Health Insurance Restricted Membership Association of Australia
ABN 43 358 871 550

Level 2
826 Whitehorse Rd
Box Hill VIC 3128
Tel 03 9896 9370
Fax 03 9896 9393

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Mr Elton Humphery
Secretary
Senate Community Affairs Committee
Parliament House
CANBERRA ACT 2600

Dear Mr Humphery

I refer to your letter of 8 December 2006 inviting the Health Insurance Restricted Membership Association of Australia (HIRMAA) to provide a written submission to the Senate Community Affairs Committee regarding the *Private Health Insurance Bill 2006* and related Bills.

Introduction

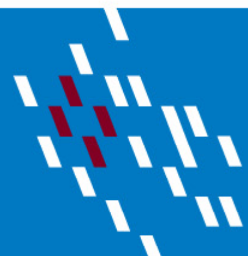
By way of introduction, HIRMAA is a peak industry body representing all thirteen restricted membership health benefit organisations and two open funds (Attachment A).

Since its formation in 1978, HIRMAA has advocated for the preservation of competition, believing it to be fundamental to Australians having access to the best value health care services. HIRMAA has done this by:

- promoting legislation, regulations, policies and practices which increase the capacity of its member organizations to deliver best value health care services; and,
- vigorously resisting the efforts of those who seek to gain by concentrating the provision of private health insurance (PHI) into the hands of a few large organisations.

A number of characteristics distinguish the HIRMAA member funds. They:

- are value-based as opposed to being profit-based;
- continue to offer various levels of insurance at highly competitive premiums;
- optimize benefit entitlements and premiums;
- continue to tangibly grow their membership numbers in contrast to the overall industry trend which remains static;
- in the case of restricted funds, they have their unique nature acknowledged in Part 1, Section 4 of the *National Health Act 1953* and Part 4-3 of the *Private Health Insurance Bill 2006.*



Concurrently, the HIRMAA organisation :

- founded and provides the majority membership of the Australian Health Service Alliance. This organisation is recognized as a highly effective negotiator of hospital and medical arrangements and the developer of the most comprehensive database in the country;
- shares critical performance and operational information to promote enhanced efficiency and capability throughout its total membership;
- acquired in 1994 HAMB Systems, the software provider and developer for 23 registered funds;
- provides objective input and underlying support to government and industry initiatives;
- provides an educational forum for all member funds and their staff; and,
- works cohesively and positively with the regulator, Ombudsman, Government and other relevant parties.

These observations are in addition to and consistent with HIRMAA submissions to the Department of Health and Ageing (DoHA) dated 4 August 2006, 4 September 2006, 3 November 2006 and 29 November 2006 (the latter submission was restricted to community rating and corporate/closed products).

HIRMAA supports the general thrust and intent of the legislation and notes the assurance of DoHA at the most recent industry consultation forum that the legislation is "clearer and simpler" and that there are "no hidden meanings". However, as stated in all HIRMAA submissions to DoHA, it is noted that the PHI Rules, an essential element of the legislative reform package, have yet to be drafted. A full and proper analysis of the legislation is dependent upon the Rules being drafted and enacted consistent with the spirit and intentions of the Government's reforms and consultation with industry groups.

At the outset, HIRMAA is very pleased that the *Private Health Insurance Bill 2006* will in no way change or diminish the recognition or role of restricted membership funds and is very appreciative of the Government and Minister's unequivocal support for restricted membership funds. Under the new legislation, restricted health benefits organisations will be termed "restricted access insurers" and HIRMAA is comfortable with this change.

Overview

In summary, HIRMAA notes that the Bill is intended to:

- Introduce a new regulatory framework for the PHI sector to replace the current regime established by the *National Health Act 1953*, the *Health Insurance Act 1973* and the *Private Health Insurance Incentives Act 1998;*

- Simplify the legislative regime for PHI so that registered insurers can offer PHI products with the minimum compliance requirements necessary to achieve the Government's policy objectives and protect the interests of consumers;
- Introduce broader health cover (BHC) to cover out-of-hospital services that substitute for or prevent hospital care. BHC will allow health insurers to offer consumers more flexible, relevant and innovative products;
- Require insurers to provide standard product information to help consumers compare policies and to understand their entitlements under their policies; and,
- Eliminate lifetime health cover penalties for members who have retained their hospital cover for more than ten continuous years.

HIRMMA is supportive of these goals, subject to any comments and observations detailed below.

HIRMAA notes that the Bill has carry over provisions that give effect to settled policy in a comprehensible way. In summary, such policies will include:

- *30% and other rebates, subject to ongoing Government reviews of some rebates and possible minor amendments;*
- *Lifetime Health Cover, subject to recently announced changes;*
- *the role of the Private Health Insurance Administration Council (PHIAC), including an extension of powers to include governance standards;*
- *the role and powers of the Private Health Insurance Ombudsman (PHIO), including recently announced changes including development of the PHIO website; and,*
- *the recognition and role of restricted membership health insurance funds.*

HIRMAA notes and supports the basic rules that will govern the sale of health insurance – the requirements to be (i) registered and (ii) sell complying health insurance products (CHIPs). It also supports the development of complying health insurance within the policy setting of community rating with defined exceptions.

