

Discussion Paper on Insurance
Issues under the
Anti-discrimination Legislation
與反歧視法例有關的保險問題
討論文件

15.3.2003

Public Consultation

公眾諮詢

- EOC invites public to respond by 20 March 2003
平機會邀請公眾於2003年3月20日前提出意見
- Responses will help EOC to formulate Insurance Guidelines for further consultation & implementation
回應有助平機會日後制定《保險業指引》作進一步諮詢和推行

Insurance Industry Consultation 業界諮詢

- Hong Kong Federation of Insurers
香港保險業聯會
 - Task Force established 成立專家工作小組
 - Updating "Best Practices on Disability Discrimination"
更新《殘疾歧視實務聲明》
- Actuarial Society of Hong Kong
香港精算師學會
 - Prepared to issue Guidance Notes on responsibilities
願意發出在法例下責任的《指引說明》

Views Sought on 徵詢公眾意見

- Insurance Ombudsman
保險業申訴專員
 - EOC asks whether the appointment of an independent Insurance Ombudsman is something that we should work towards in Hong Kong
委員會提出，任命一名獨立的保險業申訴專員，會否是我們邁進的方向
 - Some overseas jurisdictions have Insurance Ombudsmen to resolve disputes between insurers and consumers
而一些海外國家則有保險業申訴專員，負責解決承保人與消費者之間的糾紛

- Fair and Non-discriminatory Practices
公平及不含歧視的常規
 - How to make insurance practices more open and transparent
如何令保險業的慣常做法更開放及具透明度
- Definition of Terms
詞彙的定義
 - EOC encourages industry to develop definitions for critical terms, such as pre-existing condition
委員會鼓勵業界為關鍵的詞彙下定義，例如何謂「原先已存在的健康狀況」

- Availability and Affordability
產品的提供與受保人的負擔能力
 - How the industry can enhance and ensure availability and affordability of insurance products to meet the changing needs of society
業界如何改善產品的供應，和令它們合乎受保人的負擔能力，以適應社會不斷的改變

- Portability of Accumulated Qualifying Period
容許累積的合資格年期可轉移
 - EOC supports the introduction of legislation to retain the benefit of the qualifying period regarding pre-existing conditions from a preceding policy upon change of employment
委員會支持立法，容許在「原先已存在的健康狀況的不受保期」下累積的「合資格期」可以隨僱員轉職，由一個保險計劃轉到另一個計劃

- This would avoid going through qualifying periods all over again, and employees would not be subject to pre-existing exclusions for conditions that did not exist prior to the initial insurance coverage but may have developed afterwards

這可令僱員不會因轉職而喪失「合資格期」，同時，僱員亦不會因在購買原先保險計劃時尚未存在、但在購買後才出現的健康狀況被視為「原先已存在的健康狀況」而不受保

Issues of Concern

被關注的課題

Exclusion of pre-existing conditions 不受保的「原先存在的健康狀況」

- Common in group and individual medical plans 在團體和個人醫療保險計劃十分普遍
- No common definition, basically covering congenital and acquired conditions and regardless of knowledge
沒有通用定義，但廣泛地包括先天和後天健康狀況，不論投保人是否察覺該狀況
- Onerous on consumers
添加消費者的困難

Blanket Exclusions

完全不受保項目

- Common in medical and life insurance regarding mental illness, HIV / AIDS, Pregnancy-related illness

在醫療和人壽保險中，不承保精神病、愛滋病毒帶菌者 / 愛滋病患者、懷孕相關的不適十分普遍

- Exclusion regarding pregnancy and disability in travel insurance

在旅遊保險中不承保懷孕及殘疾人士

Genetic Testing

基因檢驗

- No absolute association between genetic and health conditions
基因狀況與健康狀況無絕對關連
- Possible target of discrimination on ground of a future / imputed disability
因未來可能存在的殘疾或歸於某人的殘疾而成被歧視對象

Discrimination on Ground of Sex

基於性別的歧視

- Actuarial data may support sex as a criterion for classification, e.g. life insurance
基於精算數據以性別介定分類，如人壽
- Broad-brush classification by sex is observed, e.g. in motor insurance
在汽車保險按性別而有不同的風險評估
- Exclusion of female-specific illness is common in medical plans
醫療保險不承保婦女特有的疾病十分普遍

Discrimination on ground of Pregnancy

基於懷孕的歧視

- Pregnancy generally not covered in travel, individual / group medical insurance plans
旅遊、個人或團體醫療保險一般不提供懷孕保障
- Imposing limitation or exclusion may amount to unlawful discrimination
加入限制或不受保條款可能構成歧視

Discrimination on ground of Family Status

基於家庭崗位的歧視

- Medical policies normally exclude children of a certain age cared for by the policy holders
醫療保險一般不保障某年齡以上的兒童，而不考慮他們需要依賴保單持有人的照顧

Request of Information

索取資料

- Only relevant questions asked
只作相關的提問
- Only relevant information sought
只索取相關的資料
- Avoid questions based on stereotypical assumptions
避免基於定型的揣測作出提問

Refusal of Insurance, Increase Premiums & Limited Cover

拒絕承保、提高保費及給予有限的保障

- Outright refusal may contravene the law when appropriate and reasonable options exist
未有考慮其他適當和合理可行辦法前斷言拒絕可能違法
- Differential treatment must be legally justifiable
處理方法的差異必須有法理依據

Deferral of Approval

延遲批核

- If risk cannot be quantified, it would be reasonable to defer approval until medical assessment becomes clearer

如風險不能即時評估，可等待有更清楚的醫療分析，才作批核