

## EXPLANATORY STATEMENT

### *NATIONAL HEALTH ACT 1953*

#### **NATIONAL HEALTH (PHARMACEUTICAL BENEFITS SUPPLIED BY PRIVATE HOSPITALS) DETERMINATION 2010**

Subsection 99(4) of the Act provides that the Minister may determine the rate of Commonwealth payment to an approved hospital authority in respect of the supply of pharmaceutical benefits to patients receiving treatment at a hospital in which the hospital authority is approved.

The purpose of this determination is to determine the amount of the Commonwealth payment for pharmaceutical benefits supplied by an approved hospital authority to a patient receiving treatment at a private hospital for which the authority is approved.

The amount payable to a private hospital is the amount by which the dispensed price for a ready-prepared pharmaceutical benefit exceeds the patient co-payment.

Part VII of the *National Health Act 1953* (the Act) is the legislative basis of the Pharmaceutical Benefits Scheme (PBS) by which the Commonwealth provides reliable, timely, and affordable access to a wide range of medicines for all Australians.

Subsection 85(1) provides that benefits are to be provided by the Commonwealth in accordance with Part VII in respect of pharmaceutical benefits.

The determination under paragraph 99(4) of the Act determines the amount payable to private hospitals in respect of the supply of pharmaceutical benefits to patients receiving treatment in or at a private hospital for which the hospital authority is approved.

Unless the contrary intention is stated, this determination does not provide the determined price for pharmaceutical benefits supplied under an arrangement made under section 100 of the Act.

A provision-by-provision description of this determination is contained in the [Attachment](#).

This determination commences on 1 October 2010.

#### **Consultations**

This determination has been made in consultation with the Office of Legislative Drafting and Publishing. The purpose of this determination is to enable the amendments to the remuneration provided to private hospitals approved to supply pharmaceutical benefits announced in the 2010-11 Budget, to commence on 1 October 2010. This determination is consistent with the *Legislative Instruments Act 2003*.

This determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

**ATTACHMENT**

**Details of the National Health (Pharmaceutical benefits supplied by private hospitals) Determination 2010**

**Paragraph 1 – Name of Determination**

Paragraph 1 provides that the name of the determination is the *National Health (Pharmaceutical benefits supplied by private hospitals) Determination 2010*.

**Paragraph 2 – Commencement**

Paragraph 2 provides that the determination commences on 1 October 2010.

**Paragraph 3 – Revocation**

Paragraph 3 revokes, as of 1 October 2010, the previous determination made on 16 July 1996.

**Paragraph 4 – Purpose**

Paragraph 4 describes that the purpose of the determination is to determine the amount of the Commonwealth payment for pharmaceutical benefits supplied by an approved hospital authority to a patient receiving treatment in or at a private hospital for which the authority is approved.

**Paragraph 5 – Definitions**

Paragraph 5 defines terms used in the determination.

**Paragraph 6 – Rounding up and rounding down**

Paragraph 6 provides that if the calculation of a price in the determination includes a fraction of a cent, the result of the calculation will be rounded accordingly.

**Paragraph 7 – Dangerous drug fee**

Paragraph 7 provides that the Commonwealth must pay a dangerous drug fee if a pharmaceutical benefit falls within the definition of a dangerous drug. The fee is defined under Paragraph 5.

**Paragraph 8 – Repeat Supply**

Paragraph 8 provides the manner in which the Commonwealth payment is to be calculated in circumstances where a medical practitioner prescribes that the equivalent of a repeat supply of pharmaceutical benefits is to be supplied on one occasion.

**Paragraph 9 – Drugs and medicinal preparations to which a subsection 85 (6) determination applies**

Paragraph 9 provides clarification that, where there is a determination in effect under subsection 85 (6) of the Act for the supply of a brand or brands of a drug or medicinal preparation as a pharmaceutical benefit, the Commonwealth will only make a payment for the supply of a brand or brands of that drug or medicinal preparation mentioned in that determination.

**Paragraph 10 – Amount payable to approved hospital authority**

Paragraph 10 provides that the amount payable to an approved hospital authority for the supply of a ready-prepared pharmaceutical benefit to a patient receiving treatment in or at a private hospital is the amount by which the dispensed price exceeds the relevant patient co-payment.

**Paragraph 11 – Dispensed price**

Paragraph 11 provides that the components and amount of the dispensed price in respect of ready-prepared pharmaceutical benefits supplied by private hospitals will differ, depending on whether the amount of the benefit ordered and supplied is equal to, less than or more than the amount contained in a standard or non-standard pack. The components of the dispensed price comprise of:

- an amount based on the ex-manufacturer price, plus the storage and handling mark-up of 11.1% of the ex-manufacturer price;
- a container fee worked out in accordance with paragraph 13 (where the quantity of a benefit ordered and supplied is less than the quantity in a standard or non-standard pack);
- a mark-up worked out in accordance with paragraph 12; and
- either a ready-prepared dispensing fee or an extemporaneously-prepared dispensing fee.

**Paragraph 12 – Private hospital mark-up**

Paragraph 12 provides the amount of mark-up in respect of calculating the dispensed price for ready-prepared pharmaceutical benefits supplied by private hospitals.

**Paragraph 13 – Container price**

Paragraph 13 provides the manner for calculating the price for containers in respect of calculating the dispensed price for ready-prepared pharmaceutical benefits supplied by private hospitals.

**Paragraph 14 – Price for broken quantities**

Paragraph 14 provides the method for calculating a component of the dispensed price for ready-prepared pharmaceutical benefits supplied by private hospitals, where the quantity of a pharmaceutical benefit used or supplied is less than the quantity in a standard or non-standard pack. This method is used in conjunction with the determination of the dispensed price calculated under Paragraph 11.

**Paragraph 15 – Ready-prepared pharmaceutical benefits – limit on the dispensed price**

Paragraph 15 provides a maximum in calculating the dispensed price for a broken quantity of a ready-prepared pharmaceutical benefit supplied by a private hospital.

**Paragraph 16 – Pharmaceutical benefits mentioned in Schedule 4 of paragraph 98C (1) (b) determination**

Paragraph 16 provides that, where a lesser quantity of a pharmaceutical benefit which is specified in Schedule 4 to the determination made under paragraph 98C (1)(b) of the Act is prescribed, the dispensed price shall be calculated as if the complete pack of the pharmaceutical benefit was supplied.

**Paragraph 17 – Extemporaneously-prepared pharmaceutical benefits**

Paragraph 17 provides that the dispensed price for an extemporaneously-prepared pharmaceutical benefit is the Commonwealth price determined for the benefit under the *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Determination* as it applies at the time that a pharmaceutical benefit is supplied, as if the benefit was supplied by an approved pharmacist. The amount payable to an approved hospital authority is the amount by which the dispensed price for the pharmaceutical benefit exceeds the relevant patient co-payment.