



National Health Amendment (Supporting Patient Access to Cheaper Medicines and Other Measures) Act 2024

No. 73, 2024

**An Act to amend the *National Health Act 1953*, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
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No. 73, 2024

**An Act to amend the *National Health Act 1953*, and
for related purposes**

[Assented to 9 July 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *National Health Amendment (Supporting Patient Access to Cheaper Medicines and Other Measures) Act 2024*.

No. 73, 2024 *National Health Amendment (Supporting Patient Access to Cheaper
Medicines and Other Measures) Act 2024* 1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	9 July 2024
2. Schedule 1	The later of: (a) the day after this Act receives the Royal Assent; and (b) 1 July 2024.	10 July 2024 (paragraph (a) applies)
3. Schedule 2	The day after this Act receives the Royal Assent.	10 July 2024

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Additional community supply support payment

Part 1—Additional community supply support payment

National Health Act 1953

1 Subsection 84(1)

Insert:

ACSS eligible supply (short for additional community supply support payment eligible supply): a supply of a pharmaceutical benefit is an *ACSS eligible supply* if the supply is of a kind determined under subparagraph 98B(1)(b)(i).

ACSS payment (short for additional community supply support payment), for an ACSS eligible supply, means the amount for that supply determined under, or worked out in the manner determined under, subparagraph 98B(1)(b)(ii).

2 Subsection 84(1) (paragraph (a) of the definition of Commonwealth price)

Omit “subsection 98B(1)”, substitute “paragraph 98B(1)(a)”.

3 Paragraph 84C(4)(e)

Omit “taken, because of subsection 99(2A), (2AB) or (2B), to be a supply otherwise than under this Part,” substitute “one to which subsection 99(2A), (2AB) or (2B) applies—”.

4 Paragraph 86C(1)(b)

Repeal the paragraph, substitute:

(b) the pharmaceutical benefit is one in respect of the supply of which the approved supplier would, but for the operation of subsection 99AAAB(2), be entitled to receive a payment under subsection 99(2) or (4) or 99AAAA(2); and

5 Paragraph 86C(7)(b)

Repeal the paragraph, substitute:

- (b) the pharmaceutical benefit is one in respect of the supply of which the approved supplier would, but for the operation of subsection 99AAAB(2), be entitled to receive a payment under subsection 99(2) or (4) or 99AAAA(2); and

6 Section 86C (note 1)

Omit “99(7)”, substitute “99AAAB(2)”.

7 Subparagraph 87A(1)(d)(i)

Omit “if, because of subsection 99(2A), (2AB) or (2B), the supply of the benefit is taken to be a supply otherwise than under this Part”, substitute “if the supply of the benefit is one to which subsection 99(2A), (2AB) or (2B) applies”.

8 Subsection 91B(10) (note 1)

After “section 99”, insert “or 99AAAA”.

9 Before subsection 98AC(1)

Insert:

Information to be given about supplies

10 Subsection 98AC(1)

Omit “a supply taken, because of subsection 99(2A), (2AB) or (2B), to be a supply otherwise than under this Part”, substitute “a supply to which subsection 99(2A), (2AB) or (2B) applies”.

11 Before subsection 98AC(3)

Insert:

Procedures for giving information

12 Before subsection 98AC(4)

Insert:

Rules relating to information given to the Secretary

13 Before section 98A

Insert:

Subdivision A—Preliminary

98AD What this Division is about

This Division is about payments made by the Commonwealth with respect to the provision of pharmaceutical benefits by approved suppliers.

An approved supplier who supplies a pharmaceutical benefit may be entitled to be paid by the Commonwealth in respect of the supply under:

- (a) section 99 (payment for the supply of benefits); and
- (b) for an approved pharmacist—section 99AAAA (additional payment for ACSS eligible supplies).

This Division also establishes the Pharmaceutical Benefits Remuneration Tribunal. The functions of the Tribunal are:

- (a) to determine the manner in which the Commonwealth price of a pharmaceutical benefit supplied by an approved pharmacist is to be worked out; and
- (b) to determine the kinds of supplies of pharmaceutical benefits that are eligible for an ACSS payment, and the amount of the payment or the manner in which that amount is to be worked out; and
- (c) any other functions provided for under an agreement entered into between the Minister and the Pharmacy Guild of Australia, or another pharmacists' organisation that represents a majority of approved pharmacists, about the Commonwealth price of a pharmaceutical benefit supplied by an approved pharmacist or about an ACSS payment.

