

Guidance note on obligations on health benefits undertakings in relation to net premiums

Purpose:

The purpose of this note is to explain the definition of net premium as set out in the Health Insurance Act and the impacts of community rating on that definition.

Health Insurance Act 1994

The Authority notes that section 2(1) of Health Insurance Act 1994, as amended (“the 1994 Act”) defines “*net premium*” in relation to a health insurance contract effected for a period commencing on or after 1 January 2013 as the premium payable under the contract in respect of any individual in any year of assessment after:

- (i) excluding the effect, if any, on the premium for that year of assessment, of section 470 of the Taxes Consolidation Act 1997 (being relief for insurance against expenses of illness), and
- (ii) taking into account the part (if any) of the premium which the individual is entitled not to have collected from the policy holder concerned, for that year of assessment, by virtue of section 11C(1) of the 1994 Act (being risk equalisation credits).

Therefore, in any year of assessment, the *net premium* is required to be paid after:

- a) excluding relief for insurance for expenses of illness,¹ and
- b) any part of the premium (if any), which the insurer is not required to collect from the policy holder, which are the risk equalisation credits.²

The Authority notes that the definition of “*net premium*” does not exclude the effect (if any) on the premium, for that year of assessment, of section 125A of the Stamp Duties Consolidation Act 1999 (“1999 Act”) (i.e. stamp duty).

The Authority further notes that section 7(1)(b) of the 1994 Act requires that, subject to section 7(5) and section 7A, the “*net premium*” payable for each insured person under a health insurance contract effected by a registered undertaking **must be the same** as that payable under every other such contract (after due allowance has been made in respect of the payment of any net premium by instalments) that-

- (i) is effected by that undertaking;
- (ii) is in respect of the same period as that to which the first-mentioned contract relates,
- (iii) relates to the same health services as those to which the first-mentioned contract relates, and
- (iv) provides for the same payments by the undertaking in respect of those services as those provided for by the first-mentioned contract.

In other words, section 7(1)(b) restricts insurers, who fall within the terms of our legislation, from providing non-community rated health insurance contracts.

¹ Section 470 of the Taxes Consolidation Act 1997.

² Section 11C(1) of the 1994 Act.

Policy Cancellations

The Authority notes that, in general, health insurance policies are 12-month contracts but consumers may cancel a policy before the end of their contract and in such circumstances an early termination charge may be imposed by the insurer. That consumer may then switch to another policy with the same insurer or change to a new insurer.

The effect of section 7(1)(b) of the 1994 Act is that where an insured changes to a new policy (either with the same or a new insurer), regardless of the renewal date of the first policy, the insurer must charge the same net premium to the insured in respect of that contract as it would charge to any other person purchasing that contract in respect of the same period irrespective of whether or not a stamp duty is payable to the Revenue Commissioners under Section 125A of the 1999 Act in respect of that insured person on the second contract.

It is important that both insured persons and insurers are aware of the Authority's interpretation of section 7(1)(b) of the 1994 Act in this regard and the purpose of this guidance is to set out the approach the Authority expects all registered undertakings to follow in the application of this legislation.

Application:

The Authority notes that contravention of section 7(1)(b) is prohibited by the 1994 Act.

The Authority has written to all registered undertakings informing them of the above.

12 October 2021

Legal Disclaimer

This document is issued by the Health Insurance Authority under section 21 of Health Insurance Act 1994 (as amended). It is published as guidance to assist with the interpretation of the law as it currently stands and to manage the interpretation of it in a transparent way. This document is not, nor is it intended to be, a definitive statement of the law. It does not constitute legal advice. Insurance undertakings and consumers are recommended to consult any governing documents or policies in place and/or to obtain their own independent legal advice where necessary. The Health Insurance Authority accepts no responsibility or liability for any errors, inaccuracies or omissions in this document.
