

Health Insurance Authority welcomes Court judgment against Chubb European Group SE

- Court finds HIA as regulator is entitled to reach an opinion on non-EEA students and to act on this opinion
- Landmark decision regarding non-EEA students and residency
- Non-European Economic Area students undertaking a course of more than one year's duration, recognised as ordinarily resident in the state for health insurance

Friday, 24 April 2020: The Health Insurance Authority (the “**Authority**”) is the independent statutory regulator of the private health insurance market in Ireland. The Authority welcomes the judgment of the Court of Appeal, delivered on 8 April 2020 in the above proceedings. The judgment confirms that:

1. The Authority is entitled, as regulator, to reach an opinion as to what the term ‘*ordinarily resident*’ in s.2(1)(d)(i) of the Health Insurance Act 1994 (as amended) means, so as to come to a view as to whether certain contracts are or are not within the definition of ‘*health insurance contract*’. When the Authority forms an opinion based on its interpretation of the legislation, it is entitled to act on it.
2. There is no objection in principle to a determination by the Authority that a group of persons sharing as a single common factor that they are in the State for a course of academic education of some duration, are for that reason alone ordinarily resident in the State.
3. Non-European Economic Area students undertaking an academic course of more than one year's duration are ordinarily resident in the State

.CEO of the Authority, Don Gallagher commented:

“As the statutory regulator of the private health insurance market, the Authority is pleased that the Court of Appeal decided that Non-European Economic Area students undertaking an academic course of more than one year's duration are ordinarily resident in the State and that the Authority was permitted to interpret the meaning of “ordinarily resident in the State” as such. This ruling confirms the position taken by the Authority.

The Authority is considering the implications of the judgment before deciding on any further steps it may take.”

Summary of proceedings

Chubb European Group SE (“**Chubb**”) sells a health insurance policy called the ‘MediCover Student Personal Medical Expenses Insurance Policy’. The policy is made available to non-EEA students attending a course of education in Ireland. The Authority formed the view, that where a student is undertaking such an educational course of more than one academic year's duration, they are ‘ordinarily resident’ in the State.

The Authority was of the opinion that because Chubb is providing health insurance to such persons, it is carrying on a health insurance business and is subject to certain obligations and restrictions imposed by the Act. The Authority engaged with Chubb and requested that it either become a registered undertaking or restrict the Medi Cover Policy to non-EEA students who attend

a course of one academic year's duration or less. Chubb failed to do so and indicated that it did not accept the Authority's interpretation of 'ordinarily resident in the State'. The Authority, therefore, issued an enforcement notice against Chubb.

Chubb challenged this enforcement notice, by way of both a statutory application for cancellation of the directions contained in it and an application for judicial review.

The Court of Appeal held that all of the grounds raised in the judicial review proceedings could have been addressed within the statutory application and dismissed the judicial review proceedings in full.

The statutory appeal was allowed, but only to the extent that the notice did not specify a contravention of the Act.

The Court of Appeal agreed that with the Authority's interpretation of the meaning of "ordinarily resident" as including non-EEA students, attending a course of study of education of more than one academic year's duration.

ENDS//

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NOTES TO EDITOR

About the Health Insurance Authority (HIA)

The role of the HIA is to regulate the Irish health insurance market with reference to the Health Insurance Acts including to ensure consumers are aware of their rights and health insurers know their responsibilities. The HIA facilitates a functioning community rated health insurance market in Ireland for the benefit of consumers, providers and policy makers that underpins an accessible health service.

For more information about the Health Insurance Authority and their services, please visit: <https://www.hia.ie/>.