Subdivision B—Determination of Commonwealth price and Commonwealth payments

14 After paragraph 98B(1)(a)

Insert:

- (b) to determine, by legislative instrument:
 - (i) the kinds of supplies by approved pharmacists of pharmaceutical benefits (if any) that are ACSS eligible supplies; and
 - (ii) the amount (which may be nil) of the ACSS payment for any or all ACSS eligible supplies, or the manner in which that amount is to be worked out; and

15 Before subsection 98B(2)

Insert:

Commonwealth price determinations

16 At the end of section 98B

Add:

ACSS payment determinations

- (6) In determining a kind of supply by approved pharmacists of pharmaceutical benefits under subparagraph (1)(b)(i), the Tribunal must be satisfied that it is necessary, to ensure that kind of supply, for approved pharmacists to be paid the ACSS payment for that kind of supply.
- (7) In determining an amount or manner under subparagraph (1)(b)(ii) in relation to an ACSS eligible supply, the Tribunal must be satisfied that it is necessary, to ensure that supply, for the ACSS payment for that supply:
 - (a) to be that amount; or
 - (b) to be worked out in that manner.
- (8) The Tribunal must determine under subparagraph (1)(b)(ii) that the amount of the ACSS payment for all ACSS eligible supplies is nil if:

- (a) an agreement referred to in subsection 98BAA(1) (agreements relating to Commonwealth price) is in force; and
- (b) no agreement referred to in subsection 98BAA(1A) (agreements relating to ACSS payment) is in force.

17 Subsection 98BA(1)

Repeal the subsection, substitute:

- (1) The Tribunal must, at such intervals as are determined by the Chairperson, hold an inquiry to ascertain either or both of the following:
 - (a) whether the Commonwealth price of any or all pharmaceutical benefits should be varied;
 - (b) both:
 - (i) the kinds of supplies by approved pharmacists of pharmaceutical benefits (if any) that should be ACSS eligible supplies; and
 - (ii) the amount (which may be nil) of the ACSS payment for any or all ACSS eligible supplies, or the manner in which that amount is to be worked out.

18 Before subsection 98BAA(1)

Insert:

Agreements relating to Commonwealth price

19 Subsection 98BAA(1)

Omit “subsection 98B(1)”, substitute “paragraph 98B(1)(a)”.

20 After subsection 98BAA(1)

Insert:

Agreements relating to ACSS payment

- (1A) Despite anything else contained in this Part, where the Minister (acting on the Commonwealth’s behalf) and the Pharmacy Guild of Australia, or another pharmacists’ organisation that represents a majority of approved pharmacists, have entered into an agreement in relation to:

Schedule 1 Additional community supply support payment

Part 1 Additional community supply support payment

(a) the kinds of supplies by approved pharmacists of pharmaceutical benefits (if any) that are ACSS eligible supplies; and

(b) the amount (which may be nil) of the ACSS payment for any or all ACSS eligible supplies, or the manner in which that amount is to be worked out;

the Tribunal, in making a determination under paragraph 98B(1)(b) while the agreement is in force, must give effect to the terms of that agreement.

No inquiries while Commonwealth price agreement in force

21 Before section 99

Insert:

Subdivision C—Payments for the supply of pharmaceutical benefits

22 Section 99 (at the end of the heading)

Add “—general”.

23 Before subsection 99(2)

Insert:

Supply by approved pharmacist or approved medical practitioner

24 Before subsection 99(2A)

Insert:

Under co-payment supply

25 Before subsection 99(2C)

Insert:

Supply eligible for increased discounting

26 Subsection 99(3)

Repeal the subsection.

27 Before subsection 99(4)

Insert:

Supply by approved hospital authority

28 Subsections 99(6), (7) and (8)

Repeal the subsections.

29 After section 99

Insert:

99AAAA Additional payment for ACSS eligible supplies

- (1) This section applies in relation to an ACSS eligible supply that is made on or after 1 April 2024.
- (2) An approved pharmacist who has made an ACSS eligible supply is entitled to be paid by the Commonwealth the ACSS payment for the supply.
- (3) Subsection (2) is subject to:
 - (a) section 99AAA (claim for payment relating to supply of benefits); and
 - (b) the conditions determined under section 98C (determinations by Minister) and applicable at the time of the supply.

Note: This section is also subject to the conditions set out in section 99AAAB.

