



Australian Government

Australian Government response to the
Senate Community Affairs References Committee report:

Value and affordability of private health insurance and
out-of-pocket medical costs

December 2018

Introduction

The Australian Government welcomes the opportunity to respond to the findings and recommendations of the Senate Community Affairs References Committee (the Committee) report on the *Value and affordability of private health insurance and out-of-pocket medical costs* (the Report).

The Government is committed to affordable and sustainable private health insurance. On 13 October 2017, the Government announced a wide ranging package of reforms to private health insurance to make it simpler and more affordable for Australians. Reforms include:

- introducing a new system for categorising health insurance products to allow consumers to more readily compare and choose products (Gold/Silver/Bronze/Basic product tiers);
- enhancing mental health support to improve and enable earlier patient access to mental health services;
- establishing a working group on improved models of care, including possible options to improve the regulation of mental health and rehabilitation services funded by private health insurance;
- introducing standard clinical categories for hospital treatment;
- improved access to travel and accommodation benefits for regional and rural areas;
- strengthening the powers of the Private Health Insurance Ombudsman (PHIO) to investigate consumer concerns;
- establishing an expert committee to consider best practice models for improving transparency for patients' out-of-pocket costs;
- introducing private health insurance information reforms, including upgrading the Government's website (privatehealth.gov.au) and the development of a Private Health Information Statement for consumers;
- allowing insurers to offer discounted private hospital cover to people aged 18 to 29;
- introducing Prostheses List benefit reductions and an agreement between the Government and the Medical Technology Association of Australia to provide increased certainty around future prostheses reimbursement;
- increasing voluntary maximum excess levels;
- removing coverage for some natural therapies; and
- introducing hospital second tier benefits administrative reforms.

The Government will also continue to support affordable health insurance through its private health insurance rebate, currently worth over \$6 billion a year.

Further information on the private health insurance reforms is available on the Australian Government Department of Health website on the [Private Health Insurance 2017 Reforms page](#).

Implementation of these reforms requires amendments to primary and subordinate private health insurance legislation.

The *Private Health Insurance Legislation Amendment Act 2018* will amend the *Private Health Insurance Act 2007* to implement reforms. This Act was the subject of an inquiry by the Senate Community Affairs Legislation Committee, and was passed by the Parliament in September 2018.

Amendments to subordinate legislation for the reforms were made on 11 October 2018 following extensive stakeholder and public consultation.

The Committee's Report is an important document and the Government thanks the Committee and the wide range of organisations and people who contributed to this inquiry.

This response addresses the recommendations raised in the Report, and has been coordinated and prepared by the Australian Government Department of Health.

Recommendations and Australian Government responses

Recommendation 1

5.11 The committee recommends that the Commonwealth Government undertake an evaluation of the value provided by 'basic' policies as a fourth product category (Gold/Silver/Bronze/Basic). Following that evaluation, the Commonwealth should determine whether consumers are best served by a three-tier or a four-tier product categorisation system.

Response:

The Government agrees to and has implemented this recommendation.

The Private Health Ministerial Advisory Committee (PHMAC), which includes insurer, medical, hospital and consumer representatives commissioned analysis on the premium and membership implications of different configurations of product tiers. This analysis found that the removal of low-priced products with low-coverage levels would lead to premium increases across the board for other products, and would lead to significant reductions in private health insurance participation. Having regard to this advice, the Government has decided to proceed with a four tier structure.

The minimum requirements for each product tier are in the Private Health Insurance (Reforms) Amendment Rules 2018 which were made on 11 October 2018.

Recommendation 2

5.18 The committee recommends that the Minister for Health require private health insurers to publish all rebates by policy and item number.

Recommendation 3

5.23 The committee recommends that the Minister for Health instruct the Department of Health to publish the fees of individual medical practitioners in a searchable database.

Response:

The Government notes these recommendations.

On 2 January 2018, the Minister for Health, the Hon Greg Hunt MP, announced the establishment of the Ministerial Advisory Committee on Out-of-Pocket Costs, chaired by the Australian Government Chief Medical Officer, Professor Brendan Murphy, and including medical, insurance and consumer representatives.

