

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. 4)

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. 4)* (the Amendment Rules) consist of four Schedules (A, B C and D), which amend Schedules 1-5 of the *Private Health Insurance (Benefit Requirements) Rules 2011* (the Principal Rules) which commenced on 1 November 2011.

Purpose

Schedule A of the Amendment Rules

The purpose of Schedule A to the Amendment Rules is to make changes to the minimum benefits for hospital accommodation in Schedule 1, 2 and 3 of the Principal Rules to reflect increases in the Consumer Price Index (CPI) from March 2011 to March 2012. The accommodation components in Schedule 1, 2 and 3 are subject to annual review and are amended with reference to the CPI movements from March to March each year. In the year from March 2011 to March 2012, there was an increase of 1.6% in the Australian CPI.

The increase in minimum benefits for hospital accommodation in Queensland differ. These benefits are indexed based on the Brisbane March 2011 to March 2012 CPI. In the year from March 2011 to March 2012, there was an increase of 1.3% in the Brisbane CPI.

Schedule B of the Amendment Rules

The purpose of Schedule B to the Amendment Rules is to make amendments to Schedule 4 of the Principal Rules. The amendments reflect the changes in the minimum benefits for hospital treatment for patients who are classified as “nursing-home type patients” (NHTPs) at public hospitals in South Australia, the Australian Capital Territory and Western Australia.

Schedule C of the Amendment Rules

The purpose of the amendments provided in Schedule C is to update the table at Clause 4 of Schedule 5 of the Principal Rules which specify ‘Second tier facilities’ to:

- update the addresses and/or names of 13 facilities;
- remove 15 facilities; and
- add 11 additional facilities that are eligible for second tier default benefits.

These changes have reduced the number of Second tier facilities from 380 to 376.

Schedule D of the Amendments Rules

The purpose of Schedule D to the Amendment Rules is to amend Schedules 1 and 3 of the Principal Rules to update the listing of Medicare Benefits Schedule (MBS) item numbers to reflect the changes made by the *Health Insurance (Pathology Services Table) Amendment Regulations 2012 (No. 1)* which commenced 1 May 2012 and the changes to the MBS which take effect from 1 July 2012.

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**.

Consultation

Schedule A of the Amendment Rules

The increases to the minimum benefits in public hospitals were made with the agreement of the relevant State/Territory health authorities. On 3 May 2012, the Australian Government Department of Health and Ageing advised States and Territories of its intention to increase minimum private health insurance benefits for private hospital accommodation as a consequence of CPI movements for the period March 2011- March 2012. All States and Territories responded to the Department confirming the new rates that would apply in their jurisdictions in respect of public shared ward accommodation for private patients from 1 July 2012.

Schedule B of the Amendment Rules

On 28 February 2012, the Department consulted with States and Territories and invited them to advise of their intention to adjust NHTP default benefits in line with twice annual changes to the Adult Basic Pension Rate and Maximum Daily Rate of Rental Assistance. New South Wales, the Northern Territory, Queensland, South Australia and Tasmania provided responses to the Department in March 2012 and the NHTP minimum benefits in those jurisdictions were increased effective from 21 March 2012. On 7 May 2012, 16 May 2012 and 17 May 2012, Western Australia, the ACT and South Australia respectively provided responses to the Department in relation to the NHTP minimum benefits and the increases in these jurisdictions will be effective from 1 July 2012.

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 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.

Schedule D of the Amendment Rules

In accordance with changes to the MBS, five MBS item numbers have been added. One MBS item number that was erroneously included in Schedule 1 has been removed from Schedule 1, but remains in Schedule 3. Medical advice was sought from within the Department regarding these amendments. No further consultation was undertaken because the amendments are minor in nature and do not significantly effect existing arrangements.

The Amendment Rules commence on 1 July 2012 or, if registered after 1 July 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. 4)*

Section 1 Name of Rules

Section 1 provides that the title of the Rules is the *Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 4)* (the Amendment Rules).

Section 2 Commencement

Section 2 provides that the Amendment Rules are to commence on 1 July 2012 or, if registered on a later date, the day after registration.

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

Section 3 provides that Schedules A, B, C and D to the Amendment Rules amends the Rules which commenced on 1 November 2011.

Schedule A – Amendments

Item 1 – Schedule 1, Subclause 2(2) Minimum benefit, Table 1

Schedule 1 of the Rules sets out the minimum benefit payable per night for patients in private hospitals in all States/Territories and shared ward accommodation at public hospitals in Victoria and Tasmania, providing that the patient is not classified as a nursing-home type patient.