99AAAB Conditions on payments

- (1) Nothing in section 99 or 99AAAA authorises payment in respect of the supply of a drug or medicinal preparation:
 - (a) to a person who is not entitled under this Part to receive that drug or medicinal preparation as a pharmaceutical benefit; or
 - (b) by an approved pharmacist at or from premises in respect of which the pharmacist is not approved or otherwise than in accordance with the terms of the pharmacist's approval; or
 - (c) by an approved medical practitioner outside the area in respect of which the medical practitioner is approved or

Schedule 1 Additional community supply support payment

Part 1 Additional community supply support payment

otherwise than in accordance with the terms of the medical practitioner's approval.

Medicare or special number required for Commonwealth payment for supply of pharmaceutical benefit

- (2) Subject to subsection (3), an approved supplier is not entitled, despite subsection 99(2) or (4) or 99AAAA(2), to be paid by the Commonwealth for the supply of a pharmaceutical benefit to a person upon a prescription unless:
- (a) there is ultimately supplied to the Chief Executive Medicare a medicare number, or a special number, as a number applicable to the person to whom the prescription relates; and
 - (b) if the number so supplied is such a medicare number—that medicare number corresponds with a medicare number that is held in the records of the Chief Executive Medicare as a number applicable to that person.

Determination about payments for supplies where medicare number does not correspond with records

- (3) The Minister may, by legislative instrument, determine circumstances in which subsection (2) does not prevent an approved supplier being paid by the Commonwealth for the supply of a pharmaceutical benefit in respect of a person to whom a prescription relates although a medicare number ultimately supplied to the Chief Executive Medicare in relation to the prescription does not correspond with a medicare number that is held in the records of the Chief Executive Medicare as a number applicable to that person.

30 Before subsection 99AB(1)

Insert:

Amounts that may become payable under section 99

31 After subsection 99AB(1)

Insert:

Amounts that may become payable under section 99AAAA

- (1A) An advance, on account of an amount that may become payable to a person under section 99AAAA in relation to the supply of a pharmaceutical benefit, may be made to the person:
- (a) if the amount may become payable on or after a day specified in an instrument under subsection (1B) of this section; and
 - (b) on such terms and conditions (if any) as are approved by the Secretary in writing.
- (1B) The Secretary may, by notifiable instrument, specify a day for the purposes of paragraph (1A)(a) (which must not be before the day the instrument commences).

Repayment of amounts

32 Subsections 99AB(2) and (3)

After “section 99” (wherever occurring), insert “or 99AAAA”.

Part 2—Transitional provisions

33 Definitions

In this Part:

Act means the *National Health Act 1953*.

transition period means the period:

- (a) beginning on 1 April 2024; and
- (b) ending at the end of the day before the commencement of this Schedule.

34 Transitional—claims for supplies made before commencement

- (1) This item applies if:
 - (a) during the transition period:
 - (i) an approved pharmacist makes a supply of a pharmaceutical benefit; and
 - (ii) the approved pharmacist makes a claim under section 99AAA of the Act for a payment under section 99 of the Act in relation to the supply of that benefit; and
 - (b) the supply of that benefit is also an ACSS eligible supply.
- (2) The claim is taken to also be a claim under section 99AAA of the Act for the ACSS payment for the supply of that benefit.

Schedule 2—Reduction in amount of allowable discount

National Health Act 1953

1 Subsection 84(1) (definition of *allowable discount*)

Omit “has the meaning”, substitute “, for a supply of a pharmaceutical benefit, has the meaning”.

2 At the end of subsection 87(2AAAA)

Add:

Note: The allowable discount is periodically reduced under Subdivision C of Division 4A.

3 Division 4A of Part VII (at the end of the heading)

Add “etc.”.

4 Before section 99F

Insert:

Subdivision A—Preliminary

5 Before section 99G

Insert:

Subdivision B—Indexation

6 Subsection 99G(1A)

Repeal the subsection, substitute:

Certain charges not to be indexed

(1A) Despite subsection (1), the general patient charge is not to be indexed on 1 January 2025.

(1B) Despite subsection (1), the general patient reduced charge and the concessional beneficiary charge are not to be indexed on:

- (a) 1 January 2025; and
- (b) 1 January 2026; and
- (c) 1 January 2027; and
- (d) 1 January 2028; and
- (e) 1 January 2029.

Effect of indexation

7 Before subsection 99G(3)

Insert:

Working out the indexed amount

8 At the end of Division 4A of Part VII

Add:

Subdivision C—Reduction of allowable discounts

99GA Definitions

In this Subdivision:

adjustment day means 1 January 2025 and each later 1 January.

current figure has the same meaning as in subsection 99G(3).

