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Mental health crisis poses adviser headache

Elizabeth McArthur

In October last year ASIC called on life insurers to address what it termed a "problem with the design" of total and permanent disability (TPD) insurance.

That problem was the activities of daily living (ADLs) definition. When claims were assessed under this narrow definition, 60% were declined.

The regulator suggested, but did not mandate, that insurers move away from using ADLs.

But this is yet to happen, says Health & Finance Integrated managing director William Johns.

He's still seeing clients who are unable to work and desperate for help have claims rejected under ADLs.

The ADLs, Johns says, are particularly discriminatory to those trying to make a TPD claim because of mental illness or brain injury.

"Every time I have someone with mental illness and I'm claiming for them I know I'm going to go into battle for them – especially on TPD," Johns says.

Johns says there has been instances in which insurers have said they have no option but to use ADLs (because, for example, a diagnosis only emerged after someone lost their job) and are actually ignoring the alternative, which is instrumental activities of daily living (IADLs).

While ADLs only include the basic self-care tasks of feeding, continence, transferring, dressing, toileting and bathing, the IADLs include using the telephone, shopping, preparing food, doing housekeeping, using transportation, managing medication and handling finances.

Johns points out that Centrelink assessments broadly use IADLs, saying it's ridiculous that a product you pay for can have a higher threshold of access than the welfare system.

"The taxpayer is pledging they are going to pay you a lifetime annuity for the rest of your life. That can amount to millions of dollars. They have to use an extremely high threshold and even they use IADLs," he says.

For example, he says that suicidal ideation is something that is taken extremely seriously in the psychiatric profession but it's something that's very difficult to make a successful TPD claim for.

A spokesperson for BT said its life insurance business continues to consult with industry and regulators regarding the use of ADLs. Hannover Re said it is working towards the removal of the ADL definition from policies.

A spokesperson for TAL said it is working with super funds to develop alternatives to ADLs.

"In 2018 TAL worked with Cbus to develop its 'Everyday Working Activities' definition which has an 86% claims acceptance rate. This definition was recently updated to address members with mental illness," the spokesperson said.

However, Johns says if insurers are serious about protecting people with mental illness they all need to completely scrap the ADLs and at least use the expanded IADLs.

Jewish House chief executive Rabbi Mendel Kastel has also run into the limitations of ADLs in his work. Jewish House assists those in crisis, offering a "hand-up, not a handout".

"In many cases these people are homeless or at risk of homelessness. They might have serious mental health challenges. Being able to access some money to get them back on their feet is really important," Kastel says.

Kastel has engaged Johns to help people get access to their insurance, and through that he too has seen that the ADLs are far too simple.

Clinical neuropsychologist Jane Lonie sees the flip side of ADLs, often assessing patients for TPD claims and not always with all the information about what it takes for claims to be paid.

She says the letter of instruction provided to physicians varies depending on the referrer (whether it's an adviser, lawyer or insurer). The specific industry designated criteria that the claim will be assessed against is not always specified within the letter of engagement or instruction.

"When you're talking about somebody with an acquired brain injury or dementia, unless they are right at the most severe end of the spectrum those basic ADLs will be intact," Lonie says.

When asked whether this group could hold down a job, Lonie says "absolutely not".

"It's totally inappropriate to be measuring occupational function, the ability to hold down a job, on the basis of rudimentary skills like toileting."

For Johns, it's time for insurers to align their processes with society's view of mental health.

"The people who are being denied under ADLs not so long ago might have been institutionalised," Johns says.

"Before they shut the institutions, I would have been arguing with an insurer that my client who has been institutionalised deserves a TPD payout and the insurer would have told me they meet the ADLs." FS

William Johns
managing director
Health & Finance
Integrated

FASEA extension passes, welcomed

Elizabeth McArthur

The extension to the FASEA education requirements passed June 17.

The assistant minister for superannuation, financial services and financial technology Senator Jane Hume tweeted that her promise of an extension for financial advisers had been kept.

Advisers will now have until 1 January 2022, an additional year, to pass the FASEA exam.

They will get an additional two years to meet FASEA's qualification requirements, with the new deadline for advisers to meet the education standards 1 January 2026.

The legislation to allow financial advisers the extension was contained in an omnibus bill which hit a snag last week when it was bounced out of the Senate and back to the House of Representatives after Centre Alliance Senator Rex Patrick sought an amendment.

The amendment Patrick sought deals with a loophole that allows some large corporations on an 'exempted companies' list to not file financial

Continued on page 4

ASIC warns funds to clean up adverts

Kanika Sood

The Australian Securities and Investment Commissions has asked 13 managed funds to fix their advertising, and is threatening the wider sector with enforcement action for misleading claims.

ASIC says it forced seven responsible entities and 13 funds with a total of $2.5 billion in assets to take "corrective action", including culling old advertising, product disclosure statements and webpages comparing products to lower-risk products.

The regulator also asked the seven responsible entities to clarify actual withdrawal terms, and freeze applications until all the changes were made.

ASIC's action comes after it reviewed managed funds disclosure and marketing material during the COVID-19 pandemic.

The three areas it was seriously concerned about were: funds talking up one aspect (like higher returns) while comparing themselves to others without giving a balanced indication of key differences and risks.

Continued on page 4