# CANADIAN LIFE AND HEALTH INSURANCE OMBUDSERVICE

# 2005-2006 ANNUAL REPORT

## *The Canadian Life and Health Insurance OmbudService (CLHIO)*

The Canadian Life and Health Insurance OmbudService (CLHIO) is an independent organization that investigates consumer complaints about life and health insurance products and services. The CLHIO provides a forum for the impartial, prompt resolution of complaints for consumers who have completed the internal complaints-handling processes of their insurance companies.

The CLHIO is committed to providing service that is:

- Knowledgeable, fair and impartial
- Confidential
- Independent and objective
- Accessible
- Timely
- Courteous
- Clear
- Accurate
- Consistent

The CLHIO is governed by a Board of Directors, the majority of whom are independent of the life and health insurance industry. It is part of the Financial Services OmbudsNetwork (FSON), an industry-based integrated consumer assistance system launched in November 2002 to provide Canada's financial services consumers with single-window access to recourse when they have concerns or complaints. The FSON is an independent organization endorsed by financial services regulators and sponsored by the financial services industry. It is made up of three parts:

- company complaints-handling services;

- industry ombudsman services, such as the Canadian Life and Health Insurance OmbudService; and

- the Centre for the FSON (CFSON) that refers consumers to the right place to get help with their complaints, based on what their problems are, and also sets standards for the way complaints are handled by the financial services industry.

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# *MESSAGE FROM THE CHAIRMAN*

I would like to say how very honoured I am to be elected as the new Chair of the Canadian Life and Health Insurance OmbudService. This is an organization that does important work on behalf of consumers with a concern or complaint about life and health insurance products or services, and I am very pleased to have this opportunity to contribute to such a fine organization.

I am deeply grateful to the Hon. Gilles Loiselle who was the founding Chair of the CLHIO, and someone who has made an enormous contribution to the CLHIO Board and to the organization. Gilles worked tirelessly to ensure that the CLHIO delivers on its promise to render an effective impartial dispute-resolution service to its stakeholders. He was an inspirational leader, and I know I speak on behalf of the Board when I say how fortunate we are to have been the recipients of his wise counsel and guidance. I would also like to thank another outgoing Director, the estimable Raymond Garneau, former President and CEO and later Chairman of Industrial Alliance for his support and wisdom.

The past three and a half years has been a time of significant growth and development in the organization's history, in keeping with the CLHIO Board's vision of a high quality independent system by which Canadian life and health insurance consumers can seek redress. In a relatively short period of time, the CLHIO has established itself to be a credible independent third-party dispute resolution organization distinguished by fairness. It continues to play an important role in the ongoing development and evolution of the Financial Services OmbudsNetwork, of which it is a part.

In January 2006, the CLHIO co-located with the Centre for the Financial Services OmbudsNetwork (CFSON) and OBSI (Ombudsman for Banking Services and Investments), a move that brings us one step closer to fulfilling the vision held by the various industry associations for a single integrated OmbudService network for all financial services consumers. In the near-term, co-location provides for improved communications and harmonization, and over the long-term, will provide greater efficiencies and cost-effectiveness with further opportunities for consolidation.

Looking ahead, I am filled with enthusiasm and optimism, and committed to fulfilling my responsibilities during my term of office in keeping with the fine traditions established by my predecessor. We have set ourselves some very ambitious goals over the course of the next year to further strengthen and enhance the services we offer. I am confident, however, that we are well prepared to meet any challenges that lie ahead.

I am very grateful to the Board of Directors, each and every one, for their unfailing vigilance, guidance and support of the CLHIO, and I would like to take this opportunity to thank Barbara Waters, General Manager, and the CLHIO staff for their professionalism, compassion and dedication to the principles of fairness.

Bernard Bonin

## *MESSAGE FROM THE GENERAL MANAGER*

It is my pleasure to present the fourth Annual Report of the Canadian Life and Health Insurance OmbudService for the year ending March 31, 2006.

When it was established in November 2002, the CLHIO was provided with an opportunity to build a first-class independent dispute-resolution service for consumers who have a concern or complaint about life and health insurance products or services. I believe that we have been true to this objective and along the way, have ended up providing tangible value-added to consumers.

While the primary activity of the CLHIO centres on dispute resolution, the CLHIO also acts as a source of information to consumers. Very often, our Counsellors are able to clarify and explain things in a way that consumers can understand and accept. In fact, consumers who call the CLHIO are immediately put in touch with a CLHIO Counsellor to discuss their complaint or to obtain advice before being referred to an OmbudService Officer. Often, this approach leads to a resolution of the consumer's concern or complaint on a timely basis without the need for a formal investigation.

The CLHIO approach is predominantly communicative in nature with emphasis on active listening, creative problem solving and developing options for resolution through investigation, shuttle diplomacy and fact finding. This capacity will be significantly strengthened as a result of the transfer on April 1, 2006 of the remaining information and assistance functions of the industry's Consumer Assistance Centre (CAC) to the CLHIO, which will be reflected in next year's Report.

Regardless of whether a consumer is contacting the CLHIO with an enquiry, a concern or a complaint, every one is provided with a fair, impartial response.

The CLHIO is committed to maintaining the utmost integrity and fairness in dealing with its stakeholders, whether consumer, company or regulator. Indeed, this is the very cornerstone of our organization. All of our business practices are guided by the principles of fairness, impartiality and confidentiality. Operational policies and guidelines have been developed to ensure that our policies and practices are consistent with these stated values and the Standards adopted by the Financial Services OmbudsNetwork of which we are a part.

I would like to take this opportunity to express my gratitude to former Board Chair, the Hon. Gilles Loiselle, who laid the foundation for our success, our new Chairman, Bernard Bonin, our Board members for their unfailing commitment and support, and to our dedicated staff who have worked tirelessly to support the values of our organization.

Barbara Waters

# *MEMBERS OF THE 2005-2006 BOARD OF DIRECTORS*

## Chairman

**Bernard Bonin (Chair)**

*Former Senior Deputy Governor of the Bank of Canada*

## Independent Directors

**Lea Algar**

*Former Ontario Insurance Ombudsman*

**Dr. Janice MacKinnon**

*Former Minister of Finance for Saskatchewan*

**Yves Rabeau**

*Professor of Economics, Université du Québec à Montréal (UQAM)*

**Reginald Richard**

*Former Superintendent of Insurance for New Brunswick*

## Industry Directors

**Claude Garcia**

*Former President, Standard Life Assurance Company*

**Christopher McElvaine**

*Former President, The Empire Life Insurance Company*

## ABOUT THE CLHIO COMPLAINTS-HANDLING PROCESS

The CLHIO helps consumers with concerns and complaints about life and health insurance products and services that they are not able to resolve by dealing directly with their insurance companies.

