For discussion on
30 April 2012

Legislative Council Panel on Health Services
Subcommittee on Health Protection Scheme

Supervisory Framework for Health Protection Scheme

PURPOSE

This paper sets out the Administration's preliminary thoughts on the supervisory framework for the implementation and operation of the Health Protection Scheme (HPS).

SUPERVISORY FRAMEWORK FOR HEALTH PROTECTION SCHEME

2. Implementation of the HPS requires, among other things, our putting in place a supervisory framework comprising three separate but inter-related components, namely, (a) prudential regulation, (b) quality assurance, and (c) scheme supervision. When drawing up detailed proposals for the HPS supervisory framework, we would have regard to all relevant considerations including, but not limited to, the following -

(a) the supervisory framework should contribute to and facilitate the achievement of the policy objectives of the HPS[1];

(b) the supervisory framework should be developed in consultation with all stakeholders concerned to ensure that it is viable, credible and sustainable;

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[1] The HPS is designed with the following objectives –
(a) Provide more choices with better protection to those who are able and willing to pay for private health insurance and private healthcare services;
(b) Relieve public queues by enabling more people to choose private services and focus public healthcare on target service areas and population groups;
(c) Better enable people with health insurance to stay insured and make premium payment at older age and meet their healthcare needs through private services; and
(d) Enhance transparency, competition, value-for-money and consumer protection in private health insurance and private healthcare services.

(c) we should seek to avoid unnecessary duplications with existing regulatory regimes that are well-established and have proved to work well;

(d) new institution and regulatory regime should be established only when this is necessary and well justified for achieving the stated objectives of the HPS;

(e) a balance should be struck between safeguarding legitimate public interests through regulation and the need to reduce adverse regulatory aspects such as excessive compliance and administrative costs; and

(f) due regard should be given to circumstances unique to the local markets for the provision of health insurance and healthcare services, while taking into account relevant experiences and lessons learnt from supervisory frameworks adopted by overseas jurisdictions for private health insurance.

3. As foreshadowed in the Consultation Document for the Second Stage Public Consultation on Healthcare Reform published in October 2010, we envisage that the first two components of the HPS supervisory framework, namely prudential regulation and quality assurance, could rely on existing regulatory regimes, while new institution and regulatory regime should be developed for the third component, i.e. scheme supervision.

4. The purpose of **prudential regulation** is to supervise, inter alia, the financial soundness of insurers participating in the HPS and to ensure the financial capability of insurers to discharge obligations to the insured, and to oversee any complaint handling mechanisms applicable to insurance in general. At present, this role is being taken up by the Office of the Commissioner of Insurance (OCI) and we propose that the OCI, including the future independent authority proposed to be established, to continue to serve these functions.

5. As regards **quality assurance**, the Department of Health (DH) is currently the regulatory and licensing authority for private hospitals. We are conducting a review to strengthen the regulation of private hospitals, primarily with the aim of further enhancing the quality and transparency of private healthcare services, and to better protect consumer's rights. As for the regulation of healthcare professionals, we propose that this function be continued to rest with the relevant statutory boards and councils.

6. As for **scheme supervision**, we propose to establish a new dedicated authority (HPS authority) to supervise the implementation and operation of the HPS, including regulating compliance with HPS requirements, as well as facilitating the implementation of the HPS. To facilitate discussion by Members, we have made an attempt in summarising the supervisory frameworks adopted by Australia and Singapore in regulating private health insurance. More researches will be conducted – by the consultant to be appointed (see paragraph 17 below) – into other overseas jurisdictions which will be provided to Members for reference as and when they are ready. In addition, without prejudice to the deliberations and recommendations of the Working Group on HPS and the Health and Medical Development Advisory Committee (HMDAC) (see paragraph 17 below), we have set out in very broad terms our initial thinking on the roles and functions that should be undertaken by the proposed HPS Authority.

SUPERVISORY FRAMEWORK FOR PRIVATE HEALTH INSRUANCE IN AUSTRALIA AND SINGAPORE

Australia

7. In Australia, the Private Health Insurance Act (the Act) is the overarching legislation that governs private health insurance. The Act requires that the private health insurance premium must be community-rated[2] and insurers must guarantee acceptance of prospective

[2] Community rating means that insurers are required to charge all its customers a flat premium for the same product regardless of age and health risks. This control can prevent insurers from using prohibitive premium loading to drive away high-risk enrollees. Although insurers cannot risk-rate, they are allowed to set different premium rates for different plans and for different state/territory (but

subscribers. It also stipulates the minimum benefit requirements for complying private health insurance products, premium rebate and other incentives for consumers buying such products.

8. The regulatory responsibilities are divided between the Department of Health and Ageing (DoHA) and the Private Health Insurance Administration Council (PHIAC). DoHA is responsible for ensuring compliance with Act and to develop, implement and evaluate private health insurance policy as directed by the government. The Minister for Health is empowered to approve increases in private health insurance premium. PHIAC is an independent statutory authority that regulates the private health insurance industry, with an aim to foster an efficient and competitive private health insurance industry and to ensure the solvency of insurers. An important function of PHIAC is to advise DoHA on whether to approve premium increases. PHIAC also collects, analyses and disseminates financial and statistical data regarding health funds, and release public reports to enable consumers to make informed choices.

