

11 May 2021

Company Announcements Office
ASX Limited
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ACCC discontinues proceedings against nib health funds limited

nib Group (ASX: NHF) attaches a copy of the media release published today by the Australian Competition and Consumer Commission (ACCC) regarding the discontinuation of Federal Court proceedings commenced against nib health funds limited in May 2017.

The legal proceedings were in relation to nib's level of communications to members regarding changes nib made to its MediGap Scheme in August 2015. nib is committed to acting in the best interests of its members and has denied the ACCC's allegations.

Yours sincerely,



Roslyn Toms
Company Secretary

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This announcement has been authorised for release by Roslyn Toms, Company Secretary.



MEDIA RELEASE

11 May 2021

NIB to continue to notify consumers of health insurance changes which increase out-of-pocket expenses

The ACCC and NIB Health Funds Limited (NIB) have agreed to the ACCC's Federal Court proceedings against NIB being discontinued after NIB committed to continue to provide advance notice to its members of policy changes which are likely to result in higher out-of-pocket expenses for consumers.

In these proceedings, the ACCC had alleged NIB engaged in misleading or deceptive conduct, unconscionable conduct and made false or misleading representations by failing to inform policy holders of its decision to remove coverage for certain eye procedures from its 'MediGap Scheme' in 2015. It was alleged that, as a result, NIB members who had undergone certain eye procedures were likely to incur increased out-of-pocket expenses. NIB had not given its members advance notice of the changes.

NIB has since addressed the ACCC's concerns and, for the past four years, has been notifying members of changes that negatively affect their benefits ahead of the changes taking affect.

NIB also provided compensation to a number of consumers affected by the conduct who had to pay out-of-pocket expenses when receiving eye treatments they had previously undergone with no gap fees.

The ACCC filed its case against [NIB](#) in May 2017 but the trial was deferred until mid-2021, initially because the Full Federal Court was considering an appeal in respect of the ACCC's case against Medibank which dealt with related but distinct issues, and subsequently because of pandemic-related delays.

"Given the passage of time since this case was commenced, NIB's changed notification practice during that time and the improvements made across the industry as a result of the ACCC's interventions in the sector, we believe it is no longer in the public interest to continue proceedings against NIB," ACCC Chair Rod Sims said.

"We are pleased the industry has significantly changed practices since 2015 to ensure greater transparency for consumers, including NIB's change of its approach and commitment to continue informing customers about changes that may affect their out-of-pocket expenses for ongoing treatment ahead of the changes occurring."

In 2015-18, consumer issues in the health sector including the private health insurance industry were an enforcement priority for the ACCC, resulting in enforcement action taken against several private health insurers in 2016 and 2017.

The ACCC's actions involving [Australian Unity](#), [NIB](#) and [Medibank Private](#) sought to ensure Australian consumers are treated fairly and are adequately informed about policy changes affecting their private health insurance coverage.

"We are pleased that our enforcement actions in this sector have led to substantial changes in the health insurance industry with improved transparency for consumers," Mr Sims said.

Background:

NIB has operated its 'MediGap Scheme' since at least 2000. Under the scheme, participating doctors received an additional payment, above the Medicare schedule fee, from NIB while policy holders were guaranteed not to incur any out-of-pocket expenses for services provided under the scheme.

[In May 2017](#), the ACCC instituted Federal Court proceedings against NIB, alleging it contravened the ACL when it failed to notify members in advance of its decision to remove certain eye procedures from its 'MediGap Scheme'.

The trial in the NIB case had been set down for June 2018, but was vacated while the Court considered the ACCC's appeal in the Medibank matter to the Full Federal Court. It was delayed again in December 2020 due to restrictions arising from the COVID-19 pandemic and was set down for hearing in June 2021.

The ACCC's proceedings against Medibank started [in June 2016](#) and were dismissed [in August 2017](#). The Full Federal Court dismissed the ACCC's appeal [in December 2018](#).

[On 2 November 2017](#), the ACCC accepted a court-enforceable undertaking from Australian Unity to pay compensation to members who held couple and family policies in 2015 that were likely to have been misled about the dental benefits they could claim from their policy.

[On 16 July 2020](#), in another ACCC enforcement proceeding, the Federal Court ordered Medibank Private Limited trading as 'ahm Health Insurance' to pay \$5 million in penalties for making false representations to members about the benefits offered by their ahm health insurance policies.

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