Speech by

Mr JIM PEARCE

MEMBER FOR FITZROY

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CHRONIC FATIGUE SYNDROME

Mr PEARCE (Fitzroy—ALP) (12.24 p.m.): I rise to speak about the difficulties confronting a marginalised group of chronically impaired persons within our community whose needs are being ignored and who are facing attack from the big insurance companies. With extracts from documents in my possession and citing a constituent's case as an example, I will today expose the private insurance industry for its blatant and selfish disrespect for the sick and the suffering who insure themselves against unexpected illness. I might add that I received news yesterday that my constituent's health is in serious decline. There is no doubt that her long-running battle with one of the nation's big insurers, National Mutual, is responsible for that decline in her health. I am concerned for her, and I urge her to keep up the fight.

These people have paid premiums with the expectation of maintaining their quality of life through an agreement signed by both parties for income and/or mortgage protection. The people of whom I speak are those with the condition known as myalgic encephalomyelitis, ME, or chronic fatigue syndrome, CFS. Current statistics indicate that around 0.5% of our population, or 500 in every 100,000 Australians, suffer from this condition.

Because the disease cannot as yet be easily explained in terms of its root physical cause, many of its physical symptoms, which are not part of a medically understood disease, are often miscategorised as being of psychiatric origin. This means that any emerging illness such as CFS, whose root cause currently remains unknown, is highly likely to be viewed as a psychiatric problem until the underlying pathology is discovered. Interestingly, I am told that psychiatric literature is full of references describing the psychiatric origins of diseases like multiple sclerosis, rheumatoid arthritis, polio and AIDS, whose physical causes were subsequently uncovered after years of being described as psychiatric disorders.

While many within the medical community, especially those dealing with CFS patients on a regular basis, have acknowledged the physical aspects of the disease, few research dollars are being directed towards finding the underlying physical cause. While it has been a battle for claimants, some State Government insurers have finally recognised the disease and have compensated several cases of CFS total and permanent disablement, or TPD, but the continuing controversy over the lack of an accurate diagnostic marker has played into the hands of the private insurance companies, which have taken a hard line when it comes to TPD claims for CFS.

Obviously, private insurers are unwilling to set a precedent in awarding TPD payouts for CFS. Instead, they appear to be using every weapon in their dirty tricks arsenal to stall claimants' applications and discourage them in their efforts to access funds to which they are rightfully entitled. In fact, I can tell the Parliament that I have in my possession certain documents that expose insurance companies for conspiring to ensure that no precedent is set when it comes to CFS and TPD claims. I do not intend to put all my cards on the table today, but insurance companies like National Mutual need to understand that I intend to expose them for their relentless attack on the sick.

I have here notes handwritten by an insurance assessor to someone in a higher position. The assessor's intent is clear, that is, he has attempted to discredit obviously favourable reports on a client by two specialists. The first worrying factor is that, all of a sudden, this assessor believes he is expert enough to question the specialist's diagnosis of the claimant's condition. He says—

> "My own view is that Dr X's report is not worth a cracker. It is on par with the material we had recently from the lady doctor specialising in CFS. I don't believe that fatigue is disabling to start with."

How would members in this place like to have that character assessing them or a member of their family? This is unprofessional and unethical but typical of the underhand tactics being used by insurers.

The assessor goes on to say in his report—

> "What we really need now is a counter-opinion. Have we yet found a doctor with an opposing view on CFS?"

So what this assessor is saying is that there are two opinions with which he does not agree because they support the claimant's case. Members must remember that this assessor does not believe that CFS is disabling, and he knows that the company needs to find a doctor with an opposing view. Why an opposing view? Because that would provide the basis for the rejection of the claim, and this is the insurer's obvious agenda.

