

Consumer Council Submission on Government Consultation Document “Your Health Your Life – Healthcare Reform”

Introduction

1. The Consumer Council (“the Council”) welcomes this opportunity to provide comments to the Food and Health Bureau on the Government’s proposals to reform the healthcare system in Hong Kong.

The Council’s position on healthcare policy

2. Broadly speaking, the Council’s position in regard to healthcare policy centres around the principles of affordability, fairness, choice, quality, and access. Moreover, the policy should be compatible with the ten point ‘prescription for healthy consumers’ promoted by *Consumers International*, the worldwide consumer ‘umbrella’ organization in which Hong Kong plays a leading role. Those points are:

1. Appropriate and accessible healthcare;
2. Freedom from discrimination;
3. Information and education;
4. Choice of a doctor or other health worker;
5. Choice of a healthcare establishment;
6. Informed consent about treatment;
7. Participation in their own healthcare;
8. Respect for privacy, confidentiality and dignity;
9. An avenue for making complaints about unsatisfactory service; and
10. Redress in the event of injury.

3. The Council has made a number of submissions in the past on the subject of healthcare reform which have bearing on the current issues. For the Council’s previous submissions¹ on healthcare reform, please refer to www.consumer.org.hk.

¹ These include: Consumer Council’s submission to the Health, Welfare and Food Bureau on “Building a Healthy Tomorrow - Future Service Delivery Model for our Health Care System” issued in October 2005, submission to Health and Welfare Bureau regarding the Consultation Document on Health Care Reform “Lifelong Investment in Health” issued in March 2001, and submission to the Health and Welfare Bureau on the Study of “improving Hong Kong’s Health Care System: Why and For Whom?” issued in August 1999.

The Government's overall proposals for reform

4. Having regard to the above, the Council regards as appropriate the Government's identification of five areas to be targeted as part of its reform, namely,

- I. Enhancing primary care by placing greater emphasis on preventive care.
- II. Promoting public-private partnership in healthcare to provide more choices of quality, efficient and cost-effective services and enhance healthy competition.
- III. Developing electronic health record (eHR) sharing to allow individuals' health records to follow them wherever they go.
- IV. Strengthening the public healthcare safety net to retain and improve the current public healthcare for low-income and underprivileged groups, while strengthening the safety net for patients struck by illnesses requiring costly healthcare.
- V. Reforming healthcare financing arrangements to provide supplementary financing, apart from increased government funding, to ensure the sustainable development of the healthcare system and support the reform of the healthcare market.

5. In addition, the Council also supports the Government's proposals to improve the delivery of public healthcare services through increasing recurrent government expenditure for medical and health services, in addition to drawing additional funds from the fiscal reserve for taking healthcare reforms forward.

Supplementary financing options

6. The Council notes the supplementary financing options that have been raised by the Government in its consultation document, and the request for views on the options.

7. **At this stage, the Council does not have a view as to any option to be preferred in regard to healthcare financing.** The Council's position is that instead of examining the different financing options that are being canvassed and suggesting a preferred option, its role as a consumer advocate is to alert the Government on the issues that may arise when consumers are making choices and entering into transactions in the marketplace for healthcare services and healthcare insurance. For example, with regard to the healthcare financing options 5 and 6, i.e.:

- a) *mandatory private health insurance* – requiring a specified group of the population to subscribe to a regulated private health insurance scheme for their own healthcare protection; or

- b) *personal healthcare reserve* – requiring a specified group of the population to deposit part of their income into a personal account, both for subscribing to a mandatory regulated medical insurance scheme before and after retirement, and for accruing savings (with the option to invest) to meet their own healthcare expenses including insurance premium after retirement

8. No matter what financing options will be eventually chosen, and the overall result of the Government's reforms, the Council's interest, as a consumer advocate, is that if the Government decides that market based mechanisms are to be employed, the intrinsic benefits that arise from having a freely operating marketplace should be allowed to arise, wherever appropriate and subject to necessary safeguards to protect the principle of basic healthcare for all. In particular, the Council would expect that

- a) patients' benefits after the reform should not be lower than the present level, and the **affordability** of healthcare for the working population, which is already subject to MPF contributions and income tax, should be considered; and
- b) given the increasing focus on moving more of the population to the healthcare insurance market, there should be **effective monitoring** of the operation of health insurance schemes, and relevant healthcare service providers.