When a consumer contacts the CLHIO, they will immediately be put in touch with an experienced Counsellor who can help them decide how best to deal with their complaint and if required, will put them in touch with their insurance company Consumer Complaints Officer. Many complaints are quickly resolved in this way without the need of a formal complaint investigation. If the Counsellor is unable to resolve the problem, or feels that the matter requires an investigation, the consumer will be referred to an OmbudService Officer specializing in informal conciliation.

After the OmbudService receives a signed authorization from a consumer, the OmbudService Officer speaks with the consumer and the insurance company and, if necessary, with other parties. The OmbudService Officer tries to solve the problem by finding some common ground between the consumer and the insurance company. Quite often, concerns and complaints are resolved to everyone's satisfaction through this process. If this does not occur, the CLHIO may make a written non-binding recommendation to the consumer and the insurance company.

Consumers can contact the CLHIO directly by phone, fax or e-mail. Service is available in English and in French. Consumers can also visit the CLHIO website (www.clhio.ca), which provides general information about the CLHIO, tips for using the complaint process, and contact information in both English and in French. Consumers are directed to their insurance company as the first recourse for dispute resolution, and the site has been designed to link consumers directly to their companies.

Consumers who are concerned that using the CLHIO could affect their legal rights in the future should get advice from their own lawyers before authorizing the CLHIO to contact their insurance companies. Consumers who believe they may have grounds for legal action against their insurance companies have a limited period of time in which to file claims. They may wish to get advice about the limitation period that applies to them before they contact the CLHIO.

## *ABOUT THE CLHIO COMPLAINTS-HANDLING PROCESS*

The CLHIO assists consumers in resolving concerns and complaints about life and health insurance products and services. These products include life insurance, retirement products such as annuities and RRSPs, disability insurance and supplementary health insurance plans.

Assistance is tailored to meet the specific needs of the individual who has contacted the CLHIO. The CLHIO will never refuse to talk to a consumer and always tries to assist. Depending on the situation at hand, the CLHIO's assistance to a consumer can include one or more of the following services:

- Providing clarification and information to consumers who have general concerns arising from the marketing and administration of life and health insurance products and industry practices.

- Assisting consumers who have not yet contacted the company with their complaint by advising them on how to get in touch with the right department or person in order to have their complaint addressed.

- Assisting consumers who have already pursued all avenues of recourse within their company but remain dissatisfied. For these consumers, the CLHIO provides proactive, informal conciliation between the consumer and the company with a view to arriving at a mutually agreeable outcome.

## *QUICK FACTS*

- The CLHIO is an independent corporation governed by a Board of Directors. The majority of these Directors are not associated in any way with the life and health insurance industry.
- The CLHIO complaint-resolution service is provided free of charge.
- The CLHIO is committed to protecting consumers' privacy. Its standards require it to maintain the confidentiality of personal information provided to the CLHIO.
- The time it takes to handle a complaint depends on how complicated it is. The CLHIO's standards require it to respond to complainants promptly and inform them of any delays.
- The CLHIO endeavours to resolve disputes through informal conciliation. When this does not prove possible, the CLHIO can make non-binding recommendations, including restitution.
- Consumers who do not agree with a recommendation may then pursue arbitration or legal action on their own. If an insurance company does not follow a CLHIO recommendation, this fact will be made public.
- The CLHIO will never refuse to discuss a consumer's problem. However, its mandate does not permit it to deal with complaints that are already before the courts, have been taken to binding arbitration, or involve breaches of law.
- The CLHIO's OmbudService Officers have extensive knowledge of the life and health insurance industry and its products and services, as well as special training for investigating and resolving consumer complaints. Typically, they are retired life and health insurance company executives with experience in areas such as underwriting, marketing, and claims. OmbudService Officers do not work on complaints that involve an insurance company that has employed them in the past.

# TESTIMONIALS

*"Sometimes it's easy to forget how many kind and thoughtful people there are in this world…thank you so much for working on my behalf."*

Mrs. G. – British Columbia

*« Dans l'espoir que d'autres consommateurs puissent bénéficier de vos bons services, je vous remercie. »*

M. C. – Québec

*"I want to take this opportunity to thank you and your organization for all the work you have done on our behalf. Though this has been a very difficult and painful process, we are satisfied with the final resolution."*

Mr. M. – Michigan, U.S.A.

*« Je vous remercie de l'attention que vous avez accordé à ma requête pour m'aider à solutionner le litige. Votre intervention fut sans aucun doute utile pour solutionner ce conflit. »*

M. B. – Québec

*"Thank you for the time and effort you put into this process. Your thoroughness was always evident in the questions you raised and the comments you made. The end result is the product of your efforts and means so much to Mrs. M. It will give her some breathing room at a very difficult time."*

G.A. – Nova Scotia

*« N'eût été votre aide, j'aurais probablement eu besoin de faire appel aux tribunaux pour faire reconnaître mes droits. J'ai passé une longue période d'insécurité très difficile mais votre compréhension des faits et les actions que vous avez posées m'ont grandement aidé à traverser cette épreuve. »*

M. O. – Québec

*« Vous avez su faire reconnaître nos droits et nous vous en sommes très reconnaissants, moi et mon fils. Vous avez su démontrer beaucoup d'acharnement et d'humanité envers notre cause. Vous avez aussi par votre professionnalisme su régler le dossier dans un cours laps de temps. Je remercie Dieu de vous avoir mis sur mon chemin... continuez votre bon travail, c'est bon de savoir qu'il existe encore des personnes compétentes prêtes à se battre pour faire respecter la justice. »*