Within this self-regulated industry, the insured person has no rights when calling on the insurance company to be accountable for its actions. The claimant has no right to access reports supplied to the insurer by their so-called medical experts, yet the company can call on the claimant to disclose everything but the colour of their underwear. In working their way through the application process, the claimant is more often than not forced into financial hardship, despair, frustration and, finally, submission, while the insurers use their powerful resource base to destroy the very people their policies are supposed to be protecting.

They are not concerned about the loss of income, the loss of self esteem, or the breakdown of relationships that the claimant must endure. The insurers suffer no penalties for their actions.

Further evidence of the intent of insurance companies is highlighted in a quote from a letter of referral presented to an appeals tribunal. A doctor concerned "that there was potential for setting a precedent in the issue of Chronic Fatigue Syndrome" wrote to a professor about the issue and I quote from that letter as presented to the tribunal—

> "I think it extremely likely that unless dissenting opinion is put forward, Comcare may well end up accepting liability. To date, Chronic Fatigue Syndrome has not been accepted as being work related and I fear that if this were to happen the floodgates would really burst open in a disastrous fashion."

If that is not a blatant attempt to influence an opinion, what is it?

As further evidence of the underhand tactics of the companies, I now turn to the case of one of my constituents whose story, I am told, is typical of the treatment that many CFS sufferers are receiving at the hands of private insurers. After years of appeal, my constituent was finally retired in 1996 as totally and permanently disabled due to CFS by the Government Superannuation Office and the Education Department. Since then, she has been fighting a long and frustrating battle with National Mutual Insurance to access a TPD payout and compulsory mortgage protection insurance.

During an extended claim process spanning three years from 1996 to the present, my constituent has been subjected to what most would consider unreasonable treatment and bad faith behaviour by her insurer. Some examples include the apparent automatic rejection of her original application without a full investigation of all available medical evidence. Her subsequent appeal was also rejected without a full investigation of all medical evidence and on the grounds of a video recording of my constituent—evidence which is considered highly questionable given that the activity taped was directly provoked by the surveillance undertaken. What occurred was that the insurer's surveillance of my constituent and her family so distressed her son that he decided to leave home. My constituent did what any parent would do and assisted her son in moving. It was filmed footage of this activity that was used against her.

Although my constituent lodged a re-application earlier this year, National Mutual deliberately failed to respond to all communication, including mail, faxes and phone calls. It was not until I was asked to intervene that National Mutual finally instigated further contact with her. The company's latest ploy appears to be to try to bring down a psychiatric verdict against her, either in an effort to discredit her or to eventually pay her out under some condition other than CFS—obviously to protect the company's "no precedent" policy.

My constituent has been requested to attend another psychiatric evaluation, despite having fronted two psychiatrists in the last three years, the first who indicated that she was stressed, not depressed, and the second who wrote that he could find not the slightest sign of any psychiatric disturbance. The insurer is now attempting to imply that my constituent has not been forthcoming with all medical evidence by claiming that she failed to authorise the release of her records. This is despite her submitting a release document to the insurer when her initial claim was lodged in 1996. The fact that the insurer has again requested clearance indicates that no effort was made to obtain this evidence for her initial claim, and supports the belief that her original claim was rejected out of hand and without due consideration of her full medical history.

What this case highlights is that those with CFS who, in good faith and while in good health, took the precaution of insuring against the possibility of a career-shattering impairment are now being abandoned to their fate. My constituent's case and the documentation that I have quoted from today provide clear evidence that insurance companies are in the game of doing what they can to deny people natural justice. Through an immoral and unjust process the companies are denying the battlers and the sick the right to a fair go.

The treatment that CFS sufferers are receiving from insurance companies is purely and simply victimisation and could well constitute discrimination on the basis of a specific impairment. If those with CFS are ever to receive a fair go, it is clear that what is needed is a thorough investigation of the private insurance industry's handling of all CFS disablement claims. Those whose insurance claims are rejected will more than likely finish up with the backside out of their pants, living off the taxpayer. We, as taxpayers, have the right to know what is going on.

Time expired.