9. The Council's detailed comments on the aspects of affordability and effective monitoring are discussed in the following paragraphs.

Affordability

Market mechanisms

10. While the application of competition principles to the provision of healthcare services is a complex issue, it is nevertheless an important component for an efficient system if marketplace mechanisms are chosen as a vehicle to deliver healthcare services and insurance. Where patients are directly involved in making purchasing decisions, the concept of 'the dollar following the patient' arises. In this regard, the patient is then better able to put pressure on the system to promote a patient-centred culture and service.

11. Where the dollar follows the patient, it is possible for the patient to choose more effectively. The Council believes that the Government has a role to play here in terms of consumer protection, in the same way it has been proactive in a number of areas where consumers have encountered problems in the marketplace. In particular, the problem of information asymmetry between patients and service providers arises due to the very complex nature of both the service being provided and the insurance options that arise.

12. The Government is in the process of improving its competition policy, with regard to introducing a general competition law administered by a competition authority. Through its general application, such a law will, by its general nature, address any issues that arise in the marketplace for healthcare insurance, to ensure that competition plays an effective part in maintaining low prices, a variety of choices, and quality of service.

13. The Council has also recently proposed a review of laws regarding the prohibition of misleading and deceptive conduct in trade or commerce, including that misleading and deceptive conduct in regard to advertising services. Addressing the current deficiencies in this area of law will strengthen the marketplace mechanisms to ensure consumers benefit from truthful and informative advertising.

14. A marketplace operates at efficient levels when there is no anticompetitive conduct by market participants; nor misleading or deceptive conduct. Where the Government decides that marketplace mechanisms should be used, the existence of rules to prohibit both anticompetitive conduct and misleading or deceptive conduct in trade or commerce will play a large part in ensuring healthcare consumers enjoy the lowest prices, wide ranging choices and high standards or quality of service.

Regulating the level of insurance premiums

15. The Government's consultation document focuses to a large extent on the role of the private health insurance sector in providing healthcare cover. Notwithstanding the application of marketplace mechanisms, in striving to raise efficiency levels in the sector, and thereby keep downward pressure on costs, a potential problem arises with regard to premium levels, where insurance premiums become either mandatory or obligatory for a large section of the population.

16. Whilst competition can be expected to play some part in keeping downward pressure on premium levels, overseas experience indicates that some government intervention has been used to regulate premium price increases, and to ensure that those who are a higher risk for insurance providers (such as the chronically ill) are treated fairly and are not denied the same opportunity for insurance as other less risky consumers.

17. In this regard, the Council stresses the need for the Government to consider some form of regulatory oversight of insurance premiums as an inseparable component of any policy that would either mandate or oblige consumers to take out healthcare insurance.

18. Such mechanisms exist in other countries (as noted in the consultation document) and can serve as models for examination. In respect of price regulation, there are many considerations in having a policy of stringent regulation where approvals for premium levels and increases are subject to mandatory intervention or government discretion.

19. As noted in a 2005 Report by Access Economics Pty Limited on Regulation of Private Health Insurance², a comprehensive price regulation regime that is clear, transparent and directed towards efficient outcome is not easy to implement because there is no monopoly pricing problem, and price regulation of private health insurance is too indirect to be an effective way to control costs in the private health sector.

20. In addition, a price regulator typically needs to invest significant resources into collating, analysing and acting appropriately on information regarding the cost and sales structure of the regulated firms. In these circumstances a price monitoring regime might be considered as an option for placing downward pressure on private health insurance premiums. Price monitoring regimes remove some of the informational burdens on the regulator but maintain pressure on the monitored firms to act in a competitive manner.

