Australian Government
Department of Health, Disability and Ageing

HEALTH LEGISLATION AMENDMENT (IMPROVING CHOICE AND TRANSPARENCY FOR PRIVATE HEALTH CONSUMERS) BILL: REGULATING PREMIUMS

Impact Analysis

Prepared by Department of Health, Disability and Ageing

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Impact Analysis - (OIA25-09667)

Health Legislation Amendment (Improving Choice And Transparency for Private Health Consumers) Bill
Office of Impact Analysis (OIA) - ID number: OIA25-09667

This Impact Analysis has been developed to inform the ongoing consideration of issues by Government and was formally assessed by Office of Impact Analysis (OIA).

Contents

Introduction

Under section 66-10 of the *Private Health Insurance Act 2007* (Act), private health insurers must apply to the Minister for approval to change premiums on existing products (premium approval power). The Minister must approve a change unless 'the Minister is satisfied that a change that would increase the amount or amounts would be contrary to the public interest.' However, there is no legislative requirement for an insurer to seek Ministerial approval for premiums for new products, or when reducing the cover or value to consumers of an existing product without a premium change. This leads to a situation where some changes undergo Ministerial scrutiny, but others do not:

Scenario	Government oversight
Existing products – premium changes	Undergoes Ministerial scrutiny under a public interest test
New product premiums (including phoenixing products)	No Ministerial scrutiny
Existing product premiums – product changes	No Ministerial scrutiny

A particular issue of concern is the phenomenon of 'product phoenixing'. This is where an insurer closes an existing product to new customers, and opens a new product identical or extremely similar to the existing product but at a higher price, without Ministerial scrutiny. The purpose of the legislative provision is to scrutinise all insurer premium-setting practices. This will help to ensure that the Commonwealth's investment into the sustainability of the private health system (via the Private Health Insurance Rebate) achieves value for money for consumers.

By convention, the assessment of premium change requests occurs via an annual Premium Round process managed by the Department of Health, Disability and Ageing with advice from the Australian Prudential Regulation Authority (APRA) on potential adverse prudential outcomes for each insurer. There is currently no legislative basis for the timing and process for the Premium Round.

Background

Private health insurance is a large component of the overall health economy, with the industry's premium revenue and benefits paid for 2024-25 totalling $31.1bn and $26.3bn respectively.[1] Twenty-eight private health insurers (excluding subsidiaries) offer over 120,000 products in the market,[2] covering 15.3 million Australians in September 2025 (an increase from 13.8 million in September 2020).[3]

Private health insurance plays an important role in supporting the Australian health system by helping patients access health services when they need them. Private health insurance offers many benefits to consumers, including choice of doctor, coverage for some services not included under Medicare arrangements, and shorter waiting times for some services. To this end, the government incentivises uptake of private health insurance through the means-tested Private Health Insurance Rebate (Rebate). An independent study by Finity in 2023 found that Government expenditure on the Rebate was less than the cost of treatment for Government if it were funded in the public sector.[4]

In February 2024 (and updated in May 2025),[5] CHOICE reported that the price of Gold hospital cover had increased by approximately 58% in the past five years. This is much higher than the 16% average across all product types reported by the Department of Health, Disability and Ageing over the same period. CHOICE stated this was due to 'a sneaky tactic employed by health insurers' whereby they close existing Gold products to new members and open similar products at a much higher price point for new customers (known as product phoenixing).

Product phoenixing has, in part, been driven by consumers responding to cost-of-living pressures and premium increases by downgrading from Gold hospital cover. As a result, people with Gold cover are more likely to be users of the relatively expensive services that must be covered under Gold hospital products. Insurers are therefore finding it increasingly unprofitable to offer Gold hospital products, and are looking for ways to manage those cost pressures.

