

Staring down the barrel

Jonathan Goodliffe recommends insuring lawyers against alcohol problems

Alcohol misuse causes problems in the working environment, including within the legal profession. Private medical insurance (PMI) has a major role to play in addressing those problems, provided that policy conditions are in appropriate terms.

PMI within a "group policy" is often part of the remuneration package in larger law firms. It is also an investment by the firm in the health of its workforce. The most expensive of these policies cover alcohol misuse. The additional expense may have a significant payoff. Waiting times for treatment on the NHS for common conditions such as cancer, hypertension and heart disease have reduced over the last few years. Insurance for these conditions is mostly a convenience or luxury rather than a necessity. By contrast, although alcohol is also a major health issue, arranging appropriate treatment on the NHS is often much more difficult (often more so than for illegal drugs). Yet within the working environment such treatment is often needed, in the interests of the organisation as well as the individual, at short notice.

Coverage issues

Of the leading insurers BUPA and Cigna offer at least some cover for treatment for substance abuse as part of their cover for psychiatric treatment. Axa excludes alcohol treatment in policies purchased by individuals, although it may be included in group policies. Most, if not all, other insurers operating in the UK exclude treatment for substance abuse under all options.

It is often a difficult exercise to find out what is and is not covered. Coverage of alcohol treatment is not usually a selling point. This may be because there is limited demand for this form of cover. Many people do not realise how important it can be.

Where, for example, an employee takes extended leave to deal with a health problem he will avoid, if possible, revealing that it arises from alcohol misuse. Within the legal profession alcoholism is usually a taboo subject. So the link between an employee

or partner's drinking and his behavioural or performance problems will often not be made until a late stage. When it is made, it will be easier to confront him and insist that he gets help if the cost is already provided for.

Yet the Financial Services Authority (FSA) advised in 2005 that exclusions for alcohol treatment in PMI policies need not be included in the summary or key facts relating to the cover. At least one insurer has followed this advice on its web site. Its site includes an incomplete list of medical exclusions and refers people to the full policy conditions (which are not online) for other exclusions.

Co-morbidity

Alcohol dependence often does not arise in isolation. People may have other physical health and/or psychiatric problems as well. American psychiatrist George Valliant has argued that "the patient who tells us that he drinks because he is depressed and anxious may in fact be depressed or anxious because he drinks."

If the co-morbid patient has a PMI policy which excludes alcohol treatment, does he get reimbursed for the condition which is covered and not for the alcoholism, or does it depend on which is the primary condition? I put this issue to Doctor Brian Hore, consultant psychiatrist at Altrincham Priory Hospital. I asked him whether alcohol exclusions in PMI policies cause problems. He replied: "The number of patients with both alcohol or other addictive problems with psychiatric illness seems to be increasing, although I think it has also become a fashion. It is not possible to treat depression if the person is drinking, so it is essential that the individual stops drinking, otherwise the anti-depressant medication does not work. If the individual can be detoxed and then admitted to hospital, then obviously we can treat the depression in the hospital. If the patient is an outpatient then this is difficult as the individual continues to drink. An exclusion for alcohol in a PMI policy certainly does cause problems. Even if the insurance company would not be prepared to pay for a 28-day Twelve Step addiction programme or suchlike, they ought to be willing to pay

for withdrawal from alcohol. Otherwise the other psychiatric condition which they cover, for example anxiety, depression, cannot be treated."

Validity of alcohol exclusions

Notwithstanding the FSA advice mentioned above an insurer might have difficulty relying on an alcohol exclusion if it or its intermediary supplied a PMI policy summary or key facts which did not mention it. A co-morbid insured might also rely on reg 7(2) of the Unfair Terms in Consumer Contracts Regulations 1999: "if there is doubt about the meaning of a written term, the interpretation which is most favourable to the consumer shall prevail." Such an argument might, however, be more difficult to sustain where the treatment relates to the use of illegal substances. An insured claiming reimbursement for alcohol treatment might go further and argue that the exclusion was in any event unfair within the meaning of the regulations. The insurer would doubtless respond that a group policy is not a consumer contract. The European Court might ultimately rule on this point.

The future of PMI

Before that happens, the professions and the insurance industry may perhaps be able to develop group PMI policies which are more consistent with medical practice and public policy objectives. Disclosure standards should ensure that alcohol exclusions (if they must be used) are only applied when their implications are fully explained. This may have the incidental effect of persuading some lawyers to go for the more expensive option.

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