21. The report by Access Economics further noted

“At its most simple, prices can be monitored and published to provide information and transparency to consumers. For example, prominent publication of private health insurance premiums of each fund may facilitate comparison and encourage members of higher priced funds to switch to more efficient funds offering a lower price or higher quality insurance product. This could stimulate competition between funds for members. In practice, anything that restricts switching between funds, such as waiting periods imposed on new or transferring customers, may make such information of limited use in stimulating competition. While it will not be very effective if price differentiation between funds is minimal, it may act to encourage price differentiation, although the difficulty in comparing insurance products with different benefit inclusions could remain a problem.”

22. As noted further in this report, governments can assist in providing information resources on the different healthcare insurance products available to assist consumers in making informed choices.

23. In any event, the Council considers that an absence of some form of government oversight would be unacceptable where government policy either mandates or obliges large sections of the population to take out insurance policies that are provided in an open market.

Roles of employers in contributory healthcare schemes

24. As pointed out in the outset, the Council considers it important to ensure patients' benefits after the healthcare reform should not be lower than the present level. However, the consultation document has not mentioned the role of employers in any of the proposed supplementary healthcare financing

² See http://www.regulationtaskforce.gov.au/__data/assets/pdf_file/0019/70345/sub091.pdf

options, despite that some would require the workforce to contribute a certain percentage of their income to subscribe to health insurance schemes which may in some way overlap with their current employer-provided medical benefits.

25. The Council understands that there are at present more than one million working population³ enjoying some sorts of medical benefits offered by their employers and the benefits of such employee medical schemes are supposed to be better than the proposed mandatory private health insurance which only provides the basic cover. In this regard, the Government should consider whether the options 5 and 6 will lead a lot of employers to reduce the medical benefit of their employees by switching the existing medical scheme to the new mandatory medical scheme. If this happens, most employees will suffer and the Government's vision of improving the state of health and quality of life of people will diminish.

26. If option 5 or 6 is chosen, the Council would expect the Government to introduce safeguards for ensuring that employees would be able to continue to enjoy the existing levels of medical benefits provided by their employers, and interface arrangements would be in place to avoid overlapping between the existing and future medical insurance plans. The latter safeguard is of particular importance as overlapping benefits would be wasted in view that no double medical benefits would be entertained by insurers. The Council urges the Government to give more coverage to the roles of the employers (not limited to health insurance but also on other contributory options) in its second stage of consultation.

Maintaining a healthcare reserve

27. The Council shares the Government's view that people with means should prepare for their own future healthcare needs in order to have a better retirement life. However, the Council has a concern as to whether participants would be able to accrue sufficient deposits in their healthcare reserve accounts (as shown in some of the scenarios on page 99 of the consultation document) without creating too much impact on their present financial conditions.

28. Whilst ensuring people lead a healthy retirement life is essential, the Council considers that the Government should carry out an assessment on the financial capability of the working population to accrue sufficient funds, rather than purely embark on the perspective of how much funding is required to pay for insurance premiums after retirement. The Council is of the view that excessive savings are not in the best interests of the working population and the community as a whole.

29. Moreover, in tendering their views on the different financing options, consumers need to know more about

³ According to the statistics from Hong Kong Federation of Insurers, there were over 1.43 million (in person terms) group medical insurance policies in 2007.

- a) where their savings will be held (e.g. whether the money will be in the hands of a trusted government authority);
- b) whether there will be a cap on contribution rate; and
- c) what will be the costs involved so that the savings will not be eroded.

Limits on healthcare expenses

30. The Council notes that the Government has indicated it would consider the introduction of a personal limit on healthcare expenses for chronic patients or patients struck by catastrophic illnesses requiring costly treatments, such that those whose healthcare expenses have exceeded the limit might receive Government's financial assistance.