On 9 December 2024, the Commonwealth Ombudsman released a statement (Attachment A) raising concerns that, by closing Gold products and then reopening similar Gold products, insurers may be circumventing premium approval processes, restricting consumer choice,

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[1] APRA Annual Private Health Insurance Statistics, 2024-25.

[2] Note that the figure is for all products, including each distinct product subgroup which covers each risk equalisation jurisdiction and each insured group as provided in section 63-5(2A) of the Act.

[3] PHIO data, APRA Quarterly Private Health Insurance Statistics, September 2025.

[4] Finity, 2023: Review of MLS, PHI Rebate and LHC, page 3.

[5] CHOICE article, May 2025: Insurers hiding soaring increases to top-level health cover.

and leading to large premium gaps between identical products.[6] As a result, any new Gold policy a consumer moved to would have a much higher price than their existing Gold policy.

At a press conference on 9 December 2024,[7] the Minister reserved "the right to consider legislative options to outlaw the practice into the future." Shortly after the announcement of the outcome of the 2025 Premium Round in February 2025, HCF closed its 'Premium Gold' product to new members and released an almost identical product, 'Optimal Gold', with a 34.6% price increase. On 1 April 2025 the Minister made an election commitment to take legislative action against product phoenixing.[8]

1. What is the policy problem you are trying to solve and what data is available?

The first policy problem is that private health insurers can open a new product at any time, at any premium, without Ministerial scrutiny, because the requirement to seek Ministerial approval for premiums only applies to existing products. Therefore, an insurer can circumvent the Premium Round process by closing a health insurance product and then opening a very similar product. A particular concern is when the new product is priced much higher than the old product (referred to as 'product phoenixing'). Actions like this undermine community confidence in the Premium Round process, and private health insurance more generally, and expose customers to unregulated charging behaviours. Although product phoenixing is not against the law, it goes against the intent of the Act which states that insurers must apply to the Minister for any premium changes on existing products.

There is no publicly available data on the full extent of product phoenixing across the sector. However, CHOICE reported in May 2025 that phoenixing has contributed to an increase in the price of Gold hospital insurance of about 58% in the past five years, compared to the 16% premium increase approved by the Minister over the same period across all hospital and extras policies.[9] The CHOICE article provided six examples from five insurers of product phoenixing in Gold hospital single policies with $750 excess. The examples were from BUPA, Medibank, HCF and NIB (in NSW only) and HBF (in WA only), including the HCF example outlined in Background. At the same time, there has been a significant drop in the percentage of people holding Gold hospital cover as a proportion of all people with hospital cover, from 39.0% in December 2020 to 28.5% in September 2025.

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6 Commonwealth Ombudsman Statement, 9 December 2024.
7 Minister Butler press conference, 9 December 2024
8 Minister Butler, Radio Interview Transcript, 4BC Breakfast, 1 April 2025.
9 CHOICE article, May 2025: Health insurers hiding increases to top level cover.

If product phoenixing behaviour continued, it would lead to:

- continued consumer exposure to unregulated charging behaviours for new products and reduced cover/value products
- consumers potentially exposed to premiums not in the public interest
- reduced consumer satisfaction with private health insurance.

These impacts would be most concentrated on Gold hospital products (and therefore on people purchasing an open Gold hospital product). Product phoenixing therefore disproportionately impacts people who need cover for treatments that must be covered under Gold hospital, including obstetrics, mental health, palliative care and rehabilitation.

The impacts from product phoenixing could have flow-on negative impacts on participation in private health insurance. A key concern is a potential 'downward spiral' in private health insurance viability. This is where in response to reduced/declining membership growth and increased benefits growth, insurers substantially increase premiums to maintain sustainability, causing people to drop cover as it becomes more expensive. There are also potential flow-on effects on viability of the private health sector. In particular, there may be a reduction in access to clinical categories that must be covered under Gold hospital cover, such as obstetrics services.[10]

