

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health and Ageing

Private Health Insurance Act 2007

Private Health Insurance (Health Benefits Fund Policy) Rules 2007

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Health Benefits Fund Policy) Rules* (the Rules) providing for matters required or permitted by Part 4-4 of the Act, or necessary or convenient in order to carry out or give effect to Part 4-4 of the Act.

As part of reforms to private health insurance announced by the Australian Government on 26 April 2006, regulation of private health insurance was moved from the *National Health Act 1953* (the NHA) (and regulations under the NHA) into the new *Private Health Insurance Act 2007* (the PHI) (and Private Health Insurance Rules made under the PHI).

Part 4-4 of the Act deals with health benefits funds operated by private health insurers.

These Rules provide, consistent with current provisions, limitations on the amount of brokerage and commission that can be paid in respect of health insurance premiums. The Rules also impose community rating requirements on overseas student health cover and specified temporary visa health cover.

Private health insurers were extensively consulted and provided with opportunities to comment upon the new Private Health Insurance legislative package. Draft Rules were published on the Departmental website for comment, and information sessions were held to provide industry stakeholders with the opportunity to be consulted on the making of the Rules.

Consultations were attended by representatives from individual private health insurers and peak industry bodies (the Australian Health Insurance Association and Health Insurance Restricted Membership Association members funds), private hospitals and their industry representatives (Australian Private Hospitals Association and Catholic Health Australia), the Australian Medical Association, the Private Health Insurance Administration Council, the Private Health Insurance Ombudsman, Consumers' Health Forum of Australia and central agencies. All of the industry representatives have expressed strong support for the proposed legislative framework including the Private Health Insurance Rules.

The Office of Best Practice Regulation has advised that no additional Regulation Impact Statement (RIS) is required. A RIS that was prepared for the Private Health Insurance Bill 2006 (PHI Bill) which analysed the options associated with the Australian Government's recent initiatives to improve the attractiveness of and participation in private health insurance for consumers. The measures include those under the *Private Health Insurance Act 2007* and associated legislative instruments.

The Act does not specify any conditions that need to be met before the power to make the Rules may be exercised.

Details of the Rules are set out in the Attachment.

These Rules are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Rules commence at the same time as the Act commences if they are registered before the Act commences; or, if the Rules are registered on or after the Act commences the Rules commence on the day they are registered.

Authority: Section 333-20 of the
 Private Health Insurance
 Act 2007

ATTACHMENT

DETAILS OF THE *PRIVATE HEALTH INSURANCE (HEALTH BENEFITS FUND POLICY) RULES 2007***1. Name of Rules**

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Health Benefits Fund Policy) Rules 2007*.

2. Commencement

Rule 2 provides for the Rules to commence at the same time as the Act commences if they are registered before the Act commences; or, if the Rules are registered on or after the Act commences, the Rules commence on the day they are registered.

3. Definitions

Rule 3 notes that the terms used in these rules have the same meaning as in the *Legislative Instruments Act 2003*. The *Act* means the *Private Health Insurance Act 2007*.

Part 2 Expenditure and application of health benefit funds**4. Expenditure and application of health benefits funds**

Subrule 4 (1) provides that the assets of a health benefit fund must not be applied to pay to a policy holder any incentive payment, promotional payment, rebate or any other inducement whatsoever if the amount exceeds 12 % of the full premium for a year. This also applies to any brokerage fee, commission, inducement or other sum in relation to the payment of the premium. Discounts, and waiver of a co-payment or an excess must also be taken into account.

Subrule 4 (2) provides the definition of a full premium which is the premium for a year that would be received by the private health insurer for a policy without any reduction.

Part 3 Operation of health-related businesses through health benefits funds**5. Insurance for overseas students or specified temporary visa holders**

Subrule 5 (1) provides that requirements are specified in subrule 5(2) for private health insurers who conduct business in respect of overseas students or specified temporary visa holders.

Subrule 5 (2) provides that a private health insurer must not take or fail to take any action, or in making a decision have regard to or fail to have regard to any matter, that would result in the insurer discriminating between people who are, or wish to be insured, under an overseas student health insurance contract or a specified temporary visa holder health insurance contract.

Subrule 5 (3) provides that the term *discriminating* relates to, for example, a person

suffering from a chronic disease, illness or other medical condition, gender, race, sexual orientation or religious belief of a person and the frequency with which a person needs hospital treatment or general treatment.

Subrule 5 (4) provides that the terms *overseas student*, *overseas student health insurance contract*, *specified temporary visa holder* and *specified temporary visa holder health insurance contract* have the same meaning as in the *Private Health Insurance (Health Insurance Business) Rules 2007*.