31. In this regard, the Council suggests that if such a policy is introduced, consideration should be given for the application of this limit to be extended from a personal to a family basis, since the financial impact on these patients would also directly affect their families.

Financial incentives for supplementary financing

32. The Council welcomes the Government's pledge to provide financial incentives to participants in a contributory supplementary financing scheme to lessen the financial burden on the working population. The Council expects to see more details on the forms of financial incentives to be provided in the second-stage consultation.

'Cherry picking'

33. If private health insurance options (irrespective of whether it is mandatory or voluntary) are eventually chosen, the Council supports the Government requiring insurance companies not to 'cherry-pick' with respect to basic health insurance policies so that no one will be excluded from cover because of age, gender and health conditions.

Different tiers of public healthcare services

34. There have been public concerns raised about the emergence of two tiers of public healthcare services as a result of private healthcare services provided by public hospitals. The concerns are that more resources might then be applied for provision of private healthcare services which will generate revenue. In consequence, people with means could get better services but those with less means would be left with second-class services.

35. To address the concerns, the Council considers it important for the Government to enhance transparency in respect of public healthcare funding allocation (and also on how public hospitals deploy funding and human

resources on the two tiers), so that the public can be assured of the commitments by the Government in maintaining the public healthcare safety net, and providing quality healthcare services for all.

Effective Monitoring

Monitoring health insurance providers

36. In addition to providing some oversight of premium levels, where insurance is either mandated or made obligatory (or the option of voluntary health insurance is maintained), the Council considers it is incumbent on the Government to ensure that means are made available for providing effective monitoring of the service levels of healthcare insurance providers.

37. Health insurance is a complex matter for many consumers, raising the problem of information asymmetry. While consumers might have access to leaflets or articles providing information on insurance cover options, and the level of benefit provided, problems can still arise in regard to how the premiums actually apply, with unintended and costly consequences for consumers. The experience of the Council in its complaint handling service is typical of consumer complaint handling bodies that have a role in mediating complaints on healthcare insurance cover. Typical issues that arise are as follows.

- a) Service and payment related complaints regarding errors in deducting and refunding membership and benefit payments, membership cancellation and suspension, transfer and continuity; and premium arrears.
- b) Inadequate information regarding advice provided by health insurers, in regard to printed advertising and promotional materials and general or individual notifications of changes to insurance policies.
- c) Inadequate informed consent sought from patients before hospitalization. For example, complaints can arise regarding hospitals not adequately informing patients of the gap between insurance cover and what the hospital charges.

38. A breakdown of the number and type of healthcare insurance complaints received by the Council in recent years is attached at Appendix A.

39. It can be expected that an increase in the number of healthcare insurance consumers, through proactive government policy, will inevitably result in a higher level of consumer inquiries and disputes regarding the sector. This raises the question as to how best to cope with an expected increase in consumer complaint workload.

40. While the Council is currently the forum for consumers to raise queries and seek assistance in relation to healthcare insurance matters, a substantial

increase in the number of healthcare insurance consumers will place greater strain on the Council's resources. Additional support for the Council would therefore most likely be required to cope with the demand.

41. An option to coping with increased demand would be to consider setting up a designated body for healthcare insurance complaints.

42. The Council's recent submission on reviewing consumer protection laws, and the setting up of an enforcement body to examine allegations of misleading or deceptive conduct in trade or commerce might have relevance in terms of some problems encountered by consumers. However, many of the problems that arise with regard to consumer disputes are not actionable matters that arise from conduct that should be made illegal, or are illegal, but conduct that arises from the complex and confusing nature of healthcare services. In this regard a designated body for handling healthcare insurance complaints, as exists in other comparable advanced economies⁴, could be more appropriate.

43. A benefit in having a dedicated healthcare insurance complaint handling body, given its resources and expertise, is not only in terms of the practical assistance that can be provided after a problem emerges, but in the information services such a body can make available. For example in relation to private health insurance comparisons across premium and service levels, to assist consumers in making informed choices⁵.

