

Summary response to Central Bank Consultation: CP158 Consultation Paper on the Consumer Protection Code

Introduction

The Health Insurance Authority (HIA) welcomes the opportunity to consider the proposals made by the Central Bank on the Consultation on the Consumer Protection Code.

Our figures from the first quarter of 2024 indicate that health insurance coverage stands at 2.49 million persons who are currently insured on voluntary private health insurance contracts. This corresponds to approximately 46.8% of the total population.¹

The HIA recognises the opportunity this consultation provides to provide “firms and their customers with increased clarity and predictability on already existing requirements to support effective implementation” and “to address consumer protections in a changing world while enhancing clarity and predictability”.² We value and welcome the opportunity to make a submission on the updating of the Consumer Protection Code.

Section 2.3 Informing Effectively

Do you have any comments on the ‘informing effectively’ proposals?

The HIA notes that the General Requirements, as set out in the draft Central Bank (Supervision and Enforcement Act) 2013 (Section 48) (Consumer Protection) Regulations deal comprehensively with communication at the point of sale and on renewal of a health insurance policy.

The HIA notes that no specific requirements are placed on insurers when a policy is cancelled.

The HIA has been contacted by previously insured persons who found that their policy has been cancelled without their knowledge. In some cases, this has been months or years after the cancellation. Examples include cases of individuals who were on corporate schemes but who changed employer, individuals who were self-funding insurance for additional family members in association with a corporate scheme, and individuals who were on a partners health insurance policy.

Currently, there is no requirement to notify all adults named on a policy that their policy has been cancelled. This can lead to persons being unknowingly uninsured. Where the break in cover is 13 weeks or longer, the individual may have to re-serve waiting periods or incur a life-time community rating loading on a new policy premium.

The HIA considers, if the policy is being cancelled for any reason, that all adult members named on a health insurance policy should be directly informed. While the remit of the HIA is in respect of health insurance only, we appreciate that the Central Bank operates within a broader remit.

¹ <https://www.hia.ie/publications/market-reports-and-bulletins>

² Central Bank of Ireland, *Consultation Paper on the Consumer Protection Code*, p. 4.

The HIA proposes that the Central Bank makes notification to all adult insured persons, of the termination of a policy a requirement. The HIA is of the view that it would be of common good for this requirement to apply to all types of policy that the Central Bank has determined should be subject to auto-renewal.

The HIA notes that it can take consumers considerable time to choose a new health insurance policy and a break in cover of 13 weeks or longer has specific consequences in the context of health insurance. Should an individual have a break in cover of over 13 weeks, the risk of having to re-serve waiting periods may have material consequences.

The HIA understands that the Central Bank must consider the specificities of all relevant markets in setting maximum timeframes for notification. A timeframe of 9 weeks for notification of termination of policies would allow consumers to choose a health insurance policy prior to a 13 week break in cover. The HIA is of the view that insurers should be able to make this notification in a timely fashion and a shorter period is likely to be appropriate.

Section 2.7 Protecting Consumers in Vulnerable Circumstances

Do you have any comments on the draft Guidance on Protecting Consumers in Vulnerable Circumstances?

The HIA welcomes the Central Bank's proposals on protecting customers in vulnerable circumstances. The HIA endorses the obligation on firms to strive to ensure that consumers in vulnerable circumstances are not disadvantaged and do not experience less favourable outcomes.

The HIA's principal objective is to ensure that all individuals have equal access to health insurance – irrespective of a person's age, gender or health status. The provision of health insurance is required to be in line with the principles of lifetime community rating.

For health insurance providers, the proposals set out by the Central Bank must be read in conjunction with the principles of lifetime community rating, with the purpose of avoiding the segmentation of the health insurance market based on an individual's perceived level of risk. For example, plans should not be curated to attract a cohort of insured persons specifically, to segment the market. In other words, customers with a certain risk profile should not be segmented into specific plans on the market which individuals without that risk profile would otherwise not be offered.

The provision of information at the time of policy inception and at renewal can both increase and decrease a customer's level of vulnerability. In this regard, the HIA is of the opinion that insurance providers should be required to furnish clearer policy information in plain English, through an appropriate medium of communication, and to ensure that customers who are perceived as being in vulnerable circumstances are made fully aware of the meaning of their benefits and the ramifications of allowing their policy to auto-renew or not, as the case may be.

At renewal, insurance providers should place particular focus on instances where changes to plan benefits could result in substantive differences in the level of cover a plan may provide. For example, if a plan had full cover for ophthalmic care when a policy is taken out originally, but that level of cover was subsequently significantly reduced by the time of renewal, the ramifica-

tions of the reduction should be clearly explained to the customer in language they can understand. This will be particularly important where changes in cover could result in a customer being required to serve a waiting period if they wish to upgrade in the future.