The second policy problem is a lack of legislative basis for the timing and processes for Premium Round. Currently, the Premium Round process occurs in consultation with industry, and insurers follow the process as a matter of convention and to support current business practices. However, the lack of legislative basis means it is theoretically open for insurers to apply to change premiums under section 66-10 of the Act at any time (provided it is at least 60 days before the change is proposed to take effect (paragraph 66-10(1)(b)). Although this rarely occurs, it presents resourcing challenges for the department and a risk that the Minister may need to consider premium changes in isolation rather than as a whole sector. Establishing a legislative basis for the Premium Round will provide certainty to insurers and consumers. It will also help the Government manage the expected overall increased volume of premium applications resulting from the proposed legislative changes to address product phoenixing.

The Minister initially attempted to address product phoenixing by requesting insurers to cease the practice.[11] However, product phoenixing continued,[12] demonstrating that further action is required. There are pressures on the financial sustainability of Gold hospital products that is, at least in part, driving the phenomenon, and the department continues to consider options for private health system reform.

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[10] Department of Health, Disability, and Ageing, October 2024: Private Hospital Sector Financial Health Check – Summary.
[11] Minister Butler press conference, 9 December 2024.
[12] Minister Butler, Radio Interview Transcript, 4BC Breakfast, 1 April 2025.

2. What are the objectives, why is government intervention needed to achieve them, and how will success be measured?

The first objective is to ensure an appropriate level of oversight of private health insurance premiums, without creating excessive regulatory burden for industry. This objective will be achieved by requiring Ministerial approval for the proposed premiums of all new private health insurance products and premiums for existing products for which cover or value to consumers has been reduced. Government intervention is required to achieve this, through amendments to the Act. The new provisions will address product phoenixing. Insurers will no longer be able to open new products or reduce cover/value to consumers of existing products without scrutiny of the proposed premium based on public interest considerations.

The second objective is to provide certainty that the established Premium Round process will continue, while providing an avenue for the approval of applications outside the Premium Round if in the public interest. This objective will be achieved by creating a legislative basis for the Premium Round, and applications received outside the Premium Round. This will require Government intervention because it necessitates amendments to the Act. The amendments set an application period each year for the Premium Round, with a power for the Minister to specify a different period if necessary. The Premium Round will be applicable to both existing and new products. The amendments also set out the process for the Minister to request further information on an application.

The main barriers to achieving these objectives are resourcing constraints on government, and the ability for private health insurers to make an orderly transition to the new arrangements.

Success will be measured by whether:

- all premiums for new products, and for existing products for which cover or value to consumers has been reduced, are scrutinised by the Minister under the public interest test from commencement of the legislative provisions, and
- there is no significant reduction in product availability compared to the base case (outlined below as Option 1) within the first Premium Round following the commencement of the legislative provisions.

3. What policy options are you considering?

3.1 Option 1 – Status quo

Under this option, insurers could continue to open new private health insurance products at any time and at any premium, without Ministerial approval of the premium. The practice of product phoenixing would likely continue, leading to a range of costs for consumers, including exposure to unregulated pricing behaviour, exposure to premiums not in the public interest, and reduced satisfaction with private health insurance.

Therefore, this option would not achieve the first objective outlined in Question 2, and would not achieve the election commitment to outlaw product phoenixing as there would be nothing preventing insurers from closing a product and opening a similar new product at a higher price.

Additionally, the second objective outlined in Question 2 would not be achieved, and the Premium Round would continue to be an administrative convention with no legislative basis. Insurers would theoretically be able to apply to change premiums under section 66-10 of the Act at any time (provided it is at least 60 days before the change is proposed to take effect (paragraph 66-10(1)(b)).

3.2 Option 2 – Require Ministerial approval for new and reduced cover/value product premiums and formalise the Premium Round process

The proposal under this option is to amend the Act to require insurers to seek the Minister's approval for premiums for new products, and existing products for which cover or value to consumers has been reduced. Approval would be considered against a public interest test. A public interest test is used under the current Act to consider premium changes for existing products.

