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The UMP Crisis and Beyond

By A/Prof Goh Lee Gan

It has been over a month since the UMP Board's decision to hand over the management of UMP to a government appointed Provisional Liquidator on 29 April 2000. Much has happened since then. This is a chronicle of the key events. (Note: The details are in the Council News on page 3.)

THE SMA COUNCIL'S RESPONSE

SMA Council rallied to the occasion and did its best to deal with the situation right from the time it got wind on 25 April of the UMP crisis.

The SMA President, Prof Low Cheng Hock, has since issued four Statements to update members on the progress of communication with the UMP Provisional Liquidator and initiatives to look for alternative cover and nose cover for UMP Members. This must be the largest number of SMA Statements to be issued on a single matter.

Based on information available and communication with UMP staff at that time, the SMA Council issued the first Statement on 3 May to inform Members of UMP's confirmation that "they will cover all reported claims and the liabilities therein of paid-up members for the duration of their subscriptions. On the matter of IBNR (the "tail"), a formal decision regarding the role of UMP awaits the announcement of the Provisional Liquidator ... claims made against existing UMP members ... will be processed as per normal practice."

SMA Council sought clarification and discussion with the UMP Provisional Liquidator and also sent its 2nd Vice President, Dr Wong Chiang Yin, to discuss

with the Provisional Liquidator about the return of annual subscriptions paid by Singapore UMP Members since October 1999 or the provision of an equivalent tail cover for these Members. The Provisional Liquidator's eventual reply was "I am advised that the monies in the UMP Sydney account, whilst held in Singapore dollars, are ones of United falling into the general funds of that company" and "In relation to your 'request for tail cover', I am unable to assist."

Meanwhile, the SMA had initiated discussion with MPS on the possibility of providing a "tail" cover.

In line with SMA's guiding principle of offering a choice to doctors in Singapore, SMA also discussed with NTUC Income the feasibility of a Singapore medical insurance scheme to cater for the local environment.

MPS AND NTUC INCOME RESPONDED POSITIVELY

Both MPS and NTUC Income responded positively in their consideration of the offer of a "tail" cover. This is now available from both.

Doctors thus have two schemes to choose from. Each scheme has its own conditions. The details of both schemes have been sent to UMP Members and are also available on the SMA website – see SMA President's letter of 3 June. Hence, they will not be repeated here.

MORE ABOUT THE "TAIL" OR "NOSE" COVER

The term "tail cover" is used in insurance circles. The newer and more exotic term of "nose cover" was coined by MPS. Essentially, both mean the same thing.

The purchase of this cover is to provide protection from claims that will be made in the future for incidents arising during their membership with UMP.

NTUC INCOME'S RESPONSE

Mr Tan Kin Lian, CEO of NTUC Income, was very supportive in considering the setting up of a medical insurance scheme for doctors. His actuarial team immediately got into action to put together a scheme. It was not easy.

The activities included studying the IBNR risks of doctors covered by UMP, discussions with re-insurers and knocking together a package for our doctors. NTUC Income found that no re-insurer was willing to provide cover for an "occurrence based" type of scheme. The only alternative was a "claims made" scheme.

The finalised package offered by NTUC Income is a "claims made" cover with a limit of \$5 million in any one year. This is good enough for the Singapore setting since claims beyond \$1 million have not yet been awarded, notwithstanding the recent \$2.5 million award which was overturned in the appeal.

The initial years of coverage as a whole is not likely to have many claims, so NTUC Income has started off with reduced first and second year premiums.

"OCCURRENCE BASED" AND "CLAIMS MADE" EXPLAINED

The important terms in policy coverage are "occurrence based" and "claims made". These were explained in the SMA Statement of 3 June and the MPS circular of 13 June.



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Occurrence based cover – “The benefits of MPS membership are provided on an occurrence basis. This means that as long as a member was paying the appropriate subscription at the time of the incident that gave rise to the claim then they will be able to seek assistance from MPS whenever the claim occurs even if they have left the Society, retired or died. It can often be many years before a patient brings a claim and MPS membership gives the security of knowing that you can seek assistance in the future.”

Claims made basis – In the “claims made” insurance scheme, such as the NTUC Income scheme, the insurer would be responsible for the settlement of all claims that are reported within the year of insurance. (Note: It is not the year of financial membership as in mutuals.) A “claims made” insurance scheme is an insurance contract which cannot be contested. It usually imposes a monetary limit and the limit is dependent on the premium paid.