Mme et M. P. - Québec

# STATISTICAL REVIEW

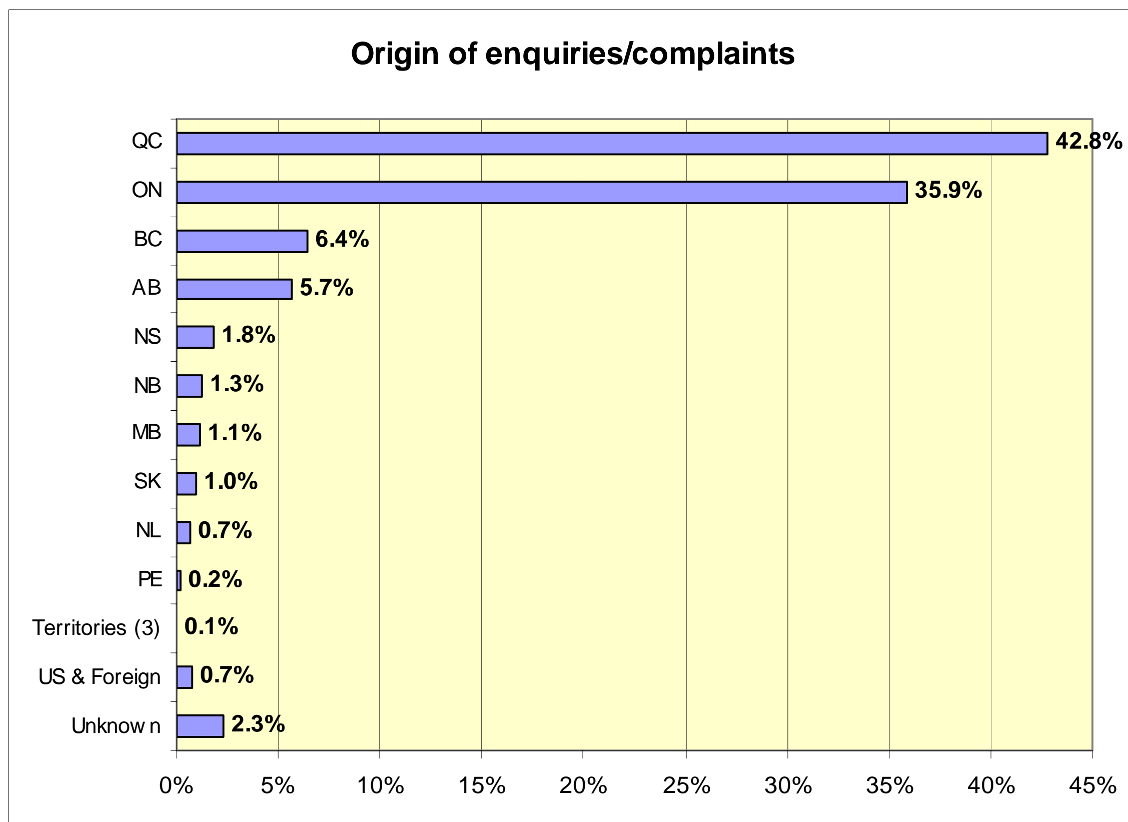
## *Volume of enquiries/complaints*

The CLHIO has been monitoring all forms of contact since the service commenced on November 29, 2002.

Between that date and the end of the fourth fiscal year on March 31, 2006, the CLHIO received 6,074 requests for assistance.

## *Where did they call from?*

As the following chart demonstrates, nearly 79 per cent of all requests for assistance originated in central Canada, that is, Quebec and Ontario. Overall, the geographical distribution of calls is commensurate with the distribution of premium income across Canada with the exception of Quebec where historically the percentage of calls is far greater than that province's share of premium income. According to industry research, in 2004, Ontario accounted for 46.4 per cent of premium income; Quebec, 22.2 per cent; the prairie provinces 15.7 per cent; British Columbia 10.1 per cent; and Atlantic Canada 5.6 per cent.



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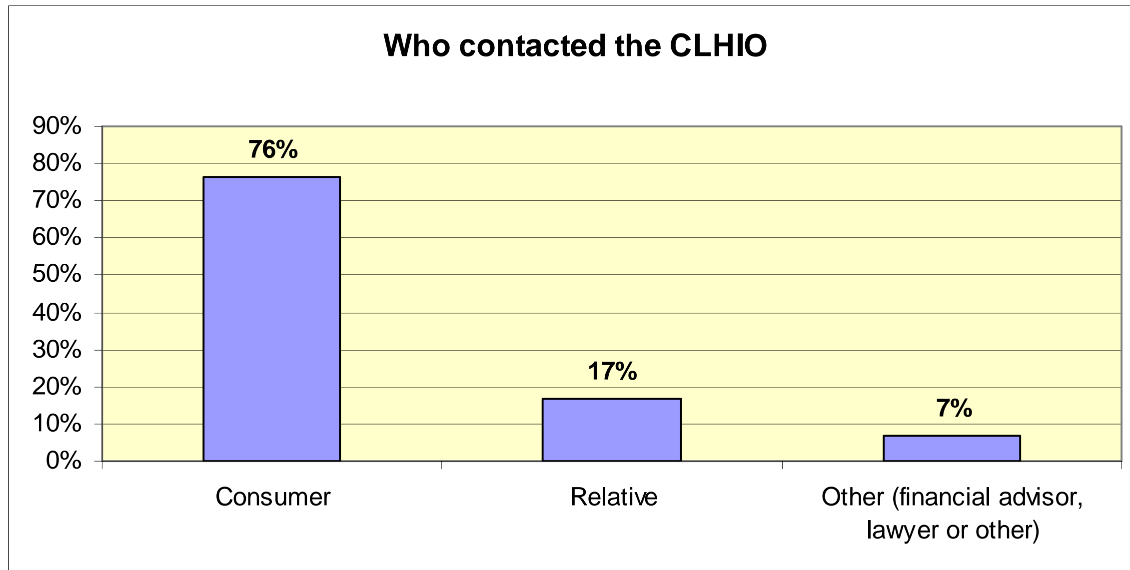
# STATISTICAL REVIEW

## *Who contacted the CLHIO?*

Most requests for assistance, fully 76 per cent, were from consumers and 17 per cent were from a relative or friend enquiring on behalf of a consumer. Professionals such as financial advisors, constituency offices, lawyers and union representatives calling on behalf of their consumer clients or constituents accounted for 7 per cent.