Under this option, the premiums for all new products and existing products of reduced cover/value to consumers would be required to undergo an application, assessment and approval process against a public interest test. The test for applications considered during the Premium Round would be the same as the current one for existing products i.e. the Minister must approve the premium unless satisfied that it would be contrary to the public interest. This proposal would achieve the first objective outlined in Section 2, because it will result in an appropriate level of oversight of premiums without creating unnecessary regulatory burden. It would also create a level playing field in which premiums for new, existing and reduced cover/value products are subject to the same level of scrutiny.

This option does not directly ban product phoenixing. Banning product phoenixing would require establishment of a narrow definition of 'product phoenixing', which may create loopholes where insurers could circumvent the Ministerial approval process. There may also be circumstances when behaviour that appears to be phoenixing is in the public interest. It is therefore considered that the proposed indirect approach of increasing Ministerial scrutiny of product premiums for new and reduced cover/value products is more appropriate and will be more effective in addressing product phoenixing than a direct ban.

For administrative ease and to allow a continued efficient assessment process, insurers would apply through the existing annual Premium Round process. Applications for new, changed or reduced cover/value premiums outside of this process would be considered under a more stringent public interest test (i.e. that the Minister must approve only if they are satisfied it is in the public interest). Insurers would be expected to justify the need for the application outside the annual Premium Round process, balanced against the benefits of considering all applications together, which include administrative ease, an efficient assessment process and the opportunity to gain a sector-wide view of all premiums at once. Insurers will gain greater certainty around the Premium Round timeframes as the legislation sets when the Premium Round occurs each year, unless otherwise determined via legislative instrument. The application period set in the legislation is aligned with what has been occurring for some years administratively. Providing for a different time to be determined ensures flexibility, for example if an election requires movement in dates or insurers indicate the timing is problematic for a particular year.

Insurers would continue to be able to close and terminate products at any time to protect against prudential risk from loss-making products.

Additional changes include that the Minister may:

- delegate the power to approve (but not reject) an application to senior departmental officers. This is intended to facilitate situations where the Minister considers it appropriate to allow the department to conduct a streamlined process for certain classes of applications outside of Premium Round. It is intended the Minister continue to personally consider applications requesting a significantly higher premium or a reduction in cover/value to consumers with no premium change (for existing products); or a significantly higher premium compared to a comparable product (for new products). The department intends to consult regarding delegation
- request additional information or a resubmitted premium from insurers by a certain date – this reflects the administrative process undertaken in recent years
- set an application fee but not so that it amounts to taxation, noting that no fee is being presently contemplated and will not be implemented at commencement.

4. What is the likely net benefit of each option?

To identify the net benefit of each of the proposed options to address product phoenixing, a qualitative cost benefit analysis of each option was undertaken. Noting that due to insufficient quantitative data available, most do not have a specific figure attached. The cost benefit analysis considered the impact on private health insurers and consumers. To estimate the regulatory burden, the annual number of new products and product changes was based on a five-year average.

4.1 Option 1 – Status quo

Private health insurers

Benefits:

- continued ability to open new products at any time and at any premium, facilitating competition in price and quality for new products and thus maintaining existing market dynamics.

Costs:

- continued lack of Ministerial oversight of premiums for new products or reduced cover/value products, calling pricing practices into question and potentially resulting in reputational damage (regardless of whether the premium would have been considered to be in the public interest or not).

Consumers

Benefits:

- nil.

Costs:

- continued exposure to unregulated charging behaviours for new products and reduced cover/value products, potentially exposing consumers to premiums not in the public interest, reducing consumer satisfaction with private health insurance (with possible flow-on negative impacts on participation in private health insurance and the viability of the private health sector). People who hold or are looking to purchase Gold hospital products are expected be disproportionately impacted, product phoenixing generally occurs with Gold hospital products.

