



27 April 2018

Mr Steve Irons MP
The Chair
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

By email: corporations.joint@aph.gov.au

Dear Mr Irons

Inquiry into Options for Greater Involvement by Private Sector Life Insurers in Worker Rehabilitation

ClearView Wealth Limited (ClearView) appreciates the opportunity to provide comments in relation to the greater involvement of life insurers in worker rehabilitation, including return to work support, with particular reference to income protection (IP) and disability insurance generally.

We believe this is an important and timely inquiry, and that there is significant additional scope for life insurers to more effectively assist customers manage their health, especially mental health, and access rehabilitation services. Our submission also touches on several related issues raised by the Committee in its recent Life Insurance report (March 2018), to which ClearView also provided evidence, specifically concerning issues raised in that report on preventative health, rehabilitation services and use of genetic information.

About ClearView

ClearView is an ASX-listed financial services company providing quality financial advice and life insurance, investment and superannuation products and services. It includes a registered life insurer, funds management business, superannuation trustee and two financial advice (AFS) licensees. ClearView advisers advise on \$9.3 billion in funds under advice and \$247 million of life insurance premiums under advice. As a product provider, ClearView has \$2.7 billion of funds under management and \$210 million of annual premiums inforce.



A Focus on Returning People to Health and Work

In its recent Life Insurance inquiry report, the Committee made the following two recommendations:

- *Recommendation 10.8 – The committee recommends that consideration be given to allowing insurers to more actively promote and fund evidence-based best-practice preventative health measures targeted at promoting good mental health at a general level.*
- *Recommendation 10.14 – The committee recommends that the Australian Government conduct a thorough inquiry or consultation process before it progresses any reforms relating to life insurers funding rehabilitation services, including impacts on private health insurance, or Medicare, and any conflicts of interest that may arise for any insurer vis-à-vis their customer and the most appropriate care.*

ClearView strongly supports the types of developments that the above recommendations are concerned with.

The history of life insurance (indeed insurance generally) has been one focused on “contractual entitlement”. Based on a certain event, circumstance or condition and impact on the policyholder, the policyholder establishes an entitlement to benefits and services, which the insurer pays (or declines if the entitlement is not established).

ClearView believes the future of the industry will be about the life insurer helping the policyholder deal with and overcome the impact of the event or condition. For life insurance income protection products the consumer will be better served by a transition from a construct focused on policyholder entitlement to income payments to one in which the primary objective is returning the policyholder to health and to work (albeit that income support during the time off work will continue be a core part of this).

Allowing life insurance companies to proactively manage claims by providing rehabilitation and allied health support services will benefit society by increasing the likelihood of people returning to work and good health (refer: *Australasian Faculty of Occupational & Environmental Medicine (AFOEM) and Royal Australasian College of Physicians - Australian Consensus Statement on the Health Benefits of Work – March 2011*). This would create a significant public interest benefit as affected individuals will be less likely to rely upon government assistance such as the NDIS or Disability Support Pension.

Likewise, in our view, issues related to genetic testing information or mental health in respect of underwriting should be less about “entitlement” to acquire a life insurance policy (or on what terms) and more about helping people manage the consequences of these issues and not needing to claim under their policies, i.e. the life insurer helping the policyholder lead a healthy and productive life rather than focusing on potential



future claim liabilities. This scenario is ultimately a win-win for the affected policyholders and the life insurer, for the community and the industry.

The wellbeing of Australians will be better served through legislative and regulatory reform allowing a more coordinated and aligned approach: involving medical professionals, allied health professionals, health insurers, government, and life insurance providers. Life insurers should be able to help policyholders engage allied health professionals and specialist medical providers at any time, irrespective of whether an income or other benefit payment obligation has arisen. Where customers have been underwritten and identified as having suboptimal health, life insurance companies should be able to (and should) provide services and access to medical professionals to assist improve the customer's health and wellness. Where customers successfully engage with medical professionals and allied health professionals, this should serve to reduce the premium and/or avoid exclusions on their policies that might otherwise apply.

Managing Conflict

While the above reflects a desirable change of approach, it will be important to have provisions in place that ensure life insurance companies avoid conflicts of interest whereby they may be perceived to pressure customers to use particular service providers or undertake particular treatment. The activities of life insurers should not place them in conflict with the customer's treating physician, but work in conjunction with the treating physician to provide an inclusive holistic approach to health, wellbeing and return to work. Life insurance providers should not be in competition with either Medicare or private health insurance providers, but rather provide supplementary services that assist, improve and promote the general health and wellbeing of customers.

Genetic Testing

Currently, where customers have undertaken genetic testing and there have been potentially adverse results from the test, life insurance companies often impose exclusions, loadings, or decline the cover. ClearView believes that this needs to change.

In our view, genetic testing should be used to identify and provide appropriate preventative treatment options for customers, not as a form of "punishment". Where customers have taken the initiative to obtain genetic tests and have been diagnosed as having genetic predisposition to particular illnesses or diseases, it should be viewed as a pre-emptive health initiative. Customers often obtain the services of other allied health professionals to mitigate their risk of illness, disease, or injury, with no adverse



consequence when they apply for life insurance. Obtaining a genetic test should be viewed no differently.