9. The Private Health Insurance Ombudsman (PHIO) is a statutory body funded by the government to provide an independent service to help consumers with health insurance problems and enquires. PHIO can deal with complaints from health funds, private hospitals or medical practitioners about any aspect of private health insurance. It is empowered to conduct investigations into complaints and to report and make recommendations to DoHA following the outcomes of the investigations.

Singapore

10. In Singapore, the Insurance Law provides the legal framework for regulating all insurance products including but not limited to private health insurance products. The Monetary Authority of Singapore (MAS) is the prudential regulator which regulates and supervises all insurance companies in Singapore, including those offering health insurance.

11. The Ministry of Health (MOH) regulates a specific type of

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not regions within a state).

private health insurance products offered by private health insurers known as Medisave-approved Integrated Shield Plans. These plans supplement MediShield[3] and provide coverage for higher classes of hospital wards. The intention is for these plans to focus on catastrophic coverage where risk-pooling is most effective. This is done by setting restrictions on the coverage, design of benefits, and co-payment requirements of Integrated Shield Plans. MOH does not regulate the decisions of private insurers on whether to accept applicants into the Medisave-approved Integrated Shield plans, and allows private insurers to introduce exclusions for pre-existing conditions. However, insurers must guarantee renewals and are not allowed to drop the policyholders should they fall sick and incur high claims later. Although MOH does not regulate premium setting for the Medisave-approved Integrated Shield Plans, premium loading is not allowed, and all policyholders in the same age band must be charged the same premium rates.

12. MOH and the Financial Industry Disputes Resolution Centre (FIDReC) are the two major channels for handling consumers' complaints related to private health insurance. MOH has the power to investigate and query insurers on complaints received from insurance policyholders, such as unprofessional sales and marketing of private health insurance products. When the dispute is related to claims settlement, MOH normally advises the policyholders to seek assistance from FIDReC which is an independent institution specialising in the resolution of disputes between consumers and financial institutions including insurance companies. FIDReC was initiated by the financial sector to make its services more professional, transparent, customer focused and service oriented. The Board of FIDReC is chaired by a retired Supreme Court Judge and includes equal numbers (three at present) of directors with industry background and directors with non-industry background.

NEW DEDICATED AUTHORITY FOR SUPERVISING HEALTH PROTECTION SCHEME

13. Without prejudice to the deliberations and recommendations of the Working Group on HPS and the HMDAC (see paragraph 17 below),

[3] MediShield is a low cost catastrophic illness insurance scheme introduced by the Singapore Government in 1990. It was designed to help subscribers meet medical expenses from major illnesses, which may not be sufficiently covered by their Medisave accounts. The coverage, benefit limits and premium schedule of MediShield are determined by MOH. MediShield is administered by the Central Provident Fund Board of the Ministry of Manpower.

we envisage that the HPS authority should, among other things, perform two major roles – regulatory and facilitating roles.

14. In the regulatory aspect, the HPS authority would need to ensure that private health insurance plans offered under the HPS will comply with the scheme requirements. We propose that the regulatory functions may include, but not limited to, the following -

(a) registration of HPS plans;

(b) administration of the HPS core requirements and specifications of HPS standard plan(s) (e.g. guaranteed acceptance and renewal, coverage of pre-existing conditions, portability, etc.);

(c) determination, review and updating of the key parameters of HPS standard plan(s) (e.g. coverage, benefit structure, benefit limits, age-banding premium schedule, etc.);

(d) monitoring of the operation of the high risk pool[4]; and

(e) administration of mechanisms for consumer protection, including complaint handling, case review and investigation, and referral of cases to the relevant regulatory bodies.

15. In addition, an independent and credible dispute resolution/arbitration/mediation mechanism would be set up for the HPS. We will make reference to the existing local arrangement for settling disputes for insurance in general, practices and mechanisms adopted by overseas jurisdictions, and other relevant considerations when drawing up details for the proposed mechanism.

16. The HPS authority would also play a facilitating role to ensure the smooth implementation and operation of the HPS. We propose that the facilitating functions may include, but not limited to, the following -

(a) the building up of market infrastructure (e.g. collection, compilation and publication of claims/charges data and information) required for implementing the HPS;

[4] An industry reinsurance mechanism for insurers participating in the HPS to share out the high risks insured by their HPS plans.

(b) coordination with relevant supervisory and regulatory agencies (e.g. OCI, DH and professional bodies) on matters concerning the regulation and administration of the HPS;

(c) liaison with health insurers and private healthcare service providers on matters concerning the operation of the HPS; and

(d) setting up a platform for health insurers and private healthcare service providers to discuss HPS-related matters.

NEXT STEP

17. In order to formulate a detailed and sound proposal for implementing the HPS, we have set up a Working Group on HPS under the HMDAC to examine the various issues involved, including the detailed institutional setup for the HPS. In support of the Working Group, a Consultative Group on HPS has been set up to collect views and suggestions from the wider community and pass them to the Working Group for reference and consideration. To provide professional and technical support to the Working Group and Consultative Group, a consultant will be appointed shortly to formulate a detailed design for implementing the HPS. In carrying out the task, the consultant will perform a comprehensive review and analysis of the current market situation of private health insurance in Hong Kong, as well as conducting research on private health insurance markets in overseas jurisdictions. The Working Group on HPS is expected to submit its recommendations in mid-2013.

Food and Health Bureau
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