Net benefit of Option 1

The net benefit of Option 1 is that health insurers will continue to be able to open new products at any time and at any premium, and to reduce the cover/value of existing products without premium scrutiny. This would facilitate competition for new products and maintain existing market dynamics. There are net costs of Option 1 for consumers due to continued exposure to unregulated charging behaviours by health insurers.

4.2 Option 2 – Require Ministerial approval for new and reduced cover/value product premiums and formalise the Premium Round process

Private health insurers

Benefits:

- increased member satisfaction and reduced reputational damage resulting from Ministerial scrutiny of all premiums against a public interest test.

Costs:

- adjustments to business processes to allow for Ministerial consideration of proposed new products and reduced cover/value products in the annual Premium Round process, increasing management expenses.
- reduced flexibility to open new products, or reduce the cover or value of existing products, across the sector at a time and premium of their choosing without Ministerial scrutiny. This could potentially result in a delay cost, however it has not been included in the regulatory cost burden estimate (Table 1) as it was not quantifiable using publicly available data.

Consumers

Benefits:

- greater protection from unregulated charging behaviours for new products and reduced cover/value products, including phoenixed products, improving value for money and consumer satisfaction with the market. People who hold or are looking to purchase Gold hospital cover are expected to experience the greatest benefit, as they will be protected from the phoenixing behaviour associated with Gold hospital products.

Costs:

- potential minor reduction in products available within product tiers on the open market, if insurers close products due to prudential concerns and choose not to apply to the Minister for the approval of a replacement product, or the Minister refuses to approve the proposed premium against the public interest test.
- potential increase in other strategies used by insurers to manage their target margins that could negatively impact consumer outcomes, such as forced migration of customers to alternative products.

Net benefit of Option 2

Option 2 will deliver the Government's election commitment to outlaw product phoenixing. This will benefit consumers by ensuring Ministerial oversight over all new, changed or reduced cover/value premiums against a public interest test. Consumers will further benefit from greater protection from unregulated charging behaviours, improving value for money. Insurers will benefit from improved member satisfaction resulting from increased transparency of premium setting practices, while noting the increase in regulatory requirements.

Table 1 estimates the effort and expense required for Option 2, above what would apply under the status quo. The default labour cost of $85.17 per hour has been applied in accordance with the Regulatory Burden Measurement Framework,[13] which provides a standardised approach for estimating compliance costs. Substantive compliance costs have been calculated using the following formula:

Cost = (Time to apply for one new or reduced cover/value product) x (Number of new and reduced cover/value products per year) x (Default hourly rate)

For this assessment, the estimated time to complete and lodge an application, including responding to follow-up requests, is 20 hours. This is based on estimated time taken for an insurer to complete the application form from existing information they hold. This is not the total time to design the product, which would be required regardless. It also takes account of the time for other actions supporting consideration and management of approvals. The annual number of new products and product changes is based on a five-year average of 132 and 150, respectively, as reported in the 2025 State of the Private Health Insurance Market.[14] Applying the default hourly rate of $85.17, the total annual compliance cost is calculated as (132 + 150) × 20 × $85.17 = $480,359, rounded to $480,000 for reporting purposes.

These costs would be shared across 28 insurers. As such, the average regulatory burden estimate would be approximately $17,000 per year per insurer, noting larger insurers would likely carry the highest financial burden due to their greater number of product offerings. The most notable impact for insurers is reduced flexibility to respond to below expected margins on their products. However, this is partially mitigated by the proposed streamlined approval process for certain types of applications (see Section 5). It is important to note that the policy's intention is to limit insurer's ability to open new products or reduce the cover or value of existing products to consumers without Ministerial scrutiny of the premium.

[13] The Office of Impact Analysis, Regulatory Burden Measurement Framework | The Office of Impact Analysis, 6 February 2024.
[14] Finity Consulting, 2025 State of the Private Health Insurance Market | News and Insights - Finity Consulting, 17 April 2025.

