

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance Act 2007

Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 1)

Authority

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 to be provided in order to carry out or give effect to Part 3-3 of the Act.

The *Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 1)* (the Amendment Rules) consist of three Schedules (A, B and C), which amend Schedules 1, 3, 4 and 5 of the *Private Health Insurance (Benefit Requirements) Rules 2011* (the Principal Rules) which commenced on 1 November 2011.

Purpose

Schedule A of the Amendments Rules

Schedule A of the Amendment Rules amends Schedule 4 of the Principal Rules. The purpose of the amendments to Schedule 4 of the Principal Rules is to change the minimum benefits payable per night for nursing-home type patients (NHTPs) at public hospitals in some States and at private hospitals nationally.

Schedule B of the Amendment Rules

Schedule B of the Amendment Rules amends Schedules 1 and 3 of the Principal Rules. The purpose of the amendments to Schedules 1 and 3 of the Principal Rules is to remove six MBS numbers, reclassify six, add one new MBS item number and add eight existing MBS numbers that were inadvertently left out of the Rules in the past.

Schedule C of the Amendment Rules

The purpose of the amendments to Schedule 5 of the Principal Rules is to add six additional facilities that are eligible for second tier default benefits. These changes have increased the table of listed facilities from 373 to 379.

Background

The Principal Rules, which commenced on 1 November 2011, provide for the minimum benefit requirements for psychiatric, rehabilitation and palliative care and other hospital treatment. Schedules 1 to 5 of the Principal 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) and second tier default benefits (Schedule 5).

Schedule 1 categorises MBS item numbers into overnight patient classifications comprising 'Advanced surgical patient', 'Obstetric patient', 'Surgical patient', 'Psychiatric patient', 'Rehabilitation patient' and 'Other patients'. Schedule 3 sets out MBS item numbers for the same day hospital accommodation benefits which are payable for privately insured patients in all states and territories.

The minimum benefits payable per night for hospital treatment provided to NHTPs in Schedule 4 of the Principal Rules is subject to review and change twice annually, to reflect

the indexation applied to the Adult Pension Basic Rate and maximum daily rate of rental assistance. The latest indexation of these rates becomes effective on 20 March 2012.

Schedule 5 of the Principal Rules requires a health insurer to pay second tier default benefits for most episodes of hospital treatment provided in private hospital facilities that are specified in Schedule 5 if the health insurer does not have a negotiated agreement with the hospital. Schedule 5 sets a higher minimum level of benefit (for overnight treatment and day only treatment provided in specified facilities) than the minimum benefit set for such treatment by Schedules 1, 2 and 3 of the Principal Rules.

Details

Details of the Amendment Rules are set out in the Attachment.

Statement of Compatibility

The Rules are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Consultation

Schedule A of the Amendment Rules - Items 1 and 2

On 28 February 2012, States and Territories were advised of the pension increase and were asked whether they would be increasing the NHTP contribution and accommodation rates in their jurisdiction. Tasmania, the Northern Territory and New South Wales advised that they will increase the NHTP accommodation rates in their public hospitals. Queensland, South Australia and the Australian Capital Territory advised that they will not increase their NHTP accommodation rates at this time. Western Australia advised of its intention to increase its NHTP contribution and accommodation rates at a later date yet to be determined. No advice was received from Victoria.

Schedule B of the Amendment Rules

Two new MBS item numbers were added, six items were reclassified, six items were removed and eight other MBS item numbers that were inadvertently left out of the Rules were also added. Medical advice was sought from within the Department about the addition and reclassification of the MBS item numbers. No further consultation was undertaken because the amendments are minor in nature.

Schedule C of the Amendment Rules

Consultation for changes to Schedule 5 occurred with industry through the Second Tier Advisory Committee (the Committee), which includes equal representation from both the private hospital and private health insurance sectors. Facilities wishing to be considered for inclusion in Schedule 5 are individually assessed by the Committee which then makes a recommendation to the Minister as to whether or not the hospital meets the eligibility criteria. This arrangement was negotiated with the private health industry and has been in place since 2004.

The Amendment Rules commence on 20 March 2012 or, if registered after 20 March 2012, the day after registration.

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

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

ATTACHMENT

**DETAILS OF THE *PRIVATE HEALTH INSURANCE (BENEFIT REQUIREMENTS)*
AMENDMENT RULES 2012 (No. 1)**

1. Name of Rules

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 1)* (the Amendment Rules).

