



# **National Health (Pharmaceutical benefits supplied by private hospitals) Determination 2010<sup>1</sup>**

*National Health Act 1953*

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I, ANDREA KUNCA, Acting Assistant Secretary, Community Pharmacy Branch, Department of Health and Ageing, a delegate of the Minister for Health and Ageing, make this Determination under subsection 99 (4) of the *National Health Act 1953*.

Dated 21 September 2010

ANDREA KUNCA  
Acting Assistant Secretary, Community Pharmacy Branch  
Department of Health and Ageing

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**1 Name of Determination**

This Determination is the *National Health (Pharmaceutical benefits supplied by private hospitals) Determination 2010*.

**2 Commencement**

This Determination commences on 1 October 2010.

**3 Revocation**

The Determination titled “Determination under subsection 99 (4)”, made on 16 July 1996, is revoked.

**4 Purpose**

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 in or at a private hospital for which the authority is approved.

## 5 Definitions

In this Determination:

*Act* means the *National Health Act 1953*.

*approved hospital authority* means a hospital authority that has been approved by the Minister under subsection 94 (1) of the Act.

*Approved Pharmacists Determination* means the *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Determination 2010*, as it applies at the time that a pharmaceutical benefit is supplied.

*approved price to pharmacists* has the same meaning as in subsection 98B (3) of the Act.

*current figure* has the same meaning as in section 99G of the Act.

*dangerous drug* means:

- (a) a pharmaceutical benefit mentioned in Schedule 3 to the *Determination under paragraph 98C (1) (b) of the Act*; or
- (b) a pharmaceutical benefit that, under the law of a State or Territory, is classified as a dangerous drug.

*dangerous drug fee* has the same meaning as in *Approved Pharmacists Determination*.

*dispensed price*, for a pharmaceutical benefit, has the meaning given by section 11.

*extemporaneously-prepared dispensing fee* has the same meaning as in the *Approved Pharmacists Determination*.

*extemporaneously-prepared pharmaceutical benefit* means a pharmaceutical benefit that is not a ready-prepared pharmaceutical benefit.

*manufacturers' packs* has the meaning given by subsection (2).

*patient co-payment* means:

- (a) for a person to whom, at the time that a pharmaceutical benefit is supplied, paragraph 87 (2) (b) of the Act applies — the current figure for the general patient reduced charge, as defined in section 99F of the Act; or
- (b) for a person who is a concessional beneficiary for section 84 of the Act — the current figure for the concessional beneficiary charge, as defined in section 99F of the Act; or
- (c) for any other person — the current figure for the general patient charge, as defined in section 99F of the Act.

*pharmaceutical benefit* has the meaning given by section 84 of the Act.

*private hospital* means a hospital for which there is in force a statement under subsection 121-5 (8) of the *Private Health Insurance Act 2007* that the hospital is a private hospital.

*ready-prepared dispensing fee* has the same meaning as in the *Approved Pharmacists Determination*.

**ready-prepared pharmaceutical benefit** means a brand of a pharmaceutical item for which there is a determination under subsection 85 (6) of the Act.

**Regulations** means the *National Health (Pharmaceutical Benefits) Regulations 1960*.

**repatriation pharmaceutical benefit** has the meaning given by section 84 of the Act.

**storage and handling mark-up**, for a pharmaceutical benefit, means an amount equal to 11.1% of the ex-manufacturer price of the benefit.

- (2) Each of the following is a manufacturers' pack of pharmaceutical benefits on which the approved price to pharmacists is based:
- (a) a pack (a **standard pack**) for a ready-prepared pharmaceutical benefit, containing a quantity or number of units of the benefit that, at the time that the benefit is dispensed, is the maximum quantity or number of units of the benefit mentioned in the instrument made under subsection 85A (2) of the Act;
  - (b) a pack (a **non-standard pack**) for a ready-prepared pharmaceutical benefit that is:
    - (i) not a standard pack; and
    - (ii) used for determining the dispensed price for the benefit.

## 6 Rounding up and rounding down

If the calculation of a price under this Determination includes a fraction of a cent, the result of the calculation is to be rounded up or down to the nearest cent, with an amount of 0.5 of a cent or more being rounded up to the next cent.

## 7 Dangerous drug fee

If a pharmaceutical benefit is a dangerous drug, the Commonwealth must pay, in addition to any other amounts under this Determination, a dangerous drug fee.

## 8 Repeat supply

- (1) If, under subsection 88 (6) of the Act and regulation 24 of the Regulations, a medical practitioner, instead of directing a repeated supply of a pharmaceutical benefit, directs the supply of a quantity or number of units of the benefit on 1 occasion, not exceeding the total quantity or number of units that could be prescribed if the medical practitioner directed a repeated supply, the price for the purpose of this Determination for the supply includes:
- (a) only 1 dispensing fee, that may be:
    - (i) a ready-prepared dispensing fee; or
    - (ii) an extemporaneously-prepared dispensing fee; and

- (b) the price, if any, of only 1 container.
- (2) For this section, the price, if any, for a container is to be worked out under section 13.

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

If a determination under subsection 85 (6) of the Act applies to a pharmaceutical benefit that is a drug or medicinal preparation, the Commonwealth will only make a payment for the supply of a drug or medicinal preparation of the brand mentioned in the determination.

**10 Amount payable to approved hospital authority**

- (1) 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 for which the hospital authority is approved is the amount by which the dispensed price for the benefit exceeds the patient co-payment.
- (2) For a person to whom, at the time that the benefit is supplied, subsection 87 (5A) of the Act applies, the amount of the patient co-payment is zero.

