



**Treasury consultation on
'Unfair terms in insurance contracts'**

**A joint submission by the
Mental Health Council of Australia and
*beyondblue: the national depression initiative***

May 2010

The Mental Health Council of Australia (MHCA) and *beyondblue: the national depression initiative* are pleased to have the opportunity to present this submission to the Treasury consultation on 'unfair terms in insurance contracts'.

Mental Health Council of Australia

MHCA is the peak, national non-government organisation representing and promoting the interests of the Australian mental health sector, committed to achieving better mental health for all Australians. The membership of the MHCA includes national organisations of mental health service consumers, carers, special needs groups, clinical service providers, community and private mental health service providers, national research institutions and state/territory peak bodies.

In addition to its broad membership, MHCA auspices the National Mental Health Consumer and Carer Forum (NMHCCF), which is a combined voice for mental health consumers and carers (see www.nmhccf.org.au). The NMHCCF has a particular interest in stigma and discrimination towards people with mental illness and their carers.

beyondblue: the national depression initiative

beyondblue is a national, independent, not-for-profit organisation working to address issues associated with depression, anxiety and related substance misuse disorders in Australia. Established in 2000, initially by the Commonwealth and Victorian Governments, *beyondblue* is a bipartisan initiative of the Australian, State and Territory Governments, with the key goals of raising community awareness about depression and reducing stigma associated with the illness. *beyondblue* works in partnership with health services, schools, workplaces, universities, media and community organisations, as well as people living with depression, to bring together their expertise. *beyondblue's* five priorities are:

1. Increasing community awareness of depression, anxiety and related substance misuse disorders and addressing associated stigma.
2. Providing people living with depression and their carers with information on the illness and effective treatment options and promoting their needs and experiences with policy makers and healthcare service providers.
3. Developing depression prevention and early intervention programs.
4. Improving training and support for GPs and other healthcare professionals on depression.
5. Initiating and supporting depression-related research.

Background

Insurance is widely promoted as an important, if not essential, means of protecting against unexpected life events. However, many people with a mental illness have found that they are denied access to insurance or face difficulties when claiming on their existing policies.

A survey conducted jointly by *beyondblue* and the MHCA found applicants face difficulties at both the application and claim stages of the insurance process. Applications for life insurance, including income protection insurance and total and permanent disability insurance, were either rejected or had unfavourable policy terms applied. When making claims, consumers found the claims management process very stressful and lengthy.

Insurance is a risk-based industry, and mental health consumers and carers recognise this. Insurance companies are exempt from the requirements for non-discrimination in the provision of goods and services set out in the Disability Discrimination Act 1992, *provided* that the discrimination is based on actuarial, statistical or other relevant data on which it is 'reasonable to rely'. However, in many cases consumers consider that the rejection of their applications, or the imposition of policy exclusions or premium loadings, is disproportionate to the level of risk that they present to an insurer and represents discrimination on the basis of mental illness.

Prevalence and impact of mental health disorders

Mental illness is a general term for illnesses affecting the mind or brain and influencing the way a person thinks, feels or acts. These illnesses include bipolar disorder, depression, schizophrenia, anxiety, borderline personality disorder and eating disorders. Mental illness does not arise from a character fault or weakness; it is an illness like any other. Factors believed to contribute to mental illness include:

- Changes in brain structure or chemistry;
- Environmental factors;
- Biological and genetic factors;
- Substance or drug abuse; and
- Negative thought patterns.

Depression, anxiety and substance use illnesses are the most prevalent mental health disorders in Australia.¹ One in three Australians will experience depression and/or anxiety at some point in their lifetime and approximately 20 per cent of all

¹ Australian Bureau of Statistics, *2007 National Survey of Mental Health and Wellbeing: Summary of Results (4326.0)*. 2008, Canberra: ABS.

Australians will have experienced depression, anxiety or a substance use disorder in the last year.¹

Mental illness is the leading cause of non-fatal disability in Australia, however it must be noted that depression and anxiety accounts for over half of this burden². Globally, the World Health Organization predicts depression to become the leading cause of burden of disease by 2030, surpassing ischaemic heart disease.³

The 2004-05 National Health Survey estimated that 2.1 million Australians, equivalent to one in ten people, had a long-term mental illness or behavioural problem lasting more than six months. Mental illness and suicide account for 13.3 percent of Australia's total health burden.