44. The Council has also conducted some market studies⁶ on the subject of medical insurance schemes, which may serve as a useful reference for the Government in developing its future health insurance strategy. In brief, the Council findings were:

- a) medical insurance policies were full of exclusions that would exempt the insurers from paying compensation for a wide range of illnesses and many of the exclusions were in fine print;
- b) the insured were misinformed or did not understand the full extent of the exclusions in their medical cover;
- c) clauses in medical insurance policies were invariably full of technical and medical jargon written in English and incomprehensible to average consumers;
- d) substantial variations existed among the insurers on the maximum level of compensation and classification of surgical operation, which

⁴ Examples of this kind of service can be found in Australia, with the Private Health Insurance Ombudsman, and in the UK, within the insurance division of the Financial Ombudsman Service.

⁵ See for example, the healthcare insurance information website operated by the Australian Private Health Insurance Ombudsman <http://www.privatehealth.gov.au/>

⁶ See Consumer Council's Choice Magazine articles 《醫療保險免賠條款奇多》(issue no. 293, pp.32-37) and 《分析 54 個醫療保險計劃》(issue no. 295, pp.29-38).

may render comparisons of medical insurance schemes not so straight forward; and

- e) conditions for claims and age limit for renewal were also complex factors affecting the choice of consumers.

Monitoring healthcare service providers/facilities

45. In relation to the Government's proposal to subsidize individuals for preventive care, the Council supports this policy as a means for the detection of disease at an early stage. However, the Council has concerns about the quality of health assessment and screening available in the market.

46. A market study conducted by the Council in 2007⁷ pointed to the active promotion by many private hospitals, medical centres and medical laboratories of extremely elaborated medical check up packages. The study found that some packages did not include doctors' clinical health assessments and report interpretations with medical advice or comments, and they had a bewildering choice of packages with price ranges that varied greatly. The Council expressed concern that

- a) many of the items appeared unnecessary;
- b) that excessive investigation could do more patient harm; and
- c) result in a waste of money and time.

47. The Council urges the Government to consider means to ensure consumers will benefit from appropriate and good quality medical check up packages.

48. With regard to other healthcare services (e.g. hospital services), the Council holds the view that basic quality assurance/performance benchmarks should be in place for assessment of quality of care. To require accreditation of healthcare facilities can also ensure there is some quality control over the practices of hospitals.

49. Such accreditation/standard information should be made public and provide patients with information for making choices.

Patient information

50. The Council notes the Government's proposals in regard to developing electronic health record (eHR) to allow individuals' health records to follow them wherever they go for healthcare, to improve the quality of healthcare for the public and provide the necessary infrastructure to support the healthcare reform.

⁷ See Consumer Council's Choice Magazine article 《盲目參加健康檢查計劃 越驗越擔心》, (issue no. 368, pp.31-39).

51. The Council supports this initiative given the importance that such information plays in assisting consumers to manage their healthcare needs.

52. However, notwithstanding the benefits of developing such an electronic health record sharing system, the Council has concerns with the potential threats to patients in respect of information security and privacy. The recent incidents of suspected theft cases in some public hospitals involving removable electronic storage devices (USB flash drive) containing patients' information are cases in point.

53. Of particular concern would be access to medical records by insurance providers. The major problem faced by healthcare insurance providers, in determining premium levels and service components is the lack of information on risk. The fact that patient information would assist insurance providers in managing their business, and increasing efficiency in their chosen business model, should not be accepted as a valid reason for making patients' records available to them.

54. The Council stresses the need for stringent privacy safeguards to accompany any moves towards creating the eHR system. Appropriate amendments (e.g. data breach notification, privacy impact assessment and auditing compliance) to the legislation and regulations administered by the Office of the Privacy Commissioner for Personal Data should be made to suit the manner in which data will be collated, handled and disseminated under the eHR system. The Council assumes that suitable consultation will be conducted by the Government on this matter when the system is in the process of creation.

