

Press Release

LCQ1: Protecting the rights and interests of policyholders of medical insurance

Wednesday, March 29, 2017

Following is a question by the Hon Paul Tse and a reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (March 29):

Question:

On January 27 this year, a large insurance company issued letters to private doctors, stating that policyholders of medical insurance who had undergone medical procedures (e.g. colonoscopy, oesophago-gastro-duodenoscopy and cataract surgeries) which were, albeit not "medically necessary", performed on them as inpatients, might not be eligible for reimbursement of such hospital confinement. The medical profession has reacted strongly to such a move, criticising that company for interfering with doctors' professional judgment and putting patients in a difficult dilemma, thereby undermining patients' rights and interests, and stated that doctors may disregard that company's stance. In this connection, will the Government inform this Council:

(1) of the follow-up work undertaken so far by the Office of the Commissioner of Insurance in response to the move made by the aforesaid insurance company; whether it has assessed if such move involves unilateral narrowing of policy coverage by that insurance company, thereby undermining the rights and interests of the insured, and if this will result in a significant increase in the number of disputes over claims; if it has, of the details; in future, how the insured may lodge complaints about disputes with insurance companies over the terms of insurance policies and claims arising from the aforesaid move, and of the relevant complaint handling mechanism;

(2) as it has been reported that when selling medical insurance, quite a number of salespersons of medical insurance have claimed that the insured will be fully reimbursed of inpatient surgery expenses, whether the authorities have assessed if the insurance company's move of unilaterally imposing the "medically necessary" criterion in the conditions for claims is contradictory to the

reasonable expectations of the insured, and if this has contravened the Trade Descriptions Ordinance; if they have assessed and the outcome is in the affirmative, of the measures that the authorities have put in place to protect the rights and interests of the insured of medical insurance; and

(3) as it has been reported that about 4 million people in the territory have taken out medical insurance, involving a total premium of as high as \$17.4 billion, and as some academics have pointed out that the medical insurance market is currently divided up by several insurance companies resulting in an oligopoly, whether the Competition Commission has uncovered any situation where various insurance companies have colluded to impose or have imposed one after another more stringent conditions for claims in respect of inpatient medical procedures, thereby reducing the public's choices of medical insurance or even making them decide to take out medical insurance out of no choice, and whether the Commission will closely guard against such situation?

Reply:

President,

(1) Insurance is a collective risk pooling arrangement that enables individuals within a larger group to tide over their difficulties when they encounter misfortunes or accidents. To sustain the healthy development of the insurance and healthcare systems, insurance companies must ensure the proper use of the "risk pool" made up of clients' premiums. If medical insurance claims are not effectively managed, policyholders may face steep premium hikes. The level of premium may become unaffordable and all policyholders will be affected. One of our principal regulatory objectives is to protect the interests of policyholders. As insurance policy is a private contract between a policyholder and an insurance company, the Office of the Commissioner of Insurance (OCI) is prohibited by law to intervene with the wording and premiums payable in respect of any insurance policies. That said, insurance companies should make sure that the terms and conditions of the insurance policies are clear enough to enable policyholders to understand the products they bought.

There are many types of medical insurance such as critical illness insurance, hospital indemnity plans and out-patient plans. In general, "medically necessary" is a term commonly found in hospital indemnity

insurance policies. Only claims relating to medical treatments or services that meet the "medically necessary" criterion will be indemnified.

An insurance policy is a private contract between a policyholder and an insurance company. The policy terms are binding on both parties. An insurance company must obtain the consent of a policyholder before making any changes to the policy terms. OCI has sought clarification with the insurer concerned. The insurer confirmed that the purpose of its letter to doctors is meant to communicate with them and clarify the terms and conditions of its existing policies. There are no amendments to the terms and conditions.

As the matter does not involve amending the terms and conditions of existing policies, OCI considers that the incident will not give rise to a significant increase in the number of disputes over claims or adversely affect the interests of policyholders. For any claims-related dispute, the policyholder may lodge a complaint with the Insurance Claims Complaints Bureau (ICCB). Led by an independent Chairman, the Insurance Claims Complaints Panel (Complaints Panel) under ICCB is tasked to handle complaints arising from personal policies for a claim amount of less than \$1 million.

Insurance companies must abide by the decision of the Complaints Panel. If complainants reject the decision of the Complaints Panel, they are free to seek legal redress and their legal rights are not affected by the decision of the Complaints Panel.

(2) According to Schedule 4 of the Trade Descriptions Ordinance (Cap 362), that Ordinance does not apply to goods or services sold or supplied under the regulation of the Insurance Companies Ordinance (Cap 41).

As mentioned above, "medically necessary" is a term commonly found in policies providing hospital indemnity insurance. The insurer's communication and clarification with doctors on the terms and conditions of its existing policies does not involve amending the terms and conditions of the existing policies. Whether claims for individual item can be indemnified as hospitalisation treatment should be handled in accordance with the terms and conditions of the relevant policy.

The Hong Kong Federation of Insurers (HKFI) has issued a code of

conduct requiring that insurers "shall endeavour to ensure that all information contained in their sales materials and illustration documents is current, correct, expressed in plain language and not misleading to the public", and that insurance agents "shall explain the cover afforded by each policy recommended to ensure that the potential policyholder understands what he is buying." Depending on the seriousness of the misconduct, OCI may take regulatory actions against insurance companies for breaching the code.

When selling a policy, an insurance intermediary has the responsibility to clearly explain to a potential policyholder the contents of the policy, including the coverage and claims matter. If a policyholder believes that there have been misleading or improper sales practices on the part of an insurance intermediary, he can make a complaint to OCI or the relevant self-regulatory organisation of the intermediary.

Furthermore, OCI communicates with the insurance industry from time to time and encourages them to promote consumer education on popular types of insurance policies. For example, HKFI has issued a booklet on "Tips on Taking Out Medical Insurance" which has been uploaded to its website.

(3) At present, there are 87 insurance companies in the line of medical insurance business. There is no oligopoly in the market.

The premium of insurance products is set according to the level of risks. To meet market needs, insurers provide different medical insurance products with different levels and scopes of coverage. Potential policyholders may make suitable choice according to their own health condition, varied needs in different stages of life and financial situation. There are various products in the market which provide coverage for ambulatory treatments, including endoscopy examination and cataract surgery.

According to the Competition Commission (Commission), the Commission, an independent statutory body established under the Competition Ordinance (Ordinance), welcomes reports by the public and relevant sectors of suspected contravention of the Ordinance. If there is reasonable cause to suspect that a contravention of the Ordinance has taken place, is taking place or is about to take place, the Commission will determine whether or not to investigate into the case having regard to its Guideline on Investigations. For

effective investigations and to protect the interests of all persons involved, the Commission will generally not comment on whether it will investigate into a particular case. In addition to enforcing the Ordinance, the Commission may, where appropriate, exercise its function of conducting market studies to inquire into matters affecting competition, or give policy advice on how to advance competition. The Commission will continue to liaise closely with the Government and relevant public bodies on issues of public concern relating to competition.

Ends