



Private Health Insurance (Health Benefits Fund Policy) Rules 2007

I, ANTHONY JOHN ABBOTT, Minister for Health and Ageing, make these Rules under item 8 of the table in section 333-20 of the *Private Health Insurance Act 2007*.

Dated 30 March 2007

TONY ABBOTT

Minister for Health and Ageing

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Part 1 Preliminary

1. Name of Rules

These Rules are the *Private Health Insurance (Health Benefits Fund Policy) Rules 2007*.

2. Commencement

These Rules commence:

- (a) if the Rules are registered before the Act commences—at the same time as the Act commences; or
 - (b) if the Rules are registered on or after the day on which the Act commences—on the date on which the Rules are registered,
- whichever occurs first.

3. Definitions

Note: Terms used in these Rules have the same meaning as in the Act—see section 13 of the *Legislative Instruments Act 2003*. These terms include:

assets
general treatment
health benefits fund
hospital treatment
policy holder
private health insurer

In these rules:

Act means the *Private Health Insurance Act 2007*.

Part 2 Expenditure and application of health benefits funds

4. Expenditure and application of health benefits funds

- (1) For the purposes of paragraph 137-10 (2) (b) of the Act, the assets of a health benefits fund must not be applied for the following purposes:
- (a) to pay to a policy holder any:
 - (i) incentive payment;
 - (ii) promotional payment;
 - (iii) rebate; or
 - (iv) any other inducement whatsoever; or
 - (b) to pay to any person as a rebate or a permitted deduction from a premium otherwise payable to the fund, any brokerage fee, commission, inducement or other sum in relation to the payment of the premium,

if any of those amounts, or the total of any such amounts, per annum, exceeds 12% of the full premium that would otherwise be payable for the policy for the period or exceeds 12% of the full premium when added to any amounts foregone in respect of the policy as a discount in the premium under paragraphs 66-5 (3) (a) to (e) of the Act, or a waiver of a co-payment or an excess that would otherwise be payable by the policy-holder under the policy.

- (2) The full premium for a policy is the premium that would be received by the private health insurer for a policy in the same product covering the same combination of people without any reduction due to the existence of any of the circumstances set out in paragraphs 66-5 (3) (a) to (e) of the Act.

Note: Paragraph 137-5 (1) (a) of the Act requires that a private health insurer must credit to a health benefits fund premiums payable under policies of insurance that are referable to the fund.

Part 3 Operation of health-related businesses through health benefits funds

5. Insurance for overseas students or specified temporary visa holders

(1) For section 137-30 of the Act, requirements are specified in subrule (2) relating to how a private health insurer which conducts business in respect of overseas students or specified temporary visa holder is to conduct that business.

(2) The private health insurer must not:

- (a) take or fail to take any action; or
- (b) 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 specified temporary visa holder health insurance contract of the insurer.

(3) In this rule, *discriminating* relates to:

- (a) the suffering by a person from a chronic disease, illness or other medical condition or from a disease, illness or medical condition of a particular kind; or
- (b) the gender, race, sexual orientation or religious belief of a person; or
- (c) the age of a person; or
- (d) where a person lives; or
- (e) any other characteristic of a person (including but not just matters such as occupation or leisure pursuits) that is likely to result in an increased need for hospital treatment or general treatment; or
- (f) the frequency with which a person needs hospital treatment or general treatment; or
- (g) the amount or extent of the benefits to which a person becomes entitled during a period under an overseas student health insurance contract or a specified temporary visa holder health insurance contract, as the case may be, except to the extent allowed by the written agreement, between the private health insurer and the Commonwealth, referred to in the definition of overseas student health insurance contract and specified temporary visa holder health insurance contract in the *Private Health Insurance (Health Insurance Business) Rules 2007*.

(4) In this rule, *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*.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au