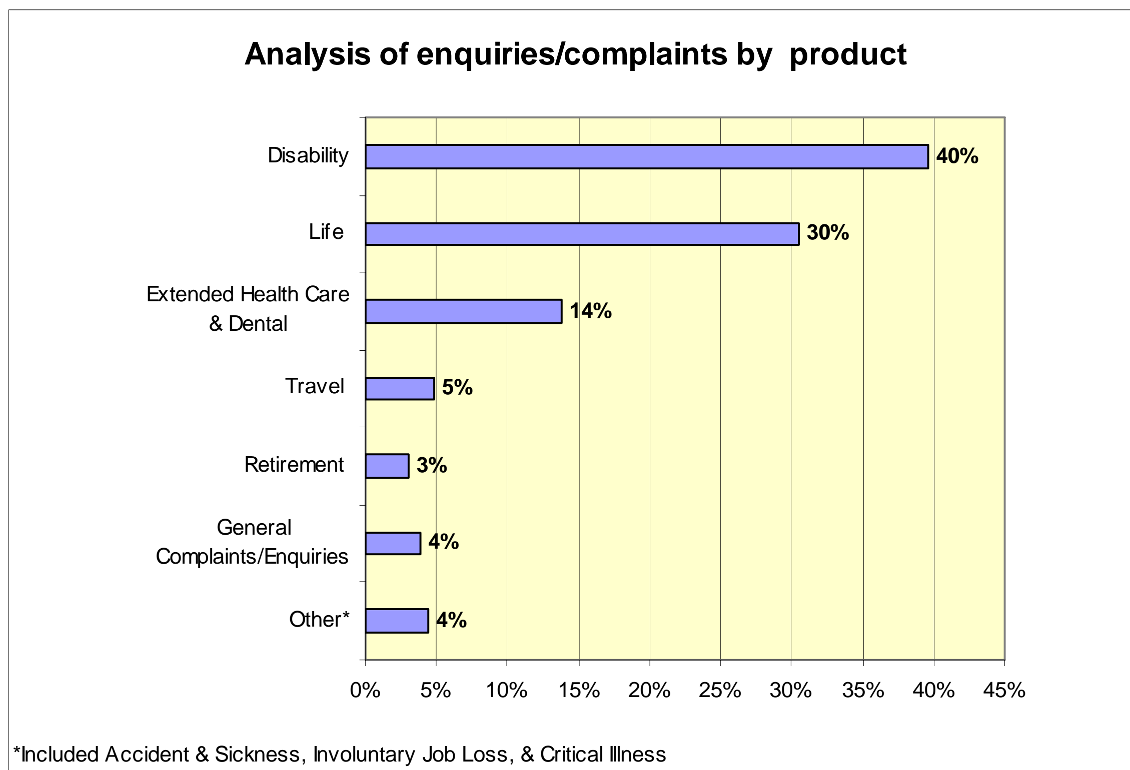

## *How did they first contact the CLHIO?*

The predominant method of contact is by telephone and calls accounted for 87 per cent of all contacts with CLHIO followed by electronic mail at 6 per cent; traditional mail at 5 per cent; and faxes at 2 per cent. In addition, 16 consumers visited the CLHIO offices to discuss their concerns in person with a Counsellor.

### *Why did they contact the CLHIO?*

As the following chart shows, 40 per cent of all enquiries and complaints concerned disability insurance with claims-related issues involving the denial or discontinuation of benefits dominating this category.

Life insurance made up 30 per cent and tended to be evenly distributed across all aspects of the business, that is, claims, marketing & sales, service, product and underwriting.




Most enquiries and complaints about extended health care and dental coverage (14 per cent), travel insurance (5 per cent), and “other” products (4 per cent), which include accident and sickness insurance, critical illness and involuntary job loss involved claims-related issues.

Retirement products such as annuities and segregated funds, at 3 per cent, involved service-related issues and marketing and sales-related concerns.

General enquiries and complaints which did not involve an identifiable product or company or required referral to another industry-level OmbudService made up the balance of 4 per cent.

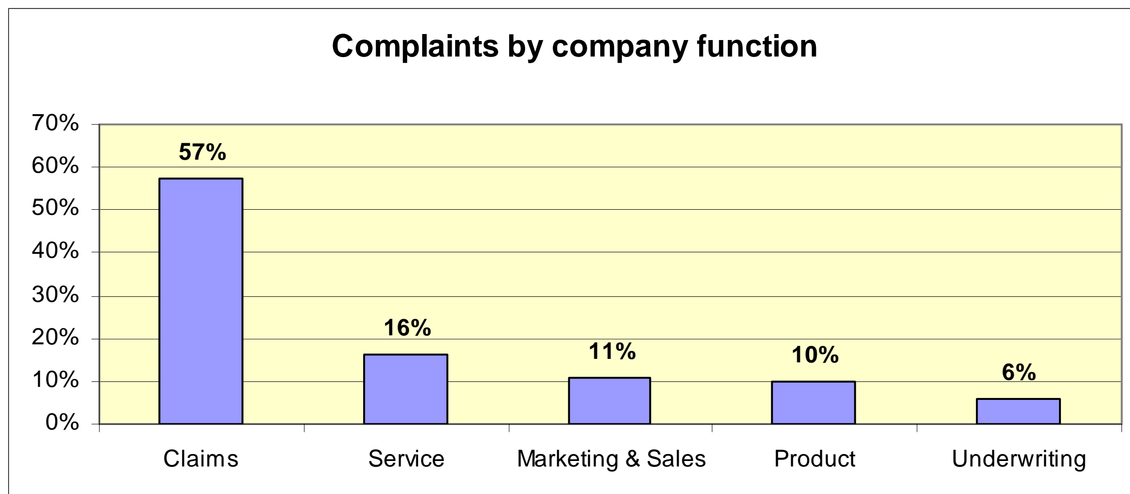
## Counsellor Activity

### *General Statistics*

On April 1, 2004, the complaint-handling functions of the life and health insurance industry's Consumer Assistance Centre (CAC) were amalgamated with the complaint-resolution services offered by the Canadian Life and Health Insurance OmbudService. Between April 1, 2004 and March 31, 2006, CLHIO Counsellors responded to a total of 5,478 enquiries and requests for assistance. Of these, 4,007 were concerns and complaints and 1,471 were enquiries. The following is an analysis of complaints handled by Counsellors broken down by company function, line of coverage and by insurance category.

