



**Australian Government**

**Private Health Insurance Ombudsman**

Mr Felix Barbelet

[felix@pv.tl](mailto:felix@pv.tl)

## **Notice of charge decision following applicant contention that charge be reduced or not imposed (s 29(8))**

Dear Mr Barbelet,

### ***Freedom of information request no. 2013/1***

I refer to your two emails of 15<sup>th</sup> October 2013 in which you requested a waiver of charges pursuant to section 29(5)(a) of the Freedom of Information Act 1982 (FOI Act) on the grounds of public interest.

I, David McGregor, Director of Policy & Client Services, being an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests, have decided not to vary the original assessment of the charge. The amount you are liable to pay is \$1420.

The reasons for my decision under section 29(4) are set out below.

In reaching my decision, I am required to consider any financial hardship issues you have raised and whether it is in the public interest for this data to be provided to you at a lesser or no charge. In relation to financial hardship, you have not raised this as an issue and I am therefore not able to form a view about this aspect. In relation to the public interest test, I provide further reasons for my decisions below.

### ***Reasons for my decision***

- This office is funded by a levy on private health insurance consumers, who are already able to access the information you have requested via the website [www.privatehealth.gov.au](http://www.privatehealth.gov.au);
- the best source of information for consumers about private health insurance is on the website [www.privatehealth.gov.au](http://www.privatehealth.gov.au), where the information is presented in a consumer friendly way, along with important consumer advice and warnings which will not be available if portions of the website's information are extracted and put onto the internet in a database form;
- the cost of extracting and supplying this data (over 30, 000 relevant documents in the format you have requested) would have to be met through this office's limited resources, which are supplied to the Private Health Insurance Ombudsman for the purposes of performing its statutory functions, including handling consumer complaints, providing independent advice and information to consumers and managing the [www.privatehealth.gov.au](http://www.privatehealth.gov.au) website. I do not consider it in the public interest for resources to be spent on areas that do not support the functions of this office in protecting consumers;
- Written guidance from the Office of the Australian Information Commissioner indicates that agencies may charge an applicant the actual cost of the production of information stored in an

electronic system. Please see page 44 of the attached Guidance document.

- the industry regulator, the Private Health Insurance Administration Council (PHIAC), collects and publishes a considerable amount of data relating to private health insurance on its website at [www.phiac.gov.au](http://www.phiac.gov.au). This includes the PHIAC A Report, which provides a downloadable database of information about health insurance membership and benefits paid by State, which can be accessed at the following link: <http://phiac.gov.au/industry/industry-statistics/data-tables-phiac-a/>;
  - While you may have a personal or professional interest in having access to this data in a data base format, the data in this format is not of interest to a substantial portion of the public. PHIO deals with consumer complaints and enquiries on a daily basis and we receive very few enquiries and questions about cost differentials by State from consumers. Those we do receive can be answered by using the website comparison feature on [www.privatehealth.gov.au](http://www.privatehealth.gov.au) or PHIAC's data. (Please note that PHIO's data will not show the cost differential of cover by age, as this information is not collected by PHIO.)
  - PHIO also has a significant reporting function and makes data about private health insurance available by State across a number of key indicators in its annual *State of the Health Funds Report*. PHIO, through its complaints handling and advice services, is aware of the issues of concern to consumers in relation to private health insurance and we tailor our reporting and publications to meet the need for additional information that we identify through complaints and enquiries to the office;
  - The cost of supplying this data is \$1420 per request and for the information to be useful, it would need to be requested several times a year to maintain current information. PHIO receives many similar requests for this data from commercial and other organisations and therefore the potential cost of regularly supplying this data without charge to a number of organisations would negatively affect this office's ability to carry out its core objective under legislation of protecting health insurance consumers, which would not be in the public interest.
- **Your review rights**

If you are dissatisfied with my decision in relation to the charge, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

#### **Internal review**

Under section 54 of the FOI Act, you may apply in writing to the Private Health Insurance Ombudsman for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

#### **Information Commissioner review**

Under section 54L of the FOI Act, you may apply directly to the Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-/>

post: GPO Box 2999, Canberra ACT 2601

fax: 02 9284 9666

in person: Level 3, 175 Pitt Street, Sydney NSW

***Next steps in processing your request***

In accordance with section 31 of the FOI Act, the statutory time limit for responding to your request by 30<sup>th</sup> November 2013 (as advised in my letter of 10<sup>th</sup> October 2013) is suspended from the date you were notified of the charge until the earliest occurring of the following days:

- the day you pay the amount of the charge or deposit
- if the amount of the charge is changed following review under the FOI Act – the day you pay the revised charge
- if, following review under the FOI Act, a decision is made not to impose a charge – the day you are notified of that decision.

**Payment of a deposit**

As the charge exceeds \$100, a 25 per cent deposit (\$355) must be paid to enable the processing of your request to continue (in accordance with reg 12).

The deposit is not refundable except in some limited circumstances (for example, if the Private Health Insurance Ombudsman fails to make a decision on your request within the statutory time limit), or may be refunded in part if the final charge is less than the deposit paid.

The deposit can be paid by cheque made out to the Private Health Insurance Ombudsman, or by direct deposit as follows:

BSB: 092 002

Acc. No. 110975

***Questions about this decision***

If you have any questions or wish to discuss this decision with us, please contact me via [david@phio.gov.au](mailto:david@phio.gov.au).

Yours sincerely



David McGregor

Director Policy & Client Services

14<sup>th</sup> November 2013