



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



Legal Opinion (L.O.) No.	2023-18
Date:	08 September 2023

HON. MILAGROS AQUINO-MAGSAYSAY

Representative
United Senior Citizens Partylist
HOUSE OF REPRESENTATIVES
Batasan Complex, Batasan Hills,
Quezon City 1126

SUBJECT: **Health Maintenance Organization (HMO) Coverage of
Filipino Elderly**

Dear Rep. Aquino-Magsaysay:

This refers to your letter dated 03 July 2022 requesting a legal opinion on the issue of health insurance coverage for the Filipino elderly, particularly those seventy (70) years old and above.

In your letter, you stated that senior citizens who are seventy (70) years and above have limited access to healthcare coverage, i.e. either they are compelled to pay a higher premium or are disqualified from healthcare coverage, while those who are below seventy (70) years of age are covered by some HMOs. Consequently, you would like to be clarified if this is what the law or the Insurance Code provides since this appears to be discriminatory against Filipino senior citizens.

In *Philippine American Life Gen. Insurance Co. v. Gramaje*, discrimination has been defined as the failure to treat all persons equally when no reasonable distinction can be found between those favored and those not favored.¹ However, insurance differentiation based on age is not necessarily discriminatory.

Underwriting plays a significant role in determining how much a person should pay to be covered and his coverage eligibility. It involves assessing the risk profile of

¹ *Philippine American Life Gen. Insurance Co. v. Gramaje*, G.R. No. 156963, 11 November 2004, 442 SCRA 274, 284-285

individuals to determine the appropriate premium and coverage terms. For health insurance, including HMOs, underwriters consider various factors that influence a person's potential healthcare costs.

Age is often a key factor because it correlates with changes in health risks and healthcare needs.² As people age, they are more likely to experience health issues and require medical services. This consideration can lead to higher premiums for older individuals to reflect the higher expected costs associated with their age-related health conditions.

Actuarial data also plays a part in the assessment of risk, projection of costs, and calculation of premiums of HMOs. In the approval of HMO products, this Commission requires the submission of actuarial notes, actuarial formulations, and other documents that are required to be signed by an actuary accredited by this Commission. Circular Letter No. 2017-19 dated 31 March 2017 or the "Guidelines on the Approval of HMO Products and Forms" provides:

"Section 5. DOCUMENTARY REQUIREMENTS FOR PRODUCT APPROVAL

A covering letter duly signed by the President of the HMO or by any authorized senior officer, addressed to the Insurance Commissioner, shall be filed with the following documentary:

X X X

d) Actuarial Notes

i. Product description

ii. Actuarial Assumptions

2.1. Morbidity/Incidence Rates (Per Benefit)

2.2 Expenses

2.2.1 Commission

2.2.1 Administrative Expense Allowance

iii. Actuarial Formulations

3.1 Net and Gross Premiums Formulations

3.2 Reserves

3.2.1 Membership Fee Liability

3.2.2 Claims Liability (Outstanding claims and Incurred But Not Reported Claims)

3.2.3 Liabilities for Administrative Services Only

iv. Table of Gross Membership Fees

v. Experience Refund Formulation, if applicable

x x x" (Emphasis supplied)

² Why the use of age and disability matters to consumers and insurers. (n.d.).

<https://www.insuranceurope.eu/publications/522/why-the-use-of-age-and-disability-matters-to-consumers-and-insurers/>

The submission of these actuarial formulations and studies is to ensure the adequacy and fairness of membership fees to be collected by HMOs. This data-driven approach helps HMO companies maintain financial stability and offer equitable pricing while ensuring the viability of their products.

While the practice of charging higher premiums or limiting coverage for senior citizens may seem unfair on the surface, it is important to consider the actuarial and underwriting principles that underpin such decisions. Hence, as long as these decisions are based on legitimate risk assessment, there can be no arbitrary discrimination against senior citizens in availing of HMO products

Please note that the opinion rendered by this Commission is based solely on the particular facts disclosed in the query and relevant solely to the particular issues raised therein and shall not be used, in any manner, in the nature of a standing rule binding upon the Commission in other cases whether for similar or dissimilar circumstances.

For your information and guidance.

Very truly yours,


REYNALDO A. REGALADO
Insurance Commissioner