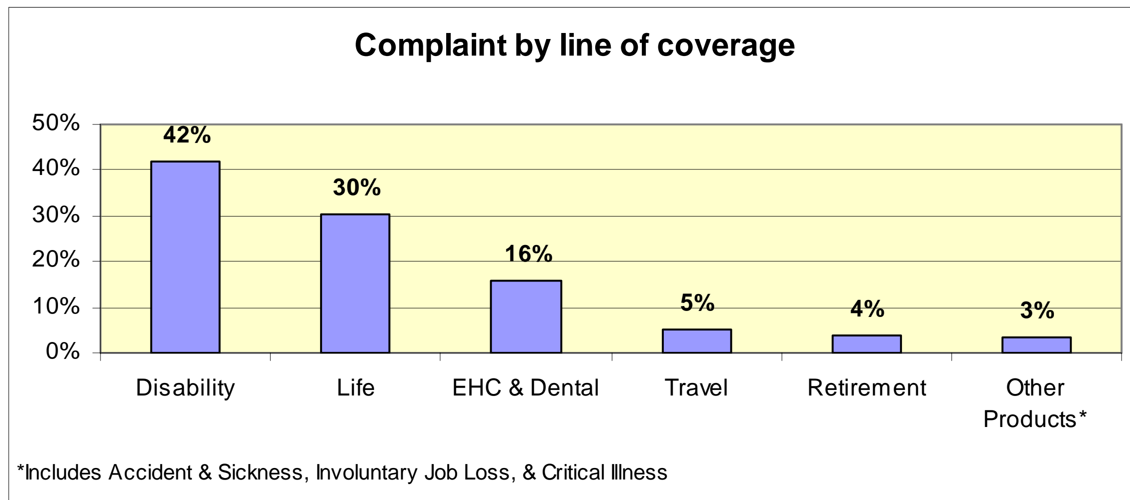
### *Complaints by company function*

As the following chart demonstrates, 57 per cent of the 4,007 complaints involved claims-related issues. These included but were not limited to the denial of claims; the discontinuation of benefits; claims procedures; delays; and privacy-related issues. Service-related matters, making up 16 per cent, encompassed disputes arising from administrative problems; billings; tax receipts; delays; cancellations or surrenders; annual statements; and the alleged failure of the company to respond. Marketing and sales-related complaints, at 11 per cent, involved problems concerning alleged agent misconduct, alleged misleading statements or misrepresentation on the part of an agent; illustration of cost or return; policy replacements; and mass marketing. Product-related complaints, at 10 per cent, involved disputes on investment returns; low early cash values; policy provisions or exclusions; premiums; and product misunderstanding. Underwriting complaints, at 6 per cent, typically involved problems arising from a decline or rating; policy issuance or underwriting delay; privacy issues; underwriting procedures; and alleged discrimination.

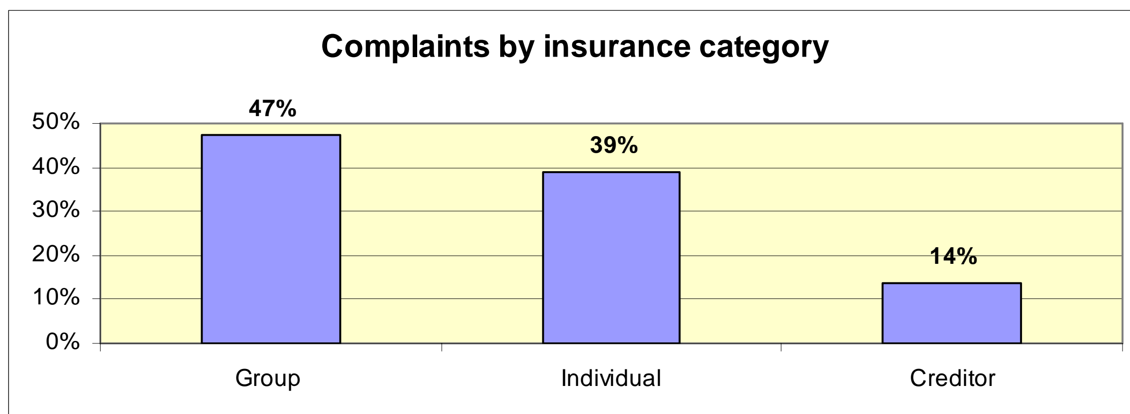


### *Complaints by line of coverage*

Most complaints (42 per cent) involved disability insurance, and life insurance products at 30 per cent.




Fully 47 per cent of complaints involved group insurance and most of these concerned employer-sponsored disability and supplementary health and dental insurance plans. Life insurance products accounted for most individual insurance complaints.



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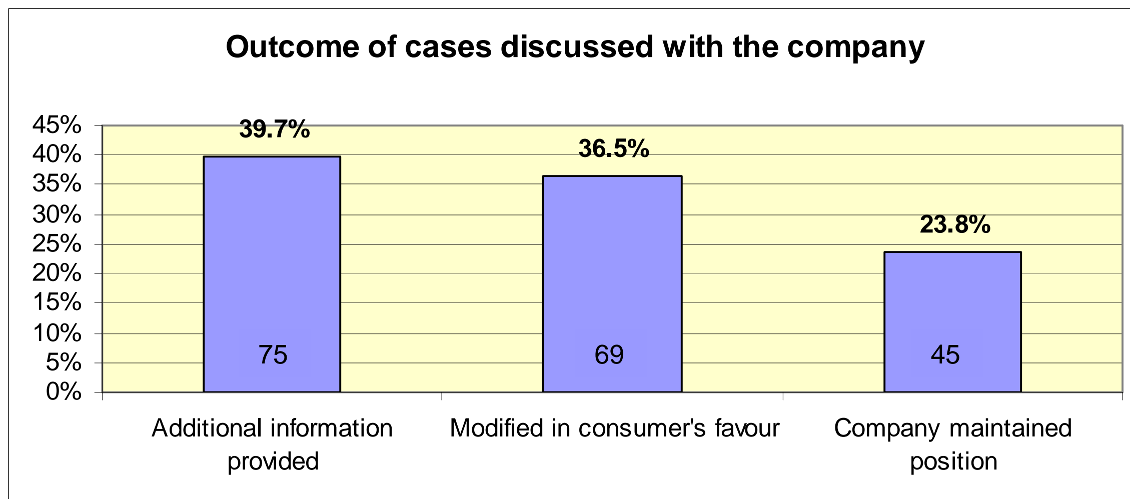
### *Disposition of complaints handled by Counsellors*

Of the 4,007 complaints received between April 1, 2004 and March 31, 2006, Counsellors were able to assist 3,738 consumers (93 per cent) directly without having to contact their insurance company on their behalf. Many of these cases involved extensive telephone discussions, an exchange of correspondence, and the provision of policy or claim documentation to the CLHIO for review by the Counsellor.

Of the remaining 269 complaints, Counsellors transferred 80 cases (30 per cent) to an OmbudService Officer for further investigation and contacted the insurance company on the consumer's behalf in 189 cases or 70 per cent. Of these 189 cases, the company modified its position in the consumer's favour in 36.5 per cent and in another 39.7 per cent provided additional information satisfactory to the consumer. In the remaining 23.8 per cent, the company maintained its position.