Item 1 of the Schedule to the Amendment Rules increases the minimum benefit per night for private hospitals in all States/Territories in subclause 2(2), Table 1:

Advanced surgical patient

- first 14 days From: \$378 to \$384
- over 14 days From: \$262 to \$266

Surgical patient or obstetric patient

- first 14 days From: \$350 to \$356
- over 14 days From: \$262 to \$266

Psychiatric patient

- first 42 days From: \$350 to \$356
- 43 – 65 days From: \$304 to \$309
- over 65 days From: \$262 to \$266

Rehabilitation patient

- first 49 days From: \$350 to \$356
- 50 – 65 days From: \$304 to \$309
- over 65 days From: \$262 to \$266

Other patients

- first 14 days From: \$304 to \$309
- over 14 days From: \$262 to \$266

Item 2 – Schedule 1, Subclause 2(2) Minimum benefit, Table 2

Item 2 of the Schedule to the Amendment Rules increases the minimum benefit per night for shared ward accommodation at Victorian public hospitals in subclause 2(2), Table 2:

Advanced surgical patient

- first 14 days From: \$378 to \$384
- over 14 days From: \$262 to \$266

Surgical patient or obstetric patient

- first 14 days From: \$350 to \$356
- over 14 days From: \$262 to \$266

Psychiatric patient

- first 42 days From: \$350 to \$356
- 43 – 65 days From: \$304 to \$309
- over 65 days From: \$262 to \$266

Rehabilitation patient

- first 49 days From: \$350 to \$356
- 50 – 65 days From: \$304 to \$309
- over 65 days From: \$262 to \$266

Other patients

- first 14 days From: \$304 to \$309
- over 14 days From: \$262 to \$266

Item 3 – Schedule 1, Subclause 2(2) Minimum benefit, Table 3

Item 3 of the Schedule to the Amendment Rules increases the minimum benefit per night for shared ward accommodation at Tasmanian public hospitals in subclause 2(2), Table 3:

Advanced surgical patient

- first 14 days From: \$378 to \$384
- over 14 days From: \$262 to \$266

Surgical patient or obstetric patient

- first 14 days From: \$350 to \$356
- over 14 days From: \$262 to \$266

Psychiatric patient

- first 42 days From: \$350 to \$356
- 43 – 65 days From: \$304 to \$309
- over 65 days From: \$262 to \$266

Rehabilitation patient

- first 49 days From: \$350 to \$356
- 50 – 65 days From: \$304 to \$309
- over 65 days From: \$262 to \$266

Other patients

- first 14 days From: \$304 to \$309
- over 14 days From: \$262 to \$266

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

Schedule 2 of the Rules sets out the minimum benefit payable per night for patients in shared ward accommodation at public hospitals in the Australian Capital Territory (ACT), New South Wales (NSW), Northern Territory, Queensland, South Australia and Western Australia, providing that the patient is not classified as a nursing-home type patient.

Item 4 of the Schedule to the Amendment Rules increases the minimum benefit per night for shared ward accommodation at ACT, NSW, the Northern Territory, Queensland, South Australia and Western Australian public hospitals in clause 2, Table:

- ACT From: \$313 to \$318;
- NSW From: \$313 to \$318;
- Northern Territory From: \$313 to \$318;
- Queensland From: \$320 to \$324;
- South Australia From: \$313 to \$318; and
- Western Australia From: \$313 to \$318.

Item 5 – Schedule 3, Part 1, Subclause 2(2) Minimum benefit, Table 1

Schedule 3 of the Rules set out the minimum benefit payable for same-day accommodation patients in all the State/Territory hospitals, providing that:

- i. hospital treatment is classified as a type B procedure; and
- ii. the patient is not classified as a nursing-home type patient.

Item 5 of the Schedule to the Amendment Rules increases the minimum benefit for same-day accommodation in public hospitals in NSW, ACT, Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia in subclause 2(2), Table 1:

Public hospitals	Band 1	Band 2	Band 3	Band 4
NSW	From: \$226 to \$230	From: \$253 to \$257	From: \$279 to \$283	From: \$313 to \$318
ACT	From: \$226 to \$230	From: \$253 to \$257	From: \$279 to \$283	From: \$313 to \$318
Northern Territory	From: \$226 to \$230	From: \$258 to \$262	From: \$300 to \$305	From: \$313 to \$318
Queensland	From: \$233.50 to \$236.50	From: \$261 to \$264	From: \$287 to \$291	From: \$320 to \$324
South Australia	From: \$226 to \$230	From: \$258 to \$262	From: \$285 to \$290	From: \$313 to \$318
Tasmania	From: \$219 to \$223	From: \$261 to \$265	From: \$303 to \$308	From: \$350 to \$356
Victoria	From: \$221 to \$225	From: \$262 to \$266	From: \$305 to \$310	From: \$350 to \$356
Western Australia	From: \$243 to \$260	From: \$243 to \$260	From: \$243 to \$260	From: \$243 to \$260

Item 6 – Schedule 3, Part 1, Subclause 2(2) Minimum benefit, Table 2

Item 6 of the Schedule to the Amendment Rules increases the minimum benefit per night for same-day accommodation in all State/Territory private hospitals in subclause 2(2), Table 2:

	Band 1	Band 2	Band 3	Band 4
Private Hospitals	From: \$196 to \$199	From: \$247 to \$251	From: \$300 to \$305	From: \$350 to \$356

Schedule B – Amendments

Item 1– Schedule 4, Clause 6 Minimum benefit, Table 1

Schedule 4 of the Rules sets out the minimum benefit payable per night for patients that are classified as nursing-home type patients in hospitals.