ClearView submits that customers should be rewarded, or at least not penalised, where they have undertaken genetic testing and received potentially adverse results and then taken the initiative to change or reduce their risk by making lifestyle changes. Customers should be encouraged to see their doctors and make changes to diet, exercise, work, sleep, and lifestyle where risk factors have been identified. Life insurance companies should be aligned with the customer's treating physician/general practitioner to care for the wellbeing of the customer, not exclude them from much-needed risk protection.

Legislative Changes

In order to facilitate these recommendations, there may need to be some significant amendments to legislation and regulations.

- *Private Health Insurance Act 2007*: Parliament would need to amend particular provisions that prohibit payments for hospital treatment or general treatment that are not sourced from private health insurers (s121.20 PHIA 2007). Medical expenses would need to be permitted to be paid by life insurance companies under the *Health Insurance Act 1973* (s126 HIA 1973).
- *Life Insurance Act 1995*: The definition of life insurance business and a continuous disability policy would both need to be extended to include, for example, medical expenses, hospital expenses or general treatment (ss9A & 11 LIA 1995).
- *Superannuation Regulations*: These would need to be amended to permit benefit payments from superannuation funds in addition to those defined as either death, terminal medical condition, permanent incapacity, or temporary incapacity (*Reg 4.07D Superannuation Industry (Supervision) Regulations 1994*; *Schedule 1 Superannuation Industry (Supervision) Regulations 1994*).

Beyond these particular legislative changes, we note that policy wordings can be complex and confusing. The industry should strive to create definitions that are truly, "clear, concise and effective", and more easily understood. This needs to be extended not only to claimable events in current life insurance contracts, but also the types of rehabilitation and allied health support services available to consumers under their contracts.

The industry (via the Financial Services Council) has been partly addressing this via developing standardised industry definitions. We remain concerned with this approach as it:



- Potentially creates a “race to the bottom” (and/or no motivation to rise above the bottom);
- Presents the real risk of stifling creativity and innovation in life insurance products, including the types of changes discussed above; and
- Ultimately doesn’t help deal with the existing legacy product maintenance issues present in the industry (and potentially just exacerbates them).

In our view, product terms limitation under the *Life Insurance Act*, the basis of “standardised” definitions and the application of the “unfair contract terms” regime to life insurance should all be carefully reassessed.

Broader Issue of Risk Pooling: Public Interest and Industry Sustainability

An important issue that government and industry have not explicitly turned their minds to in the context of recent industry developments and life insurance sector reform is the bigger question of what rating factors and discrimination life insurers should be permitted to use and which of these should be prohibited. To date this important public interest issue has been tackled only indirectly in Australia and many other countries on a piecemeal basis. This has included, for example:

- Restrictions around discriminating on the basis of race or religion;
- In Europe, pricing cannot allow for gender; and
- In Australia, there is now some discussion (including in the Committee’s Life Insurance report) on the extent to which life insurers should be allowed to rate for mental illness or genetic information.

Yet with rapid advances in technology (including genetic and medical technologies), big data/data analytics, and market disruption by Fintech and Insuretech innovators, the scope for customer discrimination has never been greater. This is a classic situation of regulation not keeping pace with technological and market developments.

Where a policyholder has a choice as to the risk profile of the exposure being insured, it is generally reasonably and economically rational to allow the insurer to be able to charge a price and provide terms that fully reflect that risk. This provides a clear price signal as to the “cost of that risk” to society and the economy. The policyholder can then decide the balance between risk mitigation, risk modification and the price of risk insurance – the choice between driving a fast car or a less high performance one and the cost of the car insurance premium.

However, where individuals seeking life insurance have risk factors they can’t change, the impact of risk rating is more problematic. The “price signal” argument no longer applies. The total society/economy risk cannot be changed via a price signal. Risk



rating in this context merely reallocates costs, and ultimately can result in outcomes such as reallocating risks from the private sector to the public sector.

The serious public interest consequence that flows from this in a life insurance context is that those with low health risks will be able to economically obtain life insurance, while those who are progressively and more accurately identified as higher risks become unable to obtain/afford cover and will therefore need to access the welfare system in the event of illness/disability. Shrinking the private sector insurance pool (i.e. effectively only insuring 'good' lives) and inflating the demand for welfare/public-funded services to fill the gap, is not in the public interest.

The better approach would seem to be:

- Maximise the private sector insurance pool;
- Limit the rating factors that life insurers can allow in this context; and
- Focus on health management and improvement (to optimise overall risk management).

Nonetheless, great care would be needed to protect the insurance pool to prevent "anti-selection", or the type of long term adverse pricing and coverage spirals that are evident in health insurance where "community rating" permits too few risk rating factors for premiums (resulting in too much cross-subsidy driving the good risks out of the insurance pool) and where the system is left too open to abuse (where consumers can too easily selectively enter and leave the insurance pool in line with their likelihood of claim). Given the wide range in the amounts of cover customers can take, it may be appropriate to apply any underwriting restrictions on life insurers only up to "typical" cover amounts, with less or no restrictions for large amounts of cover.

The letter provides our high level input on the issues addressed. There will be significant, and important, issues of detail to be resolved. We would be pleased to provide further input on these issues and their sensible implementation.

Please do not hesitate to contact the undersigned if further information is required.

Yours sincerely,

Simon Swanson
Managing Director