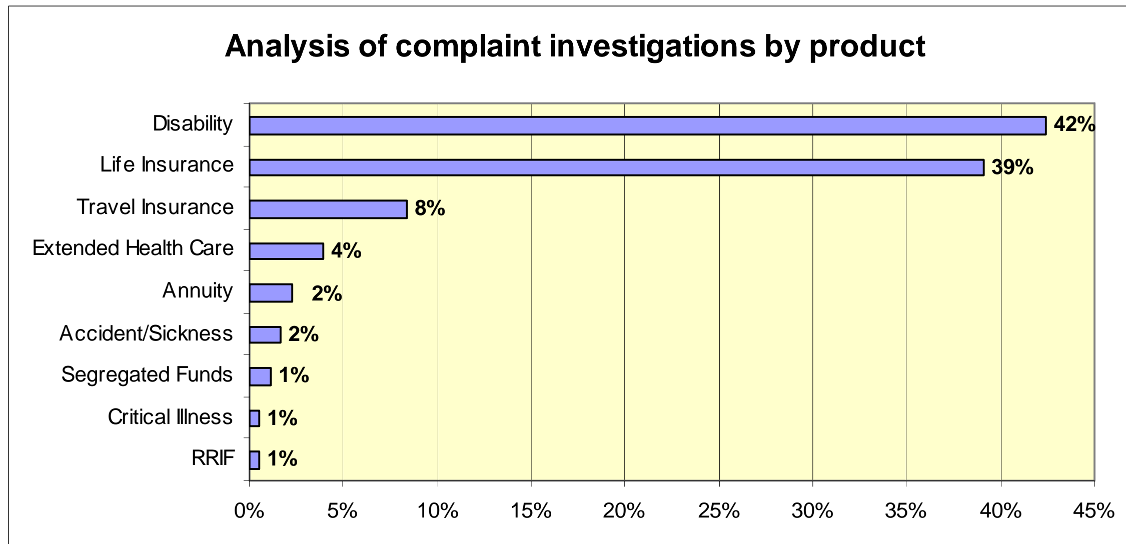


## OmbudService Officer Activity

If the CLHIO Counsellor is unable to resolve the problem, the consumer is sent a CLHIO Information Kit containing an Authorization and Agreement form. Upon receipt of the signed Authorization and Agreement form, an OmbudService Officer is assigned to deal with the complaint.

### *General Statistics*

During the CLHIO's first 3.5 years of operation, 225 consumers were provided with an OmbudService kit and, of these, 53 consumers elected not to pursue the matter. An OmbudService Officer was assigned to the remaining 172 cases which were the subject of a complaint investigation and of these, 144 cases were closed during the period under review. The following chart provides an overview of these 172 complaint investigations by product.




### *Disposition of complaints handled by OmbudService Officers*

Of the 172 complaint investigations, 28 cases remained open as of March 31, 2006. Of the 144 completed investigations, 69 per cent (99 cases) were closed with the insurer maintaining its position, and in all of these cases the consumers declared their satisfaction with the additional information provided and elected not to pursue their complaint further with the CLHIO. Thirty-five cases (24 per cent) were closed when the matter was resolved by the company in the consumer's favour; and 7 cases (6 per cent) were closed when the request for assistance was withdrawn by the consumer.



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## *Senior Adjudicative Officer Activity*

### *Reports issued with non-binding recommendations*

Most complaints are resolved by working closely with a Counsellor or an OmbudService Officer but if the subject matter warrants a further review, or if the consumer requests it, and there is a basis to do so, the file will be transferred to the Senior Adjudicative Officer for review and issuance of a report with non-binding recommendations.

During the period April 1, 2004 to March 31, 2006, three cases were transferred to the Senior Adjudicative Officer for review. Two cases related to a life insurance dispute involving the payment of premiums, and both reports found in favour of the company. The third case related to a dispute over the discontinuation of long-term disability benefits and a report was issued in favour of the consumer. The company subsequently confirmed that they had followed the recommendation out of respect for the Ombuds process.

## CASE STUDIES

*The following cases have been selected to illustrate the nature and disposition of complaints reviewed over the past year by CLHIO Counsellors and OmbudService Officers. In each case, the names have been altered to protect the privacy of the individuals and companies involved.*

### *When it's the right thing to do*

*Ms. N* was referred to the CLHIO by the Office of the Consumer Advocate in New Brunswick to seek help with the payment of a death claim under her late mother's life insurance policy. Several months earlier, Ms. N had helped her mother leave an abusive common-law relationship and, after removing her from the home, arrangements were made to give Ms. N Power of Attorney. She then contacted the insurer to inquire about changing the beneficiary from her mother's common-law spouse to herself and was subsequently sent a beneficiary change form for completion. Ms. N sent a letter to the insurer enclosing the Power of Attorney and completed beneficiary change form. In addition, since the Agent of Record was a close personal friend of her mother's former spouse, the letter requested that the company bypass the agent and deal directly with Ms. N. Two months later, not having heard back from the insurer, Ms. N called and was allegedly advised that the beneficiary change had been made.

Following the death of the insured, her mother's former spouse telephoned Ms. N to advise that he was making a claim on the policy. Ms. N ignored his call believing that his claim would be unsuccessful given that he was no longer the named beneficiary. Within weeks, however, she learned that the life insurance proceeds had been paid. The company acknowledged that they had received the Power of Attorney but advised that it did not provide sufficient authority for them to change the beneficiary. It was the company's position that they had acted appropriately by notifying the Agent of Record of Ms. N's request and their decline. It was the agent's position that he did not contact Ms. N as he did not know her; had never had any contact with her; and had not received the request to change the beneficiary from her.

At the request of the OmbudService Officer, the company agreed to give the matter a further review focusing on the actions of the agent and their internal administrative guidelines for handling beneficiary changes and Powers of Attorney. Following a comprehensive investigation by the insurer and an exchange of correspondence between the OmbudService Officer and the insurer, the matter was resolved with the company agreeing that Ms. N should receive the full death benefit under the policy.

## *Sometimes you have to agree to disagree*

*Mr. and Mrs. F* contacted the CLHIO to advise that they wished to pursue their allegation of agent misrepresentation, having first dealt with the company and later with the provincial Insurance Council who had closed their file on the basis that there was insufficient evidence to support that their agent was in violation of the Insurance Act.