99GB Supplies to which this Subdivision applies

This Subdivision applies in relation to a supply of a pharmaceutical benefit that is made on or after 1 January 2025.

99GC Reduction of allowable discount relating to the general patient charge

- (1) This section applies in relation to the allowable discount for a supply of a pharmaceutical benefit covered by paragraph 87(2)(e).

Amount of reduction when charge is not indexed

- (2) On 1 January 2025, the allowable discount is reduced by the amount that is the difference between:
- (a) the current figure of the general patient charge at the start of that day; and
 - (b) the indexed amount of the general patient charge that, but for subsection 99G(1A), would have been substituted under section 99G for the general patient charge on that day.

Amount of reduction when charge is indexed

- (3) On each adjustment day after 1 January 2025, the allowable discount is reduced by the amount that is the difference between:
- (a) the current figure of the general patient charge immediately before the adjustment day; and
 - (b) the indexed amount of the general patient charge that is substituted under section 99G for the general patient charge on the adjustment day.

Allowable discount not to be less than nil

- (4) However, if the allowable discount worked out under subsection (2) or (3) would be less than nil, the allowable discount is increased to nil.

Sunset

- (5) This section ceases to be in force at the end of the first adjustment day on which the allowable discount is adjusted to nil under this section.

99GD Reduction of allowable discounts relating to the general patient reduced charge and concessional beneficiary charge

Amount of reduction when charges are not indexed

- (1) On each adjustment day before 1 January 2030, an allowable discount specified in column 1 of an item of the following table is reduced by the amount specified in column 2 of that item.
-

Schedule 2 Reduction in amount of allowable discount

Item	Column 1 Allowable discount	Column 2 Amount by which allowable discount is reduced
1	Allowable discount for a supply of a pharmaceutical benefit covered by paragraph 87(2)(a)	The amount that is the difference between: (a) the current figure of the concessional beneficiary charge at the start of 1 January 2025 (the <i>frozen CBC</i>); and (b) the indexed amount of the concessional beneficiary charge that would have been substituted under section 99G for the concessional beneficiary charge on the adjustment day if: (i) subsection 99G(1B) were not enacted; and (ii) the concessional beneficiary charge immediately before the adjustment day were equal to the frozen CBC
2	Allowable discount for a supply of a pharmaceutical benefit covered by paragraph 87(2)(b)	The amount that is the difference between: (a) the current figure of the general patient reduced charge at the start of 1 January 2025 (the <i>frozen GPRC</i>); and (b) the indexed amount of the general patient reduced charge that would have been substituted under section 99G for the general patient reduced charge on the adjustment day if: (i) subsection 99G(1B) were not enacted; and (ii) the general patient reduced charge immediately before the adjustment day were equal to the frozen GPRC

Amount of reduction when charges are indexed

- (2) On each adjustment day after 1 January 2029, an allowable discount specified in column 1 of an item of the following table is reduced by the amount specified in column 2 of that item.

Item	Column 1	Column 2
	Allowable discount	Amount by which allowable discount is reduced
1	Allowable discount for a supply of a pharmaceutical benefit covered by paragraph 87(2)(a)	The amount that is the difference between: (a) the current figure of the concessional beneficiary charge immediately before the adjustment day; and (b) the indexed amount of the concessional beneficiary charge that is substituted under section 99G for the concessional beneficiary charge on the adjustment day
2	Allowable discount for a supply of a pharmaceutical benefit covered by paragraph 87(2)(b)	The amount that is the difference between: (a) the current figure of the general patient reduced charge immediately before the adjustment day; and (b) the indexed amount of the general patient reduced charge that is substituted under section 99G for the general patient reduced charge on the adjustment day

Allowable discount not to be less than nil

- (3) However, if an allowable discount worked out under subsection (1) or (2) would be less than nil, the allowable discount is increased to nil.

Sunset

- (4) This section ceases to be in force in relation to an allowable discount for a kind of supply of a pharmaceutical benefit at the end of the first adjustment day on which the allowable discount for that kind of supply is adjusted to nil under this section.

99GE Effect of reduction in allowable discount

If an allowable discount is adjusted under section 99GC or 99GD on a day, this Act has effect as if the adjusted allowable discount were substituted for that allowable discount on that day.

*[Minister's second reading speech made in—
House of Representatives on 6 June 2024
Senate on 26 June 2024]*

(72/24)

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