The Committee is working to develop models to make information on out-of-pocket costs charged by medical specialists more transparent, and to help consumers with private health insurance better understand out-of-pocket costs. The key work of the Committee is expected to be finalised in 2018.

Further information about the Committee can be found on the Department of Health website on the [Ministerial Advisory Committee on Out-of-Pocket Costs page](#).

Private health insurers continue to increase transparency about rebates, with a number of insurers making rebate/benefit information available on public websites. There are commercial and privacy issues relevant to publication of rebates as they can be specific to the health care provider or hospital involved.

Recommendation 4

5.26 The committee recommends that the Commonwealth Government ask the appropriate body (such as the Australian National Audit Office, Department of Health, Australian Prudential Regulation Authority, Australian Competition and Consumer Commission or the Private Health Insurance Ombudsman) to report in 12 months on whether the benefits from the Prostheses List reforms are being passed on to consumers.

Response:

The Government supports in-principle this recommendation.

The Department of Health is the appropriate body to provide information on the impact of Prostheses List reforms.

In their 2018 and 2019 premium applications, insurers are required to provide information to the Department about the impact of reduced Prostheses List benefits. From 1 April 2018, the national industry weighted average private health insurance premium increase was 3.95 per cent. This is the lowest increase in nearly two decades.

Recommendation 5

5.29 The committee recommends that the Commonwealth Government provide additional funding to the Private Health Insurance Ombudsman to enable it to widely promote its upgraded website and comparison service to consumers.

Response:

The Government notes this recommendation.

On 13 October 2017, as a part of its package of reforms, the Government announced funding to redevelop the Private Health Insurance Ombudsman's (PHIO) consumer website privatehealth.gov.au to better assist consumers to choose a private health insurance product that best meets their health needs. In addition, the Government will engage with private health insurers to encourage support for consumer awareness.

Recommendation 6

5.34 The committee recommends that all state and territory governments review policies and practices regarding private patient election to ensure that all patients can provide informed financial consent.

Recommendation 7

5.35 The committee recommends that the Commonwealth Government and state governments ensure that public hospitals provide equality of access for public and private patients based only on clinical need and not on insurance status.

Recommendation 8

5.37 The committee recommends that the issue of private patient adjustments be considered in the context of negotiations on the next National Health Agreement, consistent with the Minister's broader approach.

Response:

The Government supports these recommendations.

A Heads of Agreement on public hospital funding and health reform was considered by First Ministers at the 9 February 2018 COAG meeting. The Heads of Agreement outlines a commitment to ensure that information and processes for patients electing to use private health insurance in public hospital emergency departments are appropriate, robust and best support consumer choice. The Heads of Agreement also requires that the Commonwealth

and states and territories will work together to examine the underlying drivers of growth of private patients in public hospitals, to improve public hospital admission policy and practices to support patient choice and improve data and financial reporting on private patients, and to ensure that the 2020-25 National Health Reform Agreement supports access to public hospital services by all patients on the basis of clinical need.

On 2 August 2018, the COAG Health Council agreed to commission an independent review of a range of factors regarding utilisation of private health insurance in public hospitals to report as soon as possible but no later than 31 December 2018.

Recommendation 9

5.41 The committee recommends that the Commonwealth Government consider extending the Broader Health Cover provisions of the *Private Health Insurance Act 2007* on the basis that such services, if offered, do not undermine the universality of Medicare by creating a two-tiered primary health care system, do not inflate costs for the Commonwealth by introducing another payer, are provided on a comprehensive basis and do not delay treatment or lead to greater out-of-pocket costs.

Recommendation 10

5.42 The committee recommends that the Commonwealth Government review current regulations to allow private health insurers to rebate out-of-hospital medical treatment where it is delivered, on referral, in an out-patient, community or home setting.

Response:

The Government notes these recommendations.

The PHMAC Improved Models of Care Working Group is examining the issue of insurance coverage for mental health and rehabilitation services, with the intention of ensuring that the regulatory regime does not result in hospitalisation solely to access private health insurance benefits.

The Government will continue to work with the private health insurance industry to ensure that appropriate alternatives to hospital treatment can be funded by private health insurers to ensure that patients receive timely, appropriate care in the most appropriate location.