There are nil compliance costs for community groups and individuals, as they are not directly involved in this process. This calculation provides a transparent and consistent basis for estimating regulatory burden in line with Australian Government requirements.

Table 1: Regulatory burden estimate (RBE) table

Change in costs ($)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	$480,000	$0	$0	$480,000

5. Who did you consult and how did you incorporate their feedback?

Consultation design

On 1 April 2025, the Minister publicly stated he continued to be concerned about product phoenixing and had asked the department to investigate options to outlaw the practice.[15] Between 19 September and 17 October 2025, the department held a public consultation on the Consultation Hub entitled 'Regulating product openings for private health insurance'.[16]

The consultation invited feedback on the requirement for insurers to seek Ministerial approval for new product premiums. It did not seek specific feedback on premium approval for reduced cover/value products with unchanged premiums. However, as the outcome of this practice is so similar to closing and re-opening at a higher premium, premium approval for reduced cover/value products is required to achieve the election commitment to outlaw product phoenixing.

Industry was notified of the consultation in writing via the Private Health Strategy Branch weekly email to the sector, and peak industry bodies were also advised verbally in meetings with the department. A public consultation was fit-for-purpose as it allowed the two key affected stakeholder groups, private health insurers and consumers, to comment on the proposal.

Consultation responses

Seventeen (17) responses were received, 10 of which were from private health insurers and their peak bodies. The remaining seven responses were from actuarial organisations (Actuaries Institute and Finity Consulting Group), consumer advocacy group CHOICE, the

[15] Minister Butler, Radio Interview Transcript, 4BC Breakfast, 1 April 2025.
[16] Consultation Hub: Consultation on regulating product opening for private health insurance.

Australian Private Hospitals Association, Catholic Health Australia, the Australian Medical Association and the Business Council of Australia. Feedback centred around the following themes:

- Insurers and actuarial groups were generally concerned about the additional regulatory burden associated with having to apply to the Minister for the premiums of new products, and reduced flexibility to open new products outside of the Premium Round. These groups claimed the change would limit insurers' ability to respond to market changes and consumer needs, reduce competition, innovation, and consumer choice, and increase operational complexity and costs, especially for smaller funds.
- Almost all insurers suggested that only premiums that met a narrow definition of 'product phoenixing' should be subject to Ministerial approval (as opposed to all new product premiums).
    - This alternative option is not proposed because a narrow definition of 'product phoenixing' could be easily avoided. For example, if 'phoenixing' was defined as closing a product and opening one with the same benefits at higher price, insurers could make minor changes to the benefits offered under the product to avoid the requirement for Ministerial approval of the premium.
- Some insurers suggested exceptions to requiring Ministerial approval, such as for general treatment (extras) products, or if the price proposed is lower than a comparable existing product.
- Insurers stressed that, notwithstanding consumer concern around product phoenixing, the proposed reform will encourage insurers to take other measures to protect their financial viability and overall competitiveness. This may include requesting the Minister to approve higher premium increases for existing products, choosing to no longer offer an open Gold product, or reducing policy benefits or increasing excesses or copayments.
- Submissions from the AMA, CHOICE and private hospital peak bodies generally supported the proposal and urged for stronger action against phoenixing, including by introducing civil penalties.

The department also consulted with APRA, the Private Health Insurance Ombudsman and the Australian Competition and Consumer Commission, which all have regulatory responsibilities in relation to private health insurance industry, to ensure any prudential, competition and consumer matters were appropriately addressed.

Incorporating consultation feedback into the proposal

The department acknowledges insurer concerns regarding the additional regulatory burden associated with the proposal. In response to the feedback received in the consultation, the department seeks to minimise the additional regulatory burden on insurers by allowing the Minister to delegate to the department the power to approve (but not reject) certain class(es) of applications received outside the Premium Round that are likely to be in the public interest. This would allow for a streamlined approval process for those types of applications. Defining those classes of application will be carefully considered, taking into consideration feedback from the previous consultation, and further consultation with the sector before implementation.