The HIA welcomes the expectation placed on insurance providers to understand and take account of the drivers of vulnerability that are relevant to the business of the provider, and to design their systems, processes, policy information and procedures so that consumers in vulnerable circumstances are reasonably protected from poor outcomes when the provider is otherwise acting properly.

Section 3.3 Insurance

[Do you have any comments on the proposals to apply an explicit opt-in requirement for gadget, travel, dental and pet insurance only?](#)

The HIA agrees that, in the case of health insurance, the potential consequences for consumers, should they find themselves without insurance due to a lapse in policy cover, outweigh any potential benefits of requiring opt-in for auto-renewal. Should an individual have a break in cover of over 13 weeks, the risk of having to re-serve waiting periods may have material consequences.

The HIA welcomes the preservation of default auto-renewal of health insurance policies unless a policyholder specifically requests otherwise.

[Do you have any comments on the proposals to introduce an additional renewal notification for non-life insurance products?](#)

The consultation puts forward a requirement for a pre-renewal notification 40 days before the auto-renewal date. The HIA wishes to ensure that the Central Bank has full information with which to consider the usefulness of such a notification.

Health insurers may not be able to provide policyholders with useful information 40 days in advance of renewal. Insurers are required to notify the HIA of changes to prices and benefits 30 days in advance of a change to prices or benefits on a health insurance plan. However, 40 days prior to a policy renewal there may not be certainty over the price or benefits applicable at the renewal date.

Appendix 1: Background Information about the Health Insurance Authority

The Health Insurance Authority (HIA) under the Health Insurance Act 1994 (as amended, the “1994 Act”),³ is the statutory regulator of the voluntary private health insurance market. The HIA, among other things, provides consumer friendly information as well as a comparison tool to compare benefits and prices of all private health insurance contracts available on the Irish health insurance market.

The HIA also:

- monitors the operation of the Health Insurance Acts;
- monitors the private health insurance market, and,
- raises awareness of members of the public of their rights as consumers of health insurance and health insurance services available to them.⁴

Community rating

Community Rating is a system whereby for example, a person's age, or health status, or frequency of availing of health services or prior history of treatment is *not* determinative of the level of premium paid. Community rating operates to avoid insured persons being treated differently when they are indemnified on the same type of contract.

The objective of community rating is to avoid different cost structures for persons on the same plan which would result in a person being treated differently, whether for better or worse, to all the other insured persons on *that* particular contract.

As insurers are required by the Health Insurance Acts to treat all insured persons equally,⁵ (where the Acts do not provide exceptions to do otherwise), if an insured person *is* treated differently to other insureds under that contract, the insurer is not implementing community rating as it should and is therefore not compliant with the section 1A objective of the Health Insurance Act 1994 (as amended, the “1994 Act”).⁶

Section 1A Objective of the 1994 Act states:

(1) The principal objective of this Act is to ensure that, in the interests of the common good and across the health insurance market, access to health insurance cover is available to consumers of health services with no differentiation made between them (whether effected by risk equalisation credits or stamp duty measures or other measures, or any combination thereof), in particular as regards the costs of health services, based in whole or in part on the health risk status, age or sex of, or frequency of provision of health services to, any such consumers or any class of such consumers, and taking into particular account for the purposes of that objective -

³ Collectively cited as the Health Insurance Acts 1994 to 2024. For more information see the electronic version of the Irish Statute Book at <https://www.irishstatutebook.ie>

⁴ This list is a brief and non-exhaustive outline of some relevant statutory functions of the Health Insurance Authority.

⁵ The Health Insurance Acts provide limited exceptions to the operation of Community Rating, the main two being under section 7(5) and section 7A.

⁶ This is subject to measures that provide for certain group discounts, young person's discounts and lifetime community rating loadings or credited periods, that may reduce or increase a premium charged in the prescribed circumstances.

(a) the fact that the health needs of consumers of health services increase as they become less healthy, including as they approach and enter old age,

(b) the desirability of ensuring, in the interests of societal and intergenerational solidarity, and regardless of the health risk status or age of, or frequency of provision of health services to, any particular generation (or part thereof), that the burden of the costs of health services be shared by insured persons by providing for a cost subsidy between the more healthy and the less healthy, including between the young and the old, and, without prejudice to the generality of that objective, in particular that the less healthy, including the old, have access to health insurance cover by means of risk equalisation credits,

(c) the manner in which the health insurance market operates in respect of health insurance contracts, both in relation to individual registered undertakings and across the market, and

(d) the importance of discouraging registered undertakings from engaging in practices, or offering health insurance contracts, whether by segmentation of the health insurance market (by whatever means) or otherwise, which have as their object or effect the favouring of the coverage by the undertakings of the health insurance risk of the more healthy, including the young, over the coverage of the health insurance risk of the less healthy, including the old.

(2) A registered undertaking shall not engage in a practice, or effect an agreement (including a health insurance contract), which has as its object or effect (whether in whole or in part) the avoidance of the achievement of the principal objective.

(3) Nothing in this section shall affect the operation of section 7(5) or 7A