Claims may be lodged in one of two forms:

- (1) incidents reported by the doctor (for any potential medico-legal situations) even before the patient has laid a claim, and
- (2) when the claim is actually made by the patient or his solicitors.

As an elaboration of (1), the incidents that the doctor will report fall into three categories: (a) medical errors e.g. failure to note that the patient has a known allergy to the prescribed medicine; (b) an adverse outcome which is not a medical error e.g. post-op infection; and (c) patients who have expressed dissatisfaction with the service provided and may have or may not have indicated they will take up the issue legally.

MINISTRY OF HEALTH'S SUPPORT

The Ministry of Health has been very supportive of the SMA Council's efforts to help to find solutions for the coverage of the UMP doctors in Singapore. Dr Andre Wan, Director of Professional Standards and Development, attended all the meetings related to the UMP issue.

WHY DID UMP COME TO A CRISIS?

The UMP crisis has been analysed by many Australian reporters. The following is summarised from a report in the Sydney Morning Herald published on 4 May. The crisis is due to several internal and external factors, more importantly the external factors.

Rising claims

Rising claims have occurred in New South Wales (NSW) over the years. To strengthen its finances, UMP imposed a one-off premium in 2000, seeking A\$75 million. This provoked a severe backlash of unhappiness from doctors. The cash-call was not enough as subsequent events showed.

“When United ruled off its books in mid-2001, it had A\$550 million of known claims, covered by funds of more than A\$650 million. But it expected a further A\$455 million in IBNR's – a gap of about A\$350 million.”

Stark payouts

Payouts for damages were higher in NSW than in other states of Australia. Indeed, the contrast with payouts in other states can be stark. “The high-water mark of claims was the Calandre Simpson case early in March last year, a cerebral palsy victim who was awarded A\$14.2 million in damages. It followed a surge in big payouts, blamed by many on the decision of NSW to allow lawyers to launch no-win, no-fee claims, as well as to advertise.”

“The Simpson case ... would have got A\$3.5 million in Queensland, based on precedent available up here,” said Peter Marer of Queensland Doctors Mutual.

The precipitating event

The precipitating event for UMP was the NSW's Health Care Liability Bill. “Escalating payouts forced medical indemnity premiums higher, primarily in specialist areas, prompting a backlash among rural doctors, especially obstetricians.”

“To head off this unfolding crisis, NSW moved to cap payouts, with the Health Care Liability Bill taking effect from the

middle of last year. If the Simpson case was before the courts now, contingency fee lawyers argue, damages would be limited to about A\$9 million.”

“That impending legislative change prompted a spike in claims which forced UMP to book another A\$30 million in claims... The huge spike in claims ahead of the new legislation, coupled with HIH's collapse, which cost United the A\$67 million it had paid HIH for reinsurance,” is credited with UMP's crisis.

UMP hands it over

UMP's “capital of A\$118 million in mid-2001 had dwindled to just A\$27 million by March. And UMP reckons it will be unable to meet tougher capital requirements that take effect from mid-year.” The UMP Board resigned en masse and handed over the company to the UMP Provisional Liquidator appointed by the Australian Court. Meanwhile, to ensure the continuation of services, the Australian Government is providing the “tail” cover of doctors for the time being.

TAKE HOME MESSAGES

- External forces can be decisive in the sustainability of a medical defence scheme.
- There is a need to ensure premiums are not outstripped by claims.
- It is in the national interest to ensure medical defence organisations do not fold up.
- Large awards by the court, which are beyond the ability of insurance companies to pay, will only create more harm than good. What can be done about this? See what is happening in America and Australia on page 6. ■

REFERENCES

1. *Fatal blow*. Sydney Morning Herald. <http://www.smh.com.au/text/articles/2002/05/03/1019441434022.htm>. 4 May 2002.
2. *SMA Statement. Update on communication with UMP Provisional Liquidator & offer of “nose” cover by Medical Protection Society*. 3 June 2002 – available on the SMA website.
3. *SMA Statement. Medical indemnity insurance*. 24 May 2002 – available on the SMA website.
4. *SMA Statement. Update on the appointment of a Provisional Liquidator to UMP*. 21 May 2002 – available on the SMA website.
5. *SMA Statement. Appointment of a Provisional Liquidator to UMP*. 3 May 2002 – available on the SMA website.

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