

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Health and Ageing

Private Health Insurance Act 2007

Private Health Insurance (Benefit Requirements) Amendment Rules 2007 (No.4)

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Benefit Requirements) Rules* providing for matters required or permitted by Part 3-3 of the Act, or necessary or convenient in order to carry out or give effect to Part 3-3 of the Act.

The *Private Health Insurance (Benefit Requirements) Rules 2007 (No. 4)* (the Rules) provide for the minimum benefit requirements for psychiatric, rehabilitation and palliative care and other hospital treatment. Schedules 1 to 6 to the Rules set out the minimum levels of benefit which are payable for hospital treatment. Namely, benefits for overnight accommodation (Schedules 1 and 2), same day accommodation (Schedule 3), nursing-home type patients (Schedule 4), second-tier default benefits (Schedule 5), and outreach services (Schedule 6).

The *Private Health Insurance (Benefit Requirements) Amendment Rules 2007 (No.4)* (the Amending Rules) amend the Rules by making amendments to Rule 3 and Schedule 4 with respect to nursing-home type patient accommodation in hospitals in all States/Territories.

The purpose of this amendment is to ensure that the definition of nursing-home type patient is substantially the same as applied prior to 1 April 2007, except for the removal of the requirement for statutory certification and the Acute Care Advisory Committee from the process. The removal of the requirement for statutory certification and the Acute Care Advisory Committee took place on 1 April 2007.

The definition of nursing-home type patient appearing in the Rules contains more detail, leaving less ambiguity for private health insurers, hospitals and patients regarding the correct interpretation of the definition of a nursing-home type patient, particularly regarding when a person becomes, and when a person ceases to be, a nursing-home type patient.

The definition of nursing-home type patient in the Rules (as amended) will apply for the purpose of private health insurance benefits. The definition of nursing-home type patient appearing in subsection 3(1) of the *Health Insurance Act 1973* continues to apply in relation to public patients via the 2003-2008 Australian Health Care Agreements.

Details of the Amending Rules are set out in the [Attachment](#).

Consultation

No specific consultation was undertaken in relation to the Amending Rules as the changes simply ensure the correct interpretation of the definition of a nursing-home type patient in line with current industry practice.

PRIVATE HEALTH INSURANCE BRANCH
DEPARTMENT OF HEALTH AND AGEING
NOVEMBER 2007

DETAILS OF THE PRIVATE HEALTH INSURANCE (BENEFIT REQUIREMENTS) AMENDMENT RULES 2007 (NO.4)

1. Name of Rules

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Benefit Requirements) Amendment Rules 2007 (No.4)* (the Amending Rules).

2. Commencement

Rule 2 provides that the Amending Rules are to commence the day after they are registered.

3. Amendment of the Private Health Insurance (Benefit Requirements) Rules 2007 (No.4)

Rule 3 provides that the Schedule of the Amending Rules amends the *Private Health Insurance (Benefit Requirements) Rules 2007(No.4)* (the Rules).

Schedule Amendments

Item 1 – Rule 3 - Definitions

This clause amends the definition of a *nursing-home type patient* (NHTP) to refer to a definition of *nursing-home type patient* (NHTP) in Schedule 4 of the Rules.

Item 2 – Schedule 4, Clause 1

This clause inserts the following new clauses after Clause 1 in Schedule 4 of the Rules.

2. Interpretation

This Clause provides the definition of a NHTP for private health insurance purposes. A patient becomes a NHTP after they have received hospital treatment at a hospital for a continuous period of hospitalisation exceeding 35 days and are then receiving accommodation and nursing care as an end in itself.

3. Application

Subclause 3(1) limits the new NHTP definition to a patient who has been admitted to hospital, or has returned to hospital with less than a seven day break from a previous hospital admission, after the commencement of the Amending Rules.

Subrule 3(2) provides that if subclause 3(1) does not apply to a patient, the definition of a NHTP in the Rules will apply. The definition of a NHTP and the accompanying note, immediately before these Rules commenced was:

Nursing-home type patient has the same meaning as in subsection 3(1) of the *Health Insurance Act 1973*.

Note: Item 19 of Schedule 2 of the *Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007* also deals with nursing-home type patients.

4. Provision of acute care

Rule 4 allows a NHTP who requires acute care to cease being a NHTP for the period of acute care, and then become a NHTP again once they are again receiving accommodation and nursing care as an end in itself.

5. Ceasing and resuming hospital treatment

Rule 5 provides that a NHTP who leaves hospital but returns to a hospital, whether or not the same hospital, not more than 7 days later will continue to be a NHTP unless they require acute care.

Item 3 - Schedule 4, Clause 2

This clause was previously clause 2, Schedule 4 in the Rules and has been renumbered due to the insertion of new clauses into Schedule 4 by the Amending Rules.