Recommendation 11

5.44 The committee recommends that private health insurers engage in negotiations with private hospitals and paediatric dentists to urgently resolve the issues surrounding paediatric dentistry.

Response:

The Government notes this recommendation.

These are commercial arrangements and are therefore a matter to be resolved between private health insurers, private hospitals and paediatric dentists.

Recommendation 12

5.47 The committee recommends that the Commonwealth Government amend relevant legislation to prohibit the current practice of differential rebates for the same treatments provided under the same product in the same jurisdiction.

Response:

The Government does not support this recommendation.

The ability for insurers to pay differential rebates for the same treatment is an essential part of the contracting process between insurers and health providers, which is an important element in limiting growth in hospital premiums.

It is similar to the capacity for motor vehicle insurers to contract with different auto repairers at different rates to ensure better value for policy holders.

For general treatment services, such as dentistry, preferred provider schemes and insurer-owned clinics are popular with consumers because they give them certainty about costs.

Consumers are free to choose a private health insurance policy that pays a set benefit regardless of provider, and many insurers offer such products.

Recommendation 13

5.49 The committee recommends that the Australian Competition and Consumer Commission reconsider whether private health insurers' use of data obtained from the Health Industry Claims and Processing Service is anti-competitive.

5.50 The committee also recommends the Commonwealth Government amend relevant legislation to ensure there is a clear delineation between data obtained from the Health Industry Claims and Processing Service and data used by health insurers competing for services against other non-preferred providers. This should extend to a requirement that such data be maintained strictly and separately and that private health insurers should be prohibited from using data gained through claims processes for commercial gain.

Response:

The Government notes this recommendation.

The Australian Competition and Consumer Commission (ACCC) has previously assessed a number of issues involving preferred provider arrangements and has not found any breach of the *Competition and Consumer Act 2010*. The ACCC's private health insurance report for 2015-16 stated that its current assessment is that these matters are unlikely to raise competition issues. The ACCC will continue to monitor complaints about preferred provider arrangements and assess any issues that are raised as they arise.

In relation to recommendation 13 (section 5.50), currently insurers may use data gained through claims processes to determine where they may establish their own service providers, such as dental or optical centres. In many cases, consumers who use an insurer's own dental or optical centre will normally face no, or lower, out-of-pocket costs, whereas the average out-of-pocket cost for other dental services is around fifty per cent of the fee charged.

The Government does not intend to remove arrangements that allow consumers the opportunity for reduced or no out-of-pocket costs by using an insurer-owned service provider.

Recommendation 14

5.52 The committee recommends that the Commonwealth Government require intermediaries to disclose any commissions received from private health insurers for the service.

Response:

The Government does not support this recommendation.

The Government does not support additional Commonwealth Government regulation of intermediaries. Insurers are encouraged to be transparent about their commercial arrangements with intermediaries to raise awareness of these arrangements with consumers.

The ACCC has published [industry guidance](#) for comparator website operators and suppliers, setting out the standards that the ACCC expects comparator websites to meet, including being transparent about commercial relationships. Information is increasingly being made available

to consumers – a number of intermediaries already disclose payments and commissions on their websites for complete transparency in accordance with ACCC guidelines.

Recommendation 15

5.53 The committee recommends that the Commonwealth Government amend relevant legislation to require all private health insurers disclose executive remuneration and other administrative costs.

Response:

The Government does not support this recommendation.

The Australian Prudential Regulation Authority already collects and publishes management expenses for all private health insurers, and listed insurers also publish details of executive remuneration.

The Government does not believe there is a case for requiring other insurers to publish executive remuneration.

Recommendation 16

5.55 The committee recommends that the Minister for Health amend the legislation to require private health insurers to provide adequate written notice of changes to policies and eligibility to allow consumers to consider alternatives, and that this notice clearly communicates changes to the policy that may affect the insured person's coverage, especially where such changes may be detrimental. Where relevant, the notice period should correspond to the eligibility period for any service or treatment affected by the changes.

Response:

The Government does not support this recommendation.