The department notes the suggestion from insurers that only premiums that met a narrow definition of ‘product phoenixing’ should be subject to Ministerial approval (as opposed to all new product premiums). However, this suggestion has not been incorporated into the proposal, because a narrow definition of ‘product phoenixing’ could be easily avoided. For example, if ‘phoenixing’ was defined as closing a product and opening one with the same benefits at higher price, insurers could make minor changes to the benefits offered under the product to avoid the requirement for Ministerial approval of the premium.

The department notes the feedback that insurers may choose to reduce policy benefits or increase excesses or copayments in order to protect their financial viability and overall competitiveness. The department considers that this achieves the same outcome as product phoenixing, and has therefore included in the proposed legislation a requirement for insurers to apply to the Minister for approval for premiums of reduced value/cover products.

More generally, the department notes insurer concerns about pressures on the financial sustainability of Gold hospital products, and is considering options for private health system reform.

6. What is the best option from those you have considered and how will it be implemented?

The Australian Government believes all Australians deserve access to affordable world class medical care and devices they need to enable them to stay healthy and live full productive lives. Private health insurance has an important role contributing to this objective.

In that context, Option 2 is the best option, as it achieves the objective of ensuring an appropriate level of oversight to product premiums, without imposing an unnecessary regulatory burden, in addition to implementing the Government’s election commitment.

If no action is taken per Option 1, the practice of product phoenixing would likely continue. This would lead to a range of costs for consumers, including exposure to unregulated pricing behaviour, exposure to premiums potentially not in the public interest, and reduced satisfaction with private health insurance.

The impacts on private health insurers have been acknowledged and mitigated by providing greater certainty around the Premium Round timeline and by allowing the Minister to outline potential ‘classes’ of new or existing products that may undergo a streamlined assessment process (see Question 5).

Option 2 will be implemented by amending the Act to require insurers to apply to the Minister for approval of premiums for new products and reduced cover/value products as well as existing products. Insurers were requested to assume these changes would be implemented during the 2026 Premium year (i.e. 1 April 2026 to 31 March 2027), subject to passage through Parliament, and to factor this into their 2026 Premium Round submission. The department intends to undertake the following activities when implementing Option 2:

- Reusing existing Premium Round templates as much as possible, to reduce the administrative burden for insurers.
- Communication activities with insurers to clarify:
  - how to fill in the new templates
  - the process to apply for new premiums or premiums related to reduced cover/value products, or premium changes outside the Premium Round
  - the scope of any regulation allowing the Minister to delegate to the department the power to approve (but not reject) certain class(es) of applications received outside the Premium Round that are likely to be in the public interest.
- Continuing current practices, including industry briefings and consultations for upcoming Premium Round timeframes.

The status of the Impact Analysis at each major decision point is outlined in Table 2.

Table 2: Interim and final decision points

Decision Point	Timeframe	Impact Analysis status
Election commitment	April 2025	Preliminary IA undertaken June 2025
Ministerial consideration of preliminary options	Early September 2025	Full IA drafting process
Public consultation	Mid-September to mid-October 2025	Full IA drafting process
Ministerial consideration of refined options following consultation	Mid-November 2025 and January 2026	Full IA drafting process Informal feedback on draft IA received December 2025
Legislation introduced*	February 2026	First and Second Pass completed January/February 2026

*Legislative and First and Second Pass timeframes are indicative only.

7. How will you evaluate your chosen option against the success metrics?

The success metrics (as defined in Question 2) are:

- all premiums are scrutinised by the Minister under the public interest test, and
- there are no significant reductions in product availability compared to Option 1.

