

GUIDELINES FOR THE IMPLEMENTATION OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS FOR MICROINSURANCE (ADREM) INVOLVING COMMERCIAL INSURANCE COMPANIES

IC CIRCULAR LETTER NO. 18-2013, July 31, 2013

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Republic Act (RA) No. 9285 or the Alternative Dispute Resolution (ADR) Act of 2004, Republic Act (RA) No. 9520 or the Philippine Cooperative Code of 2008 and Insurance Memorandum Circular 1-2010, Annex 1, I (G) on the Key Features of a Microinsurance Contract, provide for the use of ADR to resolve various types of disputes.

Chapter 6 of the 2011-2016 Philippine Development Plan (PDP) encourages stakeholders to “x x x b) Strengthen consumer protection by improving the implementation of existing consumer protection laws and regulations on transparency, disclosure, consumer assistance and redress or grievance mechanisms.” The ADReM processes, incorporated into the Philippine Microinsurance industry, provide its stakeholders with options to resolve disputes outside the courtroom, and to minimize the expense and delays of litigation.

This implementing Guidelines takes reference from the ADReM Framework for Microinsurance developed by the Technical Working Group (TWG) led by the Department of Finance-National Credit Council and the Insurance Commission, including representatives from Philippine Insurers and Reinsurers Association (PIRA), Philippine Life Insurers Association (PLIA), Philippine Chamber of Mutual Benefit Association, Inc. (PhilMBAI), CLIMBS Life and General Insurance Cooperative (CLIMBS), Cooperative Insurance System of the Philippines (CISP), Microfinance Council of the Philippines, Inc. (MCPI), Rural Bankers Association of the Philippines (RBAP), RIMANSI Organization for Asia and the Pacific, Inc. (RIMANSI) German International Cooperation-Microinsurance Innovations Program for Social Security (GIZ-MIPSS) and Asian Development Bank-Japan Fund for Poverty Reduction (ADB-JFPR) Microinsurance Project.

Section 1. Scope - The ADReM process shall only apply to disputes arising from denied claims or those not fully paid within 10 working days from receipt of complete documents. Nothing in these Guidelines shall preclude the parties from seeking other modes of settlement.

Section 2. Definition of Terms

- Mediation - a process whereby the mediator facilitates the negotiation between disputing parties to reach a voluntary, mutually satisfactory outcome.
- Conciliation - a process whereby a conciliator takes a vigorous and active role in assisting disputants formulate solutions in order to reach an amicable settlement.
- Mediator/Conciliator - A qualified individual who provides conciliation-mediation services.

Section 3. Salient Features

Features MEDIATION CONCILIATION

Process

Structured, with specific stages

Less structured, following the course of the particular negotiation

Decision maker

The parties/disputants themselves

The parties/disputants themselves

Basis of decision

Needs and interests of all parties, rather than demands or positions

Most favorable reconciliation of positions

Involvement of the parties

Direct and full participation in representing their respective interests; deciding on issues; and creating, evaluating and agreeing on options and solutions

With the guidance and suggestions of the conciliator, direct and full participation in agreeing on options and solutions

Role of third party facilitator

Independent and impartial process facilitator who does not give opinions, suggestions nor judgments on disputes

Usually an authority figure responsible for seeking a solution to the dispute, who may give opinions and advice, but not impose a judgment

Types of possible outcomes

Win-win" situation; mutual acceptance

" Best compromise solution acceptable to the parties

Section 4. Structural Elements of ADReM - The ADReM process shall be characterized by the following:

- Least cost - must be affordable for all microinsurance stakeholders.
- Accessible - must be convenient to all parties and based on procedures that are easily understood.
- Practical - must be feasible and appropriate for the microinsurance sector, taking into account the needs of diverse stakeholders, and existing systems and policies. Available resources must be maximized for sustainability.
- Effective - must result in mutually acceptable agreements that are doable.
- Timely - must be resolved swiftly and within the time prescribed by rules set by the regulators.

Section 5. ADReM Procedures

Illustration: ADReM Process for life and non-life commercial insurance companies

(NAR Volume 25 No. 1, January to March 2014, p. 383)

- The insured client may file their complaints with the microinsurance unit of their respective insurance provider, the distribution partner (e.g. rural banks, cooperatives, NGOs and other points of sale), agents and brokers. The complaint shall include the following information:

- Name of insured
- Policy number
- Name of insurance company
- Nature of claim
- Amount of insurance
- The recipient of the complaint shall within 24 hours notify in writing or through electronic means the concerned insurance provider on the details of the complaint and initiate the holding of the preliminary conference.
- Within 3 working days upon receipt of notification, a preliminary conference shall be held among the parties to agree on a mediator-conciliator, venue and schedule of the mediation-conciliation meeting. Should the parties not agree on the available mediators-conciliators within the locality, parties may choose from the roster of mediators-conciliators in neighboring cities or municipalities.
- The mediator-conciliator shall be chosen from the official roster or list posted in the IC website which, for this purpose, shall be updated on a regular basis.
- If the parties fail to agree on a mediator-conciliator, venue and schedule of the mediation-conciliation meeting, the complainant upon presentation of a letter issued by the recipient of the complaint indicating such, may elevate the case directly to the IC.
- Mediation-conciliation proceedings shall be held in a venue or in a manner mutually agreed upon by the parties.
- Only complainants and the authorized representatives of the insurance providers directly involved in a case must be present in all sessions. Legal counsels are not allowed during the proceedings.
- Mediation-conciliation proceedings shall be completed within 30 working days from the date of filing of the complaint.
- If settlement is reached, the parties or their authorized representatives must sign the agreement. Authorized representatives must present Special Power of Attorney prior to signing the agreement.
- If no settlement is reached within 30 working days from the date of filling of the complaint; or where either of the parties fails to appear for two consecutive sessions, the mediator-conciliator shall issue a Certificate of Non-Resolution and the parties may elevate the case to the IC.

Section 6. Fees - Mediators-conciliators may charge fees for their services in an amount not exceeding five hundred pesos (Php500.00) or an amount that shall be determined by the insurance Commission from time to time. Cost sharing arrangement may be agreed upon by both Parties.

Section 7. Information Campaign - Commercial insurance entities, distribution partners, agents and brokers shall promote the use of mediation and conciliation as a recourse mechanism available to all policyholders to address any dispute.

Section 8. Reporting - Commercial insurance entities shall provide information on the outcome of cases referred to ADReM processes in the Annual Statements.

Section 9. Other Governing Rules - The rules on confidentiality, competence, impartiality, consent and self-determination, and enforcement of settlement agreements that govern ADReM process shall be in accordance with RA 9285 and its implementing rules and regulation (IRR).

This circular shall take effect immediately.

(SGD) EMMANUEL F. DOOC
Insurance Commissioner

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