

## Treating drinking customers fairly

Apr 13 2017 [Jonathan Goodliffe](#)



Treatment for alcohol or drug abuse is not covered under most private medical insurance (PMI) policies. This creates compliance problems in how policies are promoted and sold. A risk of fraud arises at the claims stage and exclusion clauses may be narrowly construed. Insurers should consider whether these clauses cause more problems than they solve.



### Insurance and alcohol

Insurers mostly seek to avoid covering risks in the retail market arising from alcohol misuse. This notably applies in life, accident, travel, motor, critical illness and medical insurance. Averseness to alcohol related risk is hardly surprising. According to the World Health Organisation, the harmful use of alcohol results in 3.3 million deaths every year. These represent 5.9 percent of all deaths. It is a causal factor in more than 200 disease and injury conditions and in various problems giving rise to significant losses.

### A typical exclusion

Private medical insurance illustrates this point. PMI policies usually exclude cover for the treatment of alcohol abuse. This is often expressed in wide terms. The standard Axa policy, for instance, excludes "treatment of, or treatment which arises from or is in any way connected with, alcohol abuse or drug abuse or substance abuse".

On a literal reading that would exclude treatment of, for instance, depression, anxiety, or bipolar disorder, where drinking is one of a number of contributing factors to the condition, without necessarily being the most significant one.

### Co-morbidity

"Co-morbidity" or "dual diagnosis" is a common problem for both mental health services and drug and alcohol treatment services. It is suggested 30 to 50 percent of people with mental health problems also have drug or alcohol issues. A leading study into alcohol and drug treatment in the UK concluded "There is a need to deliver integrated psychosocial interventions and integrated pharmacotherapies for both substance misuse and mental illness, and to access wraparound services".

Few people would choose a PMI policy just because it covers alcohol problems. They are more likely to be thinking, perhaps, of surgical procedures or cancers.

Whatever the position when PMI is taken out, families affected by an alcohol problem would expect to be covered by their policy if they are not warned that it is excluded. So the Financial Conduct Authority's (FCA) [Principle 7](#) (clear fair and not misleading) requires this issue should be brought to their attention.

In particular, where people are advised to take out a policy that covers mental health but has an Axa type exclusion, they should be warned co-morbidity may lead to a denial of coverage. These people are vulnerable consumers whom the National Audit Office has recommended for protection.

### Creative diagnosis to fit the insurance cover

There is in any event a risk with such policies that some doctors will compose a diagnosis for co-morbid patients which fits within the insurance cover, whatever the reality of the patient's condition. They may then treat their patients for alcohol dependence and put in a fraudulent claim for, e.g. treatment for depression. Or they may treat them for the co-morbid condition without treating them for the uninsured alcohol dependence.

### Policies that do cover alcohol treatment

A minority of PMI insurers do in any event provide PMI cover to retail customers for alcohol treatment, although these policies tend to be more expensive. The cover for alcohol treatment is more common in group policies taken out by businesses for their employees. A moral hazard is less likely to arise there and employers may want such cover to be in place to help resolve workplace alcohol problems. It is nonetheless surprising how many companies have workplace alcohol policies without appropriate insurance cover to support them. Have they been properly advised on this issue?

### Does having this cover make a difference?

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- ◆ [Practitioner's Guide for Broker-Dealers](#)
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Moreover in this particular clinical context, having cover for alcohol treatment may be a significant advantage. Most treatment in the public sector is now provided on an outpatient basis by the voluntary sector. By contrast, the Practitioners Health Programme (PHP), which supports sick doctors in Greater London, arranges inpatient treatment in private treatment centres at the expense of the NHS.

Dr Jane Marshall, one of PHP's consultant psychiatrists, has said: "Standards of care in the voluntary sector are patchy and inappropriate for professional groups, such as doctors, who are most concerned about confidentiality issues."

#### Claims practice

There is little information about how PMI claims arising out of co-morbidity are dealt with by the Financial Ombudsman Service (FOS). There was only one determination which considered the issue. In that case the patient had been admitted to hospital for a "psychosomatic disorder". She had also been treated with morphine and had become addicted to it. The insurer, Axa, argued (based on the exclusion quoted above) this prevented her from recovering under the insurance.

Chantelle Hurn, the ombudsman, rejected this argument. She did not consider that a dependency arising from a prescribed drug was within the policy exclusion. Secondly, the dependency on morphine was not one of the reasons for the admission. The patient's doctor described it as a "disconnect and minor issue".

This is an untypical case. As discussed above clinicians nowadays usually apply integrated approaches to co-morbid patients. The case does illustrate, however, that FOS is likely to apply a hostile or, in legalistic terms, "contra proferentem" approach to these exclusion clauses. Since the clauses are inconsistent with modern clinical practice that seems quite reasonable.

Apart from this there will doubtless be cases where policyholders will sue insurers or intermediaries because they have bought a PMI policy with the exclusions on the basis of incorrect advice. Or they may have been given an incorrectly prepared statement of demands and needs under rule [5.2.2R](#) of the FCA's Insurance Conduct of Business Sourcebook (ICOBS).

#### Transparency

There is less transparency than one might expect about medical insurance cover in general and alcohol/drug exclusions in particular. The regulator bears a significant share of the responsibility for this, since it expressed the view in 2005 that alcohol exclusions need not be mentioned in a policy summary.

Although when a policy is sold, full product disclosure must be provided under ICOBS, it is less easy to find out what is or is not covered when one is shopping around before making a purchase, something which the FCA encourages consumers to do. So this information is not readily available on, for instance, the Axa web site. One has to Google to find the policy.

The alcohol/drug exclusion is also not mentioned in, for instance, the WPA policy summary but is mentioned in its policy guide; for those with the staying power to read through both documents. Some other insurers, such as Aviva, are, by contrast, fully transparent about what they do and do not cover.

The issue of alcohol and drugs exclusions is not mentioned by the Money Advice Service guidance on PMI. The exclusion of drug abuse, but not alcohol, is mentioned in the "Which" guide. Exclusions are not mentioned at all in "Health insurance explained" published by the Association of British Insurers in January 2017.

#### A more positive approach?

Alcohol problems create risks for which people need insurance cover. This is an opportunity as well as a risk. There are a few signs of the insurance industry rising to the challenge. For instance, Scottish Widows has removed the drug and alcohol exclusion in its critical illness policies. There is no reason why this should not help it to become a profitable product line.

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