Mr. and Mrs. F advised that they operate a successful farming operation and it was their intention to be in a position to retire in ten years, have their son take over the operation of the farm, and make some provision for their two daughters so as to treat them equitably. It was with this in mind that Mr. and Mrs. F attended a seminar where the concept of using life insurance for estate planning was presented, and they subsequently attended a series of meetings with the agent to review the estate plan prepared for them. Satisfied that their objectives could be met, Mr. and Mrs. F applied for what they believed was an "estate insurance" policy under which they would be required to pay premiums for a period no longer than ten years. However, during the eleventh policy year, Mr. and Mrs. F learned that the policy could not be sustained unless premiums continued to be paid.

The OmbudService Officer's review focused on all information the clients may have relied on to make their purchase decision, with emphasis on the illustrations, estate planning documentation and any verbal representations made by the agent. While the estate plan prepared by the agent contained no qualifications or disclaimers as to what was being presented or any assumptions used, the illustration on the other hand, clearly stated that the payment period of ten years was based on an assumed conservative rate of interest and was not guaranteed. Mr. and Mrs. F claimed that they had been left with a copy of the estate plan but not the illustration and therefore believed they were deprived of an opportunity to consider the illustrations with the important disclaimer or to submit the proposal to a third party such as their accountant for an objective opinion. Mr. and Mrs. F were adamant that they did not receive an illustration until the policy was delivered. The company countered that, as the estate plan was dependent on the policy illustration, the agent would have had to first create one. The agent's file contained copies of his presentation, personal notes of his discussions with Mr. and Mrs. F (differing in some details from the recollections of the insureds), as well as a statement that he was certain he had left a copy of the illustration with the applicants at a meeting in advance of the sale and a copy of the policy delivery receipt – all of which suggested that he provided Mr. and Mrs. F with full disclosure well in advance of delivery of the policy.

As both parties remained firm in their respective positions, the OmbudService Officer apprised Mr. and Mrs. F of their right to have the matter reviewed by the Senior Adjudicative Officer and to receive a report with non-binding recommendations. However, they expressed some discomfort with this option, and after consulting with their legal advisor as to how the CLHIO process could affect their legal rights in the future, a decision was made to pursue the matter through the courts.

## *Benefitting by compromise*

*Mrs. R* sought assistance from the CLHIO for a life insurance claim on her mother's car loan which was declined on the basis of an exclusion in the policy stating that no benefit would be payable if the cause of death was related to a medical treatment that had occurred within six months prior or following the date of the loan.

The insured, who had been monitored by her doctor for several years for cardiac problems, passed away and the autopsy report stated that there was no evidence of pulmonary embolism or obvious myocardial infarction and that it was unlikely that tissue studies would be helpful in identifying either of these conditions as the cause of death.

The insurer denied the claim stating that "…according to the information on file, the deceased's death was caused or contributed to by a condition for which she received medical treatment during the exclusionary period." Mrs. R disagreed with the company position on the basis that the report from the specialist had stated that "…no definitive cause of death could be determined from the autopsy."

The company undertook a further review and maintained their position that the cause of the insured's death was most likely due to a pre-existing disease of the central nervous system.

Mrs. R contacted the CLHIO for guidance as to what steps to take to appeal the claim decision complaining to the Counsellor that the insurer had interpreted the autopsy report without giving due consideration to the doubt surrounding the precise cause of death. The Counsellor suggested that she write to the claim manager outlining the reasons why she disagreed with their decision.

Mrs. R followed the Counsellor's advice and the insurer subsequently offered a settlement of 50 per cent of the claim on the basis of the ambiguity of the autopsy report. The settlement amount would enable Mrs. R to keep her deceased mother's car after paying off the portion of the loan not covered by the insurance. In the event she decided to sell the car, its value plus the settlement would leave Mrs. R with very little or no debt remaining on the car loan. Mrs. R accepted the insurer's offer and expressed her gratitude to the CLHIO Counsellor for her assistance.

# CASE STUDIES

## *Working out a compassionate solution*

*Mr. D* called the CLHIO when the insurer refused to pay the disability benefits on his loan insurance on the basis that there was no medical evidence of an illness or injury.

Mr. D spoke with a CLHIO Counsellor and explained that, as a result of the premature birth of his child and subsequent complications, his child was hospitalized for several months in a remote area and he was compelled to travel a long distance to see him several times each week. In addition, his wife was receiving dialysis treatment several times a week while waiting for a kidney transplant.

While the insurer acknowledged that the stress in Mr. D's life was affecting his ability to function at work, they declined the claim stating that the medical information did not establish that Mr. D was suffering from an illness or from a psychological problem.

On behalf of the consumer, the CLHIO Counsellor communicated with the insurer to review the seriousness of the client's health according to the clinical notes from the client's physician. Following a series of in-depth discussions with Mr. D and the insurer, the Counsellor was able to bring about a resolution when the insurer offered two options as the means to resolve the matter. The insurer offered to pay a lump sum and cancel the coverage, or pay a portion of the benefits and continue the coverage until the end of the loan period. Mr. D expressed his satisfaction with the outcome and accepted the lump sum option.

## *Opening the Lines of Communication*

*Ms. E* called the CLHIO seeking assistance with reinstatement of benefits under her disability claim that had been discontinued. The Counselor learned that long-term disability benefits had been paid for a period of two years after which the payments ceased when the medical information sent to her insurer suggested that she was qualified and able to perform another occupation. The Counsellor explained that typically, group disability plans provide benefits for a period of 24 months if a claimant can demonstrate disability from their own pre-disability occupation. In order to qualify for benefits after that period, the claimant must provide evidence to support their inability to perform any occupation for which they are reasonably suited by education, training or experience. In an effort to draw out as much information as possible, the Counsellor spoke at length with Ms. E and it became apparent that she did not have an understanding of the provisions of the policy nor the reasons why benefits had been discontinued. Ms. E was aware, however, that the deadline for appealing the company's decision was fast approaching.

Under the circumstances, the Counsellor made an immediate enquiry with the company on behalf of Ms. E. The company advised the Counsellor that in preparation for the change of definition from "own" occupation to "any" occupation, the claims department had commissioned a transferable skills analysis that identified a number of jobs that the claimant could perform with her functional capacity, previous education and work experience. The Counsellor was also advised that the claimant had previously appealed the claim denial on two occasions with the help of her doctors and both appeals had been unsuccessful. Moreover, in an effort to assist her, the claims department had contacted Ms. E's doctors directly for additional information. However, this information had also been insufficient to overturn the denial.

