes its rules or practices.

In certain circumstances, the Ombudsman may request that a health insurer, health care provider or health insurance broker provide a report on any action taken as a result of the Ombudsman’s recommendations.

Section 241-35 of the *Private Health Insurance Act 2007* provides various grounds for the Ombudsman to decide not to deal with a complaint. These include:

- If the complainant has not taken reasonable steps to negotiate a settlement;

- If the complainant is capable of assisting the Ombudsman in dealing with the complaint but does not do so on request;
- If the subject of the complaint has dealt, or is dealing, adequately with the complaint or has not yet had an adequate opportunity to do so;
- If the complainant does not have a sufficient interest in the subject matter of the complaint;
- The matter is trivial, vexatious or frivolous; or the complaint was not made in good faith;
- If the Ombudsman or another organisation has already been dealing with, or dealt with, the complaint adequately; or
- If the complaint is mainly about commercial negotiations and it is not appropriate to deal with the complaint.