Conclusion

User participation in decision making

55. Healthcare reform is everybody's business – it is particularly important to individual citizens as supplementary healthcare financing (such as out-of-pocket payments, medical savings accounts or private health insurance) will have great long-term impacts on their financial positions. **The Council considers there is a need for the Government to proactively engage consumers, patient groups and other stakeholder groups in the planning and discussion process of healthcare reform as there is a role for these groups in the decision making process, and a more structured and inclusive approach to community participation should be adopted.**

56. The Council believes that increased involvement of consumers as partners in planning and evaluation is an important component in promoting openness and accountability of the future healthcare system.

Phased approach in implementation

57. Although the Council does not have views on the preferred healthcare financing option at this stage, it shares the Government's concern about the

urgency of getting ready for meeting the healthcare needs of our ageing population. **The Council considers it necessary for the Government to proceed (if it has not already done so) with those service reforms which have gained wide public support during the first-stage consultation, and to report progresses and interim outcomes for public information in the next stage.** Whilst agreeing that financing is a major incentive to get things moving, the Council considers greater disclosure of outcome benefits would help to convince various stakeholders of the right directions to go and to commit.

58. As mentioned earlier, committing to any one (or combination) of the healthcare financing options could have great long-term financial impacts on individuals and the decision may not be easily reversed. The Council believes that healthcare financing is a crucial step to be taken by the Government in requiring individuals to comply with any mandatory requirements (such as social health insurance, medical savings accounts, mandatory private health insurance, or personal healthcare reserve).

59. According to the statistics provided by Hong Kong Census and Statistics Department and Hong Kong Federation of Insurers, about 3.2 million people⁸ (an annual increase of 8% over previous year) in 2007 had medical insurance coverage. Taking into account overlaps (close to 50% as estimated by HKFI in its public presentation material) in the number of people who have both group and individual medical insurance coverage, the number in the working population committed to voluntary medical insurance still amounts to 1.6 million which is about half of the working population (there were 3.5 million employed persons in Hong Kong in the first quarter of 2008). **In view of the large portion of population who have already taken out some form of medical insurance and the rising trend in participation in the medical insurance market, the Council considers there is a need for the Government to do something to ensure appropriate and adequate medical insurance is available in the market to satisfy the needs of the population so that they can have sufficient health protection regardless of which financial option(s) would be eventually chosen. The Council believes that the lack of bargaining power of consumers seeking medical insurance coverage in face of problems mentioned in paragraph 44 (e.g. exclusion clauses, conditions for claims and age limit for renewal), is an important factor that supports the Government considering taking steps to ensure medical insurance policies on offer in the market are fair to consumers who wish and choose to acquire medical insurance for protection of their own healthcare.**

60. For example, the Government can make reference to the voluntary model adopted in Australia where its government imposes certain requirements on private health insurance funds. Examples of such requirements are: acceptance of all applicants, no risk selection on the basis of gender, age and health status, no refusal for renewal of insurance policies,

⁸ Of these, 1.43 million is from employer-provided group medical insurance policies, and 1.78 million is from individual purchased medical insurance policies.

and community-rated premiums. In addition, the Australian government offers some incentives such as tax rebate to individuals subscribing to private health insurance funds. The Council believes all these are good initiatives to help improve the existing problems encountered by consumers and thereby encourage more people to take up private health insurance.

61. The Council will continue to study issues relating to healthcare reform, with a view to provide further inputs to the Government when necessary.

Consumer Council
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Appendix A

Consumer Council - Complaint statistics on medical insurance

	2005	2006	2007	1-3/2008
Sales practices (e.g. related to issue of policy without client consent)	11	20	21	6
Late/non-delivery of claims	26	22	24	2
Price/charges dispute (increase in premium)	4	13	12	6
Quality of services (problems with agents and insurers)	6	9	16	2
Others	20	17	10	2
Total:	67	81	83	18