As it was unclear whether Ms. E had been provided with a copy of the transferable skills analysis, the Counsellor arranged to have the claims department provide a copy, and then advised Ms. E of precisely what she must do in order to appeal the insurer's position. On the advice of the Counsellor, Ms. E set out to obtain objective medical and other evidence to show that she was incapable of performing the jobs identified in the transferable skills analysis when her benefits had stopped to the present. The Counsellor further advised Ms. E to ask her family doctor to provide additional information after he had reviewed the transferable skills analysis as well as the correspondence from the insurer outlining the reasons for the denial. It was also suggested that she submit narrative reports from all other doctors who had attended her over the period. Finally, Ms. E was encouraged to contact her claims adjudicator directly to advise that she would be making another appeal and to ask for an extension of the appeal deadline. Ms. E called back the same day to let the Counsellor know that the insurer had agreed to the extension and she was invited to keep the CLHIO informed of the outcome of her appeal.

Ms. E called the CLHIO some seven weeks later to let the Counsellor know that the insurer had reopened her claim and had paid benefits on a retroactive basis. What is more, the insurer had agreed to pay her claim on a going-forward basis provided she continued to meet the policy definition of disability from any occupation.

## *Providing peace of mind*

*Mr. S* was unable to travel due to depression and submitted a claim under a trip cancellation provision in his travel health insurance policy. The claim was declined in accordance with an exclusionary clause which stated that no benefits are paid for "An emotional or mental disorder (except an acute psychosis) that does not require admission to a hospital." This is a common exclusion in many trip cancellation policies.

Prior to writing to the CLHIO, Mr. S had appealed the denial with the insurer and provided them with detailed reports from his family doctor and attending psychiatrist. The claims department reviewed this information and wrote to Mr. S stating "A review of the additional letter submitted by your family doctor states that, although the diagnosis was not confirmed until after the trip was cancelled, the symptoms and doctor's visits were for a mental/emotional condition that did not require hospitalization. Therefore, we are maintaining our position to exclude your claim from benefits as stated in our previous letter."

In his correspondence to the CLHIO, Mr. S did not dispute the insurer's rationale for declining the claim. Rather, his argument was that the claim should be paid because he was unable to travel due to illness.

The CLHIO Counsellor reviewed all of the information submitted by Mr. S to determine if there was any basis to file a further appeal. As part of this evaluation, the Counsellor was able to review the psychiatric report which stated that Mr. S had experienced symptoms that may have been indicative of a psychotic illness. As a result, the CLHIO wrote to the insurer's Complaints Officer asking for a senior review of the claim on this basis alone.

The insurer wrote to Mr. S some two months later to say it was paying his claim in full. In their letter, the insurer acknowledged that they had subsequently taken another look at the psychiatrist's report, focusing on the section where he had outlined symptoms that could be considered psychotic. "In the previous assessment of the claim, this was not interpreted to mean that Mr. S's symptoms were strictly indicative of an acute psychosis. However, … we have decided to accept Mr. S's symptoms as being indicative of a possible acute psychosis."

# CLHIO PRIVACY STATEMENT

The Canadian Life and Health Insurance OmbudService (CLHIO) is committed to protecting consumers' privacy. With the written authorization of the consumer that is making the complaint, the CLHIO will collect information from the consumer, the financial institution, and any relevant third parties, if applicable, to facilitate the investigation and resolution of complaints filed with the CLHIO. The CLHIO will only collect personal information, including medical information, to the extent necessary to investigate the complaint. Unless otherwise directed by the complainant, the CLHIO shall keep confidential any information that comes into its possession in the course of the complaint investigation. Any information collected during the course of the CLHIO review process will remain confidential and proprietary to the CLHIO. The files of the CLHIO, including any notes, or other written material, information, or evidence are confidential, and will not be provided directly or indirectly to the parties involved in the complaint process except to the extent required by law. Complaint files are retained in a secure facility, and can be accessed only by authorized CLHIO staff.

The CLHIO is a confidential process during which consumers entrust us with private information in return for our agreement that all information will be held secure. To ensure that there is no erosion of that trust, the CLHIO will not discuss a consumer's concern or complaint with any third-party except with the consumer's consent. The CLHIO will not discuss the consumer's concern or complaint with the media, even with the consent of the consumer.

The Canadian Life and Health Insurance OmbudService may use information for the purpose of statistical reporting. Any information collected for this purpose will be on an aggregate industry basis only, and will not identify the consumer or the insurer.

## Personal Information Protection and Electronic Documents Act

The Personal Information Protection and Electronic Documents Act (PIPEDA) protects the privacy of Canadians with respect to the collection, use and disclosure of personal information. The CLHIO abides by the ten principles developed for the protection of personal information as follows:

1. **Accountability:** the CLHIO is responsible for information provided to it, and has designated an individual who is accountable for compliance with the principles.

2. **Identifying Purpose:** the CLHIO will identify to the consumer the purpose of collecting information before or at the time the information is collected.

3. **Consent:** the collection, use and disclosure of personal information will only be done with the knowledge and consent of the consumer.

4. **Limiting Collection:** the collection of personal information will be limited to that which is necessary for the CLHIO to investigate the complaint.

## CLHIO PRIVACY STATEMENT

Ten principles developed for the protection of personal information (Continued)

5. **Limiting Use, Disclosure and Retention:** the CLHIO will only use or disclose personal information for the purpose for which it was collected. The CLHIO will only retain personal information for as long as it is necessary to fulfill that purpose.

6. **Accuracy:** personal information will be kept as accurate, complete and up-to-date as necessary for the purpose for which it is to be used.

7. **Safeguards:** personal information will be protected by security appropriate to the sensitivity of the information.

8. **Openness:** the CLHIO will make readily available to consumers specific information about policies and practices related to the CLHIO's management of personal information.

9. **Individual Access:** the CLHIO will, upon request, inform a consumer of the existence, use and disclosure of his or her personal information. A consumer will be given access to their personal information, and will be able to challenge its accuracy and completeness. However, as outlined in paragraph one above, and in the CLHIO Authorization and Agreement form, a consumer will not have access to any information collected during the course of the CLHIO review process, and the files of the CLHIO, including any notes, or other written material, information, or evidence will remain confidential.

10. **Challenging Compliance:** a consumer will be able to challenge the compliance with the above principles with the CLHIO's designated individual.

Canadian Life and Health Insurance OmbudService
Service de conciliation des assurances de personnes du Canada
CLHIO • SCAPC

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