There are many different mental illnesses, and their symptoms vary widely. People may experience the same mental illness differently, and symptoms, treatment requirements and prognosis will vary from person to person. As noted on the Mindframe website⁴, 'Simply knowing a person has a mental illness will not tell you how well or ill they are, what symptoms they are experiencing, or whether they may recover or manage the illness effectively'.

It is important to recognise that recovery from mental illness is possible for many people, especially if appropriate help and treatment are available. Other people may continue to experience symptoms, with varying severity, but these can often be managed through ongoing treatment, resulting in affected individuals living full and productive lives. Some people might experience a single episode of a mental illness and then recover fully, while others experience recurrent episodes but are mentally healthy for months or years in between.

Many people with a mental illness are able to retain full employment and participate fully in the community with appropriate treatment, while others will require higher level care and support. **For this reason, it is essential that any risk assessment relating to life insurance looks beyond merely a diagnosis of mental illness.**

When applying for life insurance, people with a past history or who currently have a mental illness may find that they are assessed as presenting a higher risk than someone without this history. This may result in the imposition of higher premiums, policy exclusions or a decision to decline cover without recognition or exact

² Begg, S, et al., *The burden of disease and injury in Australia 2003*. 2007, Canberra: AIHW.

³ Mathers CD, Loncar D. *Updated projections of global mortality and burden of disease, 2002–2030: data sources, methods and results*. Geneva, World Health Organization, 2005 (Evidence and Information for Policy Working Paper).

⁴ <http://www.mindframe-media.info/>

symptoms, diagnosis, severity, treatment, employment, wellness and level of functioning.

Mental Health and Insurance Survey

In 2003, as a result of extensive discussions with the life insurance industry about the issues facing consumers who have experienced or are currently experiencing a mental illness, a Memorandum of Understanding (MoU) was signed between the Investment and Financial Services Association (IFSA) who is the peak body for life insurance, and seven mental health sector stakeholders:

- *beyondblue: the national depression initiative*;
- Mental Health Council of Australia (MHCA);
- Australian General Practice Network;
- Australian Medical Association;
- Australian Psychological Society;
- Royal Australian College of General Practitioners; and
- Royal Australian and New Zealand College of Psychiatrists.

The key objectives of the MoU included:

- improving communication and education;
- assessment of complaints resolution; and
- improved underwriting and claims.

The MoU was most recently re-signed in October 2008 with the then Federal Minister for Superannuation and Corporate Law, The Hon. Nick Sherry. At this time the Financial Planning Association also became a signatory. The next MoU is due to be re-signed in October 2010. A MoU Steering Group identifies priority areas and directs work to be undertaken, by set working parties, which includes both consumer and carer representatives.

The Steering Group identified that there was a lack of information available about consumer and carer experiences with insurance. MHCA and *beyondblue* developed a survey to ascertain the experience and perceptions of mental health consumers and their carers in respect to a range of insurance products.

The survey was available from the MHCA and *beyondblue* websites and was also distributed to various mental health organisations and through a number of email networks. Between September 2007 and August 2008, 82 people provided feedback on their experiences when applying for insurance and making claims. Responses provided detailed information on the issues experienced and raised issues in some unexpected areas. Information arising from the survey responses was included in a

joint report from the MHCA, *beyondblue* and IFSA, which can be downloaded from <http://www.mhca.org.au/mental-health-and-insurance>.

One of the main issues identified from the survey responses was that many consumers and carers were not aware of their rights in relation to insurance, or of their obligations when applying for insurance. To assist consumers and carers in their interactions with insurance companies, the MHCA, with funding from *beyondblue*, developed significant new internet content, providing a new resource on mental health and insurance issues. Consumers and carers were involved in the development of this material, which covers the main issues experienced in relation to various forms of insurance, frequently asked questions, legal aspects, privacy information and avenues of appeal. This information can be viewed at <http://www.mhca.org.au/mental-health-and-insurance>.