Under Section 93-20(2) of the *Private Health Insurance Act 2007* (the Act), private health insurers are required to provide a Standard Information Statement (SIS) when a change might be detrimental to the interests of an insured person, including changes to eligibility (waiting periods). This requirement will continue. Under the legislation, an insured person must be informed about the proposed change in a reasonable time before the change takes effect.

Insurers have adopted a 60-day written notice period for detrimental product changes under the Private Health Industry Code of Conduct. This corresponds to the waiting period for most services.

If consumers were to receive information every time there was any change in policy benefits, for example, changes in contract arrangements between individual hospitals and private health insurers, the volume of information would be burdensome and the intended benefit of providing this information lost. It would also add significant administrative cost to insurers, who have to provide this information to consumers, which would put pressure on premiums. It is also inconsistent with the information provision reforms announced as part of the private health insurance reform package, which aim to provide clearer information to consumers in a manner that best suits their needs, and simplify administrative arrangements.

Recommendation 17

5.60 The committee recommends that the Private Health Insurance Ombudsman advise the Minister for Health in 2019 on additional measures that could be introduced to make private health insurance easier to understand that are in addition to significant reforms being introduced in 2018 and 2019.

Response:

The Government notes this recommendation.

The Government has announced a number of significant reforms in relation to making information simpler for consumers to access, understand and compare policies, and will implement these arrangements prior to considering additional measures.

However, should the PHIO recommend additional measures, the Department of Health and the PHIO will work in collaboration to ensure any additional reforms complement current reforms and are implemented smoothly.

Recommendation 18

5.61 The committee recommends that the Australian Competition and Consumer Commission, in consultation with the Private Health Insurance Ombudsman, commence work to establish a new code of conduct that will provide the framework for engagement between private health insurers and healthcare providers.

Response:

The Government does not support this recommendation.

Industry codes of conduct are typically aimed at correcting market failure arising from poor commercial relationships. It is not apparent that there has been any market failure in the private health sector.

The PHIO *State of the Health Funds Report* consistently shows that most insurers contract most overnight private hospitals and a majority of day hospitals. Hospital Casemix Protocol data collected by the Department shows that well over 95 per cent of private hospital separations (including day hospitals) are paid for under insurer-hospital contracts.

Recommendation 19

5.62 The committee recommends that the Minister for Health write to the Private Health Insurance Ombudsman to request advice on the disclosure of limitations to treatment type or frequency which may arise from contract arrangements with individual hospitals or providers that impact on members' access to services and out-of-pocket costs.

Response:

The Government notes this recommendation.

The Department of Health liaises with the PHIO on a regular basis, including on implementation of the new private health insurance reforms, and takes into account PHIO's views on these issues.

Government Senators' Dissenting report and Australian Government responses

Recommendation 2

1.8 The committee recommends that the Minister for Health instruct the out-of-pocket costs committee to consider requiring private health insurers to publish all rebates by policy and item number.

Recommendation 3

1.9 The committee recommends that the Minister for Health instruct the out-of-pocket costs committee to consider the merit of publishing the fees of individual medical practitioners.

Response:

The Government notes these recommendations.

The Ministerial Advisory Committee on Out-of-Pocket Costs will work to develop models to make information on out-of-pocket costs charged by doctors more transparent, and to help consumers with private health insurance better understand out-of-pocket costs. The key work of the Committee is expected to be completed in 2018.

Recommendation 13

1.10 The Committee recommends that the Commonwealth Government ask the Private Health Insurance Ombudsman whether the practice of differential rebating exists and is having a detrimental impact on consumers overall. If so, to recommend options—including legislative changes—to mitigate impact on consumers.

The Government notes this recommendation.

The PHIO has indicated support for preferred provider arrangements as they provide consumers with options for lower cost services.

Recommendation 17

1.11 The Committee recommends that the Commonwealth Government ask the Private Health Insurance Ombudsman whether legislating requirements of 'adequate written notice' to insurance policy changes is needed and will benefit consumers overall. If so, to propose options—including legislative changes—that may benefit consumers.

The Government notes this recommendation.

The Government does not consider further legislative requirements relating to adequate written notice to be necessary as there are existing provisions regarding notice of product details and detrimental changes, and Australian Consumer Law already offers consumer protection with regard to reasonable practice.