Settled Issues

Since HIRMAA's submissions to the DoHA and subsequent consultation forums, we are pleased that the following policy suggestions and/or modifications have been adopted:

- Removal of the requirements for annual policies (fixed term contracts) barring premium variations. HIRMAA is pleased that the Minister's Second Reading speech acknowledges that this policy was discarded on the grounds of "*expense and efficiency*" and that "*the government is pleased that the industry has been behaving responsibly in regard to helping its members through rate changes*". ;
- Amendments to director and chief executive officers' breaches and penalties. The current proposals better reflect existing offences in the *National Health Act*, the

Private Health Insurance Act, various insurance acts and Commonwealth corporate law;
- Provision of Pre Existing Ailment (PEA) rules applying to day of membership joining, not day prior;
- Clarification that advice to Secretary of DoHA and PHIAC regarding CEO arrangements is only for significant or permanent changes and not normal circumstances such as annual or long service leave; and,
- Reduced requirement to send notification to one adult on a policy if changes (not to each adult as under original proposal).

These changes to policy reflect well on the consultation process facilitated by the DoHA and the Government. Whilst HIRMAA has had and continues to have some policy differences with the DoHA, we are grateful for the time and effort devoted by DoHA officers to industry consultation. HIRMAA is also grateful to the Minister for Health & Ageing for his determination to consult and work with the sector throughout the reform process and for his declaration at the Australian Health Insurance Association meeting in November 2006 and in the Second Reading Speech that an ongoing consultation process will continue before and after passage of the legislation.

Issues for consideration

PHIO WEBSITE

HIRMAA has consistently argued that the proposed Private Health Insurance Ombudsman (PHIO) website proposal is an ambitious undertaking. Most insurers currently provide this information on their individual websites. HIRMAA contends that the PHIO website must be designed to ensure that all funds, open and restricted, large and small, are treated equitably. The treatment of restricted membership funds needs to be defined and not compromised in relation to inclusion on the PHIO website. Corporate plans should be included on the proposed website to ensure consistency and transparency, particularly as this may expose inappropriate corporate discounting that currently applies and contravenes community rating. Indeed, the increasing prevalence of corporate products continues to undermine the principles and application of community rating. The restrictive nature of these arrangements or deals creates an environment that is contrary to the provisions of the *National Health Act* insofar that all products should be available to any consumer and not quarantined to a selective group

HIRMAA notes that the DoHA has recently called for submissions on corporate products and HIRMAA welcomes any moves to introduce stringent transparency in this area.

HIRMAA will continue discussions with the PHIO regarding how the standard product information will be managed for the purposes of the PHIO website, including the administrative processes around the exchange of data.

STATUTORY FUNDS

During the consultation period, HIRMAA argued that the proposal that a statutory fund will be required to operate a health insurance fund had not been adequately explained. HIRMAA maintains its position that the DoHA has not provided substantive rationale for introducing the concept of statutory funds other than to contend that such funds have operated successfully in the life insurance industry.

HIRMAA notes concerns expressed at various industry forums that life insurance is characterized by a long claims settlement period requiring security of funding over many years. To the contrary, health insurance is characterized by very short claims settlement period of generally 3 – 4 months and there have been no demonstrated examples of health insurers abusing the current practices. HIRMAA will continue to work with PHIAC to resolve outstanding issues in a sensible manner.

RISK EQUALISATION

HIRMAA notes that section 318-10 of the Bill allows the Minister to makes Rules setting out the overall risk equalisation policy framework, while section 318-15 allows PHIAC to make Rules relating to the administration of the Fund, the operation of the risk equalisation levy and the records to be kept by insurers. HIRMAA would make two observations about future risk equalisation arrangements:

1. No clarity of control of size of Risk Equalisation pool in future. Reference is made to page 2 of HIRMAA's submission dated 3 November 2006 where, in summary, we noted that "*the combination of the AHIA model and the HCCP should equate to the current pool size from the outset of the new scheme and that future increases in the pool size be reviewed so that unreasonable cost escalation does not occur*".

2. At its quarterly meeting in Adelaide on 7 December 2006, HIRMAA members and its Executive met with DoHA representatives regarding a number of concerns with the reform proposals and their potential impact upon risk equalisation arrangements. The Executive expressed its concerns about components of chronic disease management programs being included in risk equalisation and noted the lack of definitions and clarity of policy. Given the potential to dramatically increase the size of the reinsurance pool, it was suggested that disease management not qualify for twelve (12) months while PHIAC collects the relevant data and assesses its appropriateness for inclusion in future risk equalisation arrangements.

PRE EXISTING AILMENTS

The proposal to not allow Pre Existing Ailments (PEA) provisions for Psychiatric, Rehabilitation and Palliative care – two months waiting period only. HIRMAA vigorously contests the proposition that psychiatric, rehabilitation and palliative care fall outside the boundaries relating to PEA. It is our contention that the proposed two months waiting period only applies in the absence of the PEA conditions. Any variation to this condition would expose all funds to widespread exploitation and seriously weaken the integrity of the PEA provisions. Equally it may potentially generate significant increases in contribution rates. At best, funds would be required to provide a buffer within their pricing structure to accommodate members' costs which would inevitably be incurred if the PEA provisions were waived. At worst, it may well result in a dramatically increased claims experience that would in turn create a sharp spike in pricing.

TERMINATION OF FUNDS

With regard to proposals to deal with the termination of funds and residual assets being transferred to the Risk Equalisation Pool, HIRMAA has expressed a number of concerns to the DoHA. While HIRMAA supports the provisions for restructure, merger and acquisition of health benefits funds, it questions the different rules applicable for the distribution of remaining assets upon termination for *for-profit* and *not-for profit insurers* under section. It is HIRMAA's contention that the proposed provisions for termination of health benefits funds may have constitutional consequences for those restricted funds which require transfer to a "like organisation". The proposal to transfer to the risk equalisation fund requires further explanation and justification.

Yours sincerely

JOHN RASHLEIGH
President

RON WILSON
Executive Director