All premiums are scrutinised by the Minister under the public interest test

The first success metric will be evaluated by the department's standard Premium Round compliance activities, which determine whether the premiums at which insurers market their products after Premium Round match those approved by the Minister. These compliance activities will be expanded to encompass premiums for new products and reduced cover/value products and will be used to ensure that all private health premiums being charged have been scrutinised by the Minister.

No significant changes in product availability

The second success metric will be evaluated during the annual Premium Round process. The department will monitor the number and type of private health insurance products available on the market and compare from year to year to identify if there has been a reduction in product availability. This will be an imperfect measure, as there are a number of factors that could influence product availability, however the department will liaise with insurers as required to help evaluate whether the chosen option has driven product closures.

COMMONWEALTH OMBUDSMAN

Are health insurers using loopholes to increase premiums? Review of Choice Magazine's analysis about health insurers

Public statement - 9 December 2024

Private health insurers can apply once a year to raise the premiums for their private health insurance policies. Each premium rise must be approved by the Minister for Health [1].

In February 2024, Choice Magazine reported[2] that some insurers were increasing premiums by far more than was expected, after the average premium increases for 2023 had been announced. Choice reported that during the past three years, some insurers closed cheaper Gold-tier policies to new customers and released very similar Gold policies for new customers that were much more expensive. The report indicated some insurers may be introducing new policies as a way to circumvent the annual premium approval process applicable to existing policies.

In response to this article, my Office reviewed these allegations against data we hold. I note that insurers who may be engaging in this behaviour are not breaching health regulations: insurers do not require approval from the Minister to introduce new policies or to close off policies to new customers. It is a matter for government whether they amend the regulations to stop this practice.

[1] See Apply to increase private health insurance premiums | Australian Government Department of Health and Aged Care for further details on how the Minister approves premiums.
[2] Health insurers are increasing their top-level policy prices by over 30% | CHOICE (accessed 5/12/2024)

We analysed our complaint data about premiums and policy closures over the last three years, including for data subsequent to Choice's report. Similar to Choice Magazine, our data indicates that some insurers have been closing and then opening almost identical private health insurance policies - and we found that this behaviour has continued after Choice published its report. We found that several ‘new’ Gold policies had been introduced by insurers in the same year as very similar Gold policies were closed by that insurer to new customers. The effect of this practice is that if a new customer wants to buy a Gold policy from that insurer, or an existing customer wants to upgrade their policy to Gold level, they will pay a significantly higher premium compared with policy holders on the very similar old policy (which had a premium increase approved by the Minister).

We compared the average premium across all states/territories for closed Gold policies and new Gold policies. For example, at one insurer, in 2023 the average premium of the new policy was 21 per cent higher than the average premium of the closed policy. In 2024, the average premium of the new policy was 14 per cent higher than the average premium of the closed policy.

These practices may be circumventing premium approval processes, but they are also restricting consumer choice - because any new Gold policy a consumer may want to move to will have a much higher price than their existing Gold policy. Also, consumers who may otherwise be unhappy with their insurer may feel compelled to keep their existing policy because of the significant cost of change - even if the policy that they would like to move to is actually very similar.

As the Private Health Insurance Ombudsman, I have a role in raising concerns about the fairness of practices and procedures in the health insurance industry, even when no law has been breached. I have therefore raised my concerns with the Hon Mark Butler MP, Minister for Health and Aged Care, and his department.

I also encourage insurers and stakeholders to act on my concerns, as this practice does not appear to be in the long-term interests of consumers. I make this statement to provide assurance to the public that my Office is monitoring this issue.

Advice for consumers

My Office's website **privatehealth.gov.au** allows users to compare policies and premiums from every insurer in Australia.

The website also includes general advice about policies and health insurers, government rules, incentives and penalties such as the Medicare Levy Surcharge.

I encourage consumers who are comparing private health insurance policies to use the website as a starting point. I suggest consumers should compare quotes from a range of insurers before deciding which policy best suits their health needs.

Iain Anderson
Commonwealth Ombudsman