Changes within the life insurance industry have resulted in positive outcomes for many people with mental illness, and improvements are ongoing. However, the survey highlighted consumer and carer concerns in a number of areas. Respondents reported difficulty accessing life insurance, particularly income protection cover. Some consumers reported that they were unable to obtain any cover, even at a higher premium or with a mental illness exclusion. As one consumer commented, *'I didn't expect to be covered for mental illness ... however, being covered for glandular fever or a broken pelvis would have been handy'*. Some consumers were offered cover only with a large premium loading and/or blanket exclusion for all mental illnesses, and were not happy with this offer because they felt that it was not proportionate to the level of risk that they presented to the company.

A number of respondents reported that they were informed that they were ineligible for insurance cover while they were receiving treatment for their mental illness, but might become eligible if they ceased treatment for a certain period of time. **This does not promote good management of mental illness and discourages people with mental illness from undertaking long term treatment.**

An additional issue, which was raised by both consumers and clinicians, is the potential impact of the Better Access to Mental Health Care initiative on access to insurance. To access Medicare rebates for consultations with a psychologist or other mental health professional, consumers need to have a mental health care plan put in place by their GP, with a diagnosis of mental illness in their medical file. In some of these cases the mental illness reported in the file might not be of clinical significance or might not be the presenting problem, but because of the record of a mental illness, there is a perception that future insurance applications could be affected.

Survey responses indicated that some people with a mental illness (as well as the broader population) were not aware of their rights and responsibilities in relation to insurance, including their 'Duty of Disclosure' or their right to appeal an insurance decision. Mental health professionals, including general practitioners, psychiatrists and psychologists, could also benefit from a greater understanding of insurance processes, the potential impact of a mental illness diagnosis on future insurance applications, and the value of the information that they provide to insurers for underwriting and claims.

Responses indicated that many people with a mental illness have considered purchasing life insurance, but after having an insurance application rejected, or being faced with a higher premium or mental illness exclusion, stopped seeking insurance cover, which exacerbates the problem of underinsurance. In some cases consumers tried to obtain cover from several insurance companies, while in other cases the initial rejection was sufficient to discourage them from further applications.

In some cases, respondents indicated that the communication of an insurance decision created greater distress for them. The communication of underwriting decisions increased negative perceptions of the experience of applying for insurance as well as the treatment of mental illness, and the insurance industry in general for some survey respondents. In addition, several respondents reported difficulties when they made a claim on their life insurance policies and in some cases commented that their experiences exacerbated their mental illness.

We have recently undergone some further qualitative consultations with mental health consumers, with similar themes emerging. Some selected consumer comments are below:

"I have personally been uninsured for many years and was refused a claim after my first hospitalisation, with no income protection in place to support my wife or children. It made life extremely difficult for the entire family and was a source of much resentment and feelings of inadequacy".

"When seeking insurance all those years ago, I felt extremely vulnerable and that my privacy was invaded. It was like being "seen" as a specimen under a microscope, poked and prodded. Worse still, was the fact that I wasn't believed. I wasn't healthy enough, not "fit"...even though I was working and coping with a young child."

"Countless "hoops" and "hurdles" need to be jumped through and for sad and confused people it can be all too much of a bother and it's so easy just to give up, particularly if one doesn't have a friend or an advocate to help navigate this "minefield" and provide much needed support.....especially as depressed people

feel unworthy to begin with, let alone when a insurance company digs deep inside them.”

“Just recently a doctor told me never to write on forms that I have a mental illness.....clearly that doctor still feels there is much discrimination out there!”

Future actions for the insurance industry and the mental health sector

The life insurance industry and mental health sector stakeholders are continually working together with a commitment to undertake streams of work in the following four identified priority areas:

1. Simplification.
2. Information, Education and Awareness.
3. Complaints Processing and Monitoring.
4. Data and Measures for Success.

These areas have been separated for specific focus and attention to be given to them in the short term and into the future once the next MoU is signed in October 2010. These four categories are specific to mental health consumers applying for and claiming against their insurance policies, however much of the work to be done will hold relevance to the insurance sector as a whole.

There have been three working groups set up to strategise ways of achieving the work under the first three priority areas. The problems that have been identified and the issues to be addressed are listed below and may be of use to the Treasury when considering issues requiring further attention.