2. Commencement

Rule 2 provides that the Amendment Rules are to commence on 20 March 2012 or, if registered on a later date, the day after registration.

3. Amendment of *Private Health Insurance (Benefit Requirements) Rules 2011*

Rule 3 provides that Schedules A, B and C to the Amendment Rules amend the *Private Health Insurance (Benefit Requirements) Rules 2011* (the Principal Rules) which commenced on 1 November 2011.

Schedule A – Amendments**Item 1 – Schedule 4, Clause 6 Minimum benefit, Table 1**

Item 1 of Schedule A to the Amendment Rules increases the minimum benefit payable per night for nursing-home type patients in public hospitals in the following States in clause 6, Table 1:

- NSW from \$104.90 to \$109.10;
- Northern Territory from \$75.23 to \$75.83; and
- Tasmania from \$121.30 to \$122.25.

Item 2 – Schedule 4, Clause 6 Minimum benefit, Table 2

Item 4 of Schedule A to the Amendment Rules decreases the minimum benefit payable per night for nursing-home type patients in private hospitals in clause 6, Table 2:

- Private hospitals from \$60.55 to \$60.15

Schedule B – Amendments**Item 1 - Schedule 1, Part 2, Subclause 6(3) Surgical Patient**

Patients are taken to be surgical type overnight patients if they meet the criteria of Schedule 1, Part 2, subclause 6(2) and are receiving the items listed in subclause 6(3), within the fee range of \$244.37 to \$820.64. Subclause 6(3) of the Principal Rules sets out the MBS item numbers for the purposes of this clause of the Principal Rules, but indicates that a listing in subclause 6(3) only applies where an item has a fee in the MBS within the specified range.

Item 1 of Schedule B to the Amendment Rules inserts five MBS item numbers (36658, 36662, 36663, 36664 and 36666) into Schedule 1 of the Principal Rules to reflect that they

should be categorised as overnight hospital procedures. Item numbers 36663, 36664 and 36666 are also added due to the reclassification of these item numbers from same day to overnight accommodation procedures.

Item 2 – Schedule 3, Part 2, Paragraph 4(1)(a) Band 1 Type B day procedures

Item 2 of Schedule B to the Amendment Rules inserts five MBS items (13924, 13933, 13936, 32215 and 36665). MBS item number 36665 was inserted due to the reclassification of its status to Type B day procedures.

Item 3 – Schedule 3, Part 2, Subclause 5(1) Non-band specific Type B day procedures

Item 3 of Schedule B to the Amendment Rules inserts five MBS item numbers (32217, 36660, 36667, 36668 and 42739) to reflect that they should be categorised as same day accommodation procedures. Item numbers 36667 and 36668 have been reclassified from Type C to Type B day procedure.

Item 4 – Schedule 3, Part 3, Subclause 8, Category 1 Attendances

Item 4 removes the listing of the six MBS items (10993, 10994, 10995, 10996, 10998 and 10999) listed under category M2 as these items were removed from the MBS.

Item 5 – Schedule 3, Part 2, Clause 8, Category 3 Therapeutic Procedures

Item 5 removes the listing of six MBS item numbers (36663, 36664, 36665, 36666, 36667 and 36668) listed in Clause 8 of Schedule 3 as Type C procedures to be reclassified as Type A and B procedures in Schedules 1 and 3. Item 5 also adds new MBS item number 42738.

Schedule C- Amendments

Item 1 – Schedule 5, Clause 4 Facilities, Table

Item 1 of Schedule C to the Amendment Rules provides that the table in Schedule 5, Clause 4 of the Principal Rules is amended to insert the following six new facilities:

Name	Address
ACT Endoscopy	2/70 Kent Street, DEAKIN ACT 2600
Calvary Private Hospital	Haydon Drive, BRUCE ACT 2617
Calvary Wakefield Hospital	300 Wakefield Street, ADELAIDE SA 5000
Capital Day Surgical Centre	2/9 Sydney Avenue, BARTON ACT 2600
Concord Private Hospital	55-57 Burwood Road, CONCORD NSW 2137
Tennyson Centre Day Hospital	520 South Road, KURRALTA PARK SA 5037

PRIVATE HEALTH INSURANCE BRANCH
DEPARTMENT OF HEALTH AND AGEING
MARCH 2012