**11 Dispensed price**

- (1) The dispensed price for the supply of a ready-prepared pharmaceutical benefit by an approved hospital authority to a patient receiving treatment in or at a public hospital for which the authority is approved is:
  - (a) if a quantity of the benefit that is ordered and supplied is equal to the quantity contained in a standard or non-standard pack — the sum of:
    - (i) the ex-manufacturer price for the standard or non-standard pack; and
    - (ii) the storage and handling mark-up; and
    - (iii) the mark-up, worked out under section 12; and
    - (iv) the ready-prepared dispensing fee; or
  - (b) if a quantity of the benefit that is ordered and supplied is less than the quantity contained in a standard or non-standard pack — the sum of:
    - (i) the amount worked out under section 14; and
    - (ii) a ready-prepared dispensing fee; and
    - (iii) an amount for the supply of a container, worked out under section 13; or

- (c) if a quantity of the benefit that is ordered and supplied is more than the quantity contained in a standard or non-standard pack — the sum of:
  - (i) the ex-manufacturer price for each standard or non-standard pack; and
  - (ii) the storage and handling mark-up for each standard or non-standard pack; and
  - (iii) the mark-up worked out under section 12; and
  - (iv) for the remainder, if any, of the quantity that is less than the quantity supplied in a standard or non-standard pack — the amount worked out under section 14; and
  - (v) the ready-prepared dispensing fee.
- (2) However, for a ready-prepared pharmaceutical benefit that comprises the admixture of ready-prepared ingredients and is specified in Schedule 1 to the *Determination under paragraph 98C (1) (b) of the National Health Act 1953*:
  - (a) the ready-prepared dispensing fee does not apply; and
  - (b) an extemporaneously-prepared dispensing fee must be paid by the Commonwealth; and
  - (c) no amount for the supply of the container is payable.

## 12 Private hospital mark-up

- (1) For subparagraph 11 (1) (a) (iii), the mark-up for a ready-prepared pharmaceutical benefit is an amount equal to 1.4% of the sum of the amounts worked out under subparagraphs 11 (1) (a) (i) and (ii).
- (2) For subparagraph 11 (1) (c) (iii), the mark-up for a ready-prepared pharmaceutical benefit is an amount equal to 1.4% of the sum of the amounts worked out under subparagraphs 11 (1) (c) (i) and (ii).

## 13 Container price

- (1) The price for a container for a ready-prepared pharmaceutical benefit is the sum of:
  - (a) the wholesale cost worked out under subsection (2); and
  - (b) the mark-up worked out under subsection (4).
- (2) The wholesale cost for a container will be based on the average of wholesale costs for a particular container, in a quantity of 100, as agreed by the Minister and the Pharmacy Guild of Australia for the supply of the container, by a wholesale drug distributor.
- (3) The wholesale cost must be agreed on or before 1 May in a year and takes effect on 1 August in that year.
- (4) For paragraph (1) (b), the mark-up is 10% of the amount agreed under subsection (2).

- (5) For a mark-up worked out under subsection (4), if the calculation of a percentage of the wholesale cost includes a fraction of a cent, the mark-up is to be rounded up or down to the nearest cent, with an amount of 0.5 of a cent or more being rounded up to the next cent.
- (6) In this section:
- container** means:
- (a) for a ready-prepared pharmaceutical benefit that is injectable — a vial with a capacity of 150 ml; or
- (b) for any other ready-prepared pharmaceutical benefit — a vial with a capacity of 25 ml.

## 14 Price for broken quantities

If a ready-prepared pharmaceutical benefit is ordered and supplied in a quantity that is less than the quantity contained in a standard or non-standard pack (the **broken quantity**), the amount mentioned in subparagraph 11 (1) (b) (i) or (c) (iv) is to be worked out using the following method statement.

### *Method statement*

*Step 1* Add together, for a pack:

- (a) the ex-manufacturer price for the standard or non-standard pack; and
- (b) the mark-up worked out under section 12; and
- (c) the storage and handling mark-up.

*Step 2* Divide the quantity or number of units in the broken quantity by the quantity or number of units in the standard or non-standard pack and express as a percentage.

*Step 3* For a percentage up to and including an amount in column 1 of the following table, select the percentage mentioned in column 2 of the previous item in the following table.

Column 1 Up to and including: (%)	Column 2 Select amount: (%)
5	10
10	18
15	26
20	32
25	38
30	44
35	50
40	54

Column 1 Up to and including: (%)	Column 2 Select amount: (%)
45	58
50	62
55	66
60	70
65	74
70	78
75	82
80	86
85	90
90	94
95	98
100	100

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*Step 4* Multiply the amount worked out under step 3 by the amount worked out under step 1.

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

If the dispensed price worked out for the supply of a broken quantity of a ready-prepared pharmaceutical benefit exceeds the dispensed price for a quantity of the benefit based on a standard or non-standard pack, the price for the quantity based on a standard or non-standard pack is the dispensed price.

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

If a prescription directs the supply of a quantity of a pharmaceutical benefit mentioned in Schedule 4 to the *Determination under paragraph 98C (1) (b) of the National Health Act 1953*, the dispensed price is the price worked out as if a complete pack was supplied.

**17 Extemporaneously-prepared pharmaceutical benefits**

- (1) For an extemporaneously-prepared pharmaceutical benefit supplied to a patient receiving treatment in or at a private hospital for which the hospital authority is approved, the dispensed price is the Commonwealth price determined for the benefit under the Approved Pharmacists Determination, as if the benefit was supplied by an approved pharmacist.



- (2) The amount payable to the approved hospital authority for the supply of an extemporaneously-prepared pharmaceutical benefit to the patient is the amount by which the dispensed price for the benefit exceeds the patient co-payment.
- (3) For a person to whom, at the time that the benefit is supplied, subsection 87 (5A) of the Act applies, the amount of the patient co-payment is zero.

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**Note**

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