Simplification

Insurers require access to timely and accurate information from applicants and the medical profession in order to make appropriate underwriting and claims decisions and as such medical forms are crucial to this process. The forms can be lengthy, complex and inconsistent. This causes a number of issues: they can be overwhelming and time consuming to complete, can be completed differently by different professionals, and may fail to provide the information required if not completed correctly.

Efforts have already been made to enhance the capture and flow of this information through the forms, however, further simplification of these forms and processes would allow insurance companies to obtain the information that they require while minimising the difficulties faced by the applicant and ensuring maximum usability for medical practitioners.

Information, Education and Awareness

The MoU Steering Group has identified further work needed to inform key stakeholders and consumers about the achievements of the MoU and the accessibility of insurance cover for mental health consumers. Further work is

required to improve the knowledge and understanding of mental health among the industry's underwriting, claims and financial planning professionals.

Training for underwriting and claims professionals: While significant gains have been made in the management of underwriting and claims decisions, many people with a mental illness still report negative experiences as a result of their interactions with insurance companies.

A number of large insurance companies have implemented significant and broad-reaching training programs for their underwriting and claims teams as well as their financial advisers. These programs are to be welcomed and wider industry application of these initiatives would have significant positive benefits in improving consumers' experiences.

Raising community awareness of insurance issues and the MoU: The MHCA and *beyondblue* survey responses indicated that more needs to be done to improve the general public, mental health consumers' and clinical practitioners' understanding of insurance processes, the potential impact of a mental illness diagnosis on future insurance applications, and the value of the information provided to insurers for assessing applications and claims.

A further issue is a lack of awareness of the existence of the MoU among key stakeholder groups.

Information for financial planners: As financial planners play a key role in the insurance application process, it is important they are aware of how diagnosis of a mental illness affects an application, as well as the initiatives being undertaken under the MoU to improve insurance outcomes.

Complaints Processing and Monitoring

The collection of inquiries and complaints received by stakeholder organisations in relation to issues surrounding insurance and mental illness is essential for effective monitoring of the success of initiatives undertaken as part of the MoU, and for an increased understanding of systemic issues and concerns.

Inquiry or complaint collection and monitoring is ongoing under the MoU, but currently is only collected from consumers and carers, with no formal mechanism in place. Collecting information from other stakeholder groups, including medical practitioners, other mental health service providers and financial planners, and formalising collection mechanisms, would add to the depth of knowledge about issues surrounding mental health and insurance.

Conclusion

MHCA and *beyondblue* call on the Australian Government to recognise the importance of this issue and take steps to end the unfair treatment of people with a mental illness by insurers. We welcome the opportunity to discuss our submission.

A number of positive changes have been made to assist mental health consumers trying to access insurance. This included changes to the underwriting decisions for applicants who have disclosed a past history of mental illness. According to IFSA, the number of applicants declined due to the existence of a mental health condition halved between 2003 and 2008. This means that the majority of applicants have been able to obtain life insurance cover at standard rates, or with an exclusion applying to the mental health condition. However, consumers continue to contact *beyondblue* and the MHCA with concerns about their access to insurance or their experiences with insurance companies, indicating that ongoing work in this area is essential.

The Mental Health and Insurance Survey revealed a number of significant issues faced by mental health consumers and carers in their attempts to obtain appropriate insurance cover or make insurance claims. Providing fairer insurance to people with a mental illness would provide benefits beyond the ability to obtain insurance.

Currently, people with a mental illness are being denied full recovery and reintegration back into the community, as they continue to be defined by their mental illness even after they have recovered or have found effective ways of managing. The provision of fairer insurance that recognises recovery or management of mental illness allows people to move beyond mental illness to participate fully in the community.

Mental health consumers and carers do not seek exceptional treatment in relation to insurance. What they seek, and what is sought in the in this submission, is a more reasonable assessment of the risks associated with mental illness (including through consideration of the particular circumstances of mental illness experienced by an individual), a greater understanding of mental illness from the insurance sector as a whole, and greater respect for mental health consumers.

With one in five Australians experiencing some form of mental illness at any given time, it is not unreasonable to expect that insurance industry demonstrate a stronger understanding of these illnesses through fair and non-discriminative consideration of their policies.

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