Item 1 of the Schedule to the Amendment Rules increases the minimum benefit per night for public hospitals in the following State and Territories in clause 6, Table 1:

- South Australia From: \$106.00 to \$108.00
- ACT From: \$103.80 to \$107.40
- Western Australia From: \$106.80 to \$116.05

Schedule C – Amendments

Item 1 – Schedule 5, Clause 4 Facilities, Table

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.

Item 1 provides that the table in Schedule 5, Clause 4 of the Principal Rules is amended to change the addresses and/or names of the following 13 facilities:

From	St Frances Xavier Cabrini Hospital – Malvern	181-183 Wattletree Road, MALVERN VIC 3144
To	Cabrini Hospital - Malvern	181-183 Wattletree Road, MALVERN VIC 3144
From	St Francis Xavier Cabrini Hospital – Prahran	646 High Street, PRAHRAN EAST VIC 3181
To	Cabrini Hospital - Prahran	646 High Street, PRAHRAN EAST VIC 3181

From	Calvary Health Care Tasmania – St Luke’s Campus	24 Lyttleton Street, LAUNCESTON TAS 7250
To	Calvary Health Care Tasmania – (Launceston)	24 Lyttleton Street LAUNCESTON TAS 7250
From	North Melbourne Dialysis Clinic	Level 1, 185-187 Boundary Road, NORTH MELBOURNE VIC 3051
To	Diaverum North Melbourne Dialysis Clinic	Level 1, 185-187 Boundary Road, NORTH MELBOURNE VIC 3051
From	Sydney IVF Day Surgery	Level 4, 321 Kent Street, SYDNEY NSW 2000
To	Genea Day Surgery	Level 4, 321 Kent Street, SYDNEY NSW 2000
From	Sydney IVF Liverpool	173-175 Bigge Street, LIVERPOOL NSW 2170
To	Genea IVF Liverpool	173-175 Bigge Street, LIVERPOOL NSW 2170
From	Sydney IVF Northwest	Level 1, Suite 101, 10 Norbrik Drive, BELLA VISTA NSW 2153
To	Genea IVF Northwest	Level 1, Suite 101, 10 Norbrik Drive, BELLA VISTA NSW 2153
From	Kawana Private Hospital	Suite 14, Level 1, Innovation Parkway, BIRTINYA QLD 4575
To	Kawana Private Hospital	Suite 14, Level 1, 5 Innovation Parkway, BIRTINYA QLD 4575
From	Macquarie University Hospital	Talavera Road, MACQUARIE PARK NSW 2113
To	Macquarie University Hospital	3 Technology Place MACQUARIE PARK NSW 2109
From	Lambton Road Day Surgery	163 Lambton Road, BROADMEADOW NSW 2292
To	Marie Stopes International Broadmeadow	163 Lambton Road, BROADMEADOW NSW 2292
From	Oromax Day Surgery	Level 3, 1 Hutt Street, ADELAIDE SA 5000
To	Oromax Day Surgery Pty Ltd	Level 3, 1 Hutt Street, ADELAIDE SA 5000
From	Robina Procedure Centre	Robina Town Centre, ROBINA QLD 4230
To	Robina Procedure Centre	Tenancy 4110, Level 3, Robina Town Centre Drive, ROBINA TOWN CENTRE QLD 4230
From	Vision Eye Institute	Levels 3 & 4, 270 Victoria Street, CHATSWOOD NSW 2067
To	Vision Eye Institute, Chatswood	Levels 3 & 4, 270 Victoria Street, CHATSWOOD NSW 2067

Item 1 provides that the table in Schedule 5, Clause 4 of the Principal Rules is amended to remove the following 14 facilities as second tier eligibility for these facilities expired on 30 June 2012.

Name	Address
Cambridge Day Surgery	178 Cambridge Street, WEMBLEY WA 6014
Colin Street Day Surgery	51 Colin Street, WEST PERTH WA 6005
Maitland Private Hospital	173 Chisholm Road, EAST MAITLAND NSW 2323
Mercy Hospital Mount Lawley	Thirlmere Road, MOUNT LAWLEY WA 6050
Murdoch Surgicentre	100 Murdoch Drive, MURDOCH WA 6150
Nephrocare Bondi Dialysis Clinic	Suite G2, 19-23 Hollywood Avenue, BONDI JUNCTION NSW 2022
Nephrocare Newcastle Dialysis Clinic	Suite 402, Level 4, 670 Hunter Street, NEWCASTLE NSW 2308
Reservoir Private Hospital	73 – 75 Pine Street, RESERVOIR VIC 3071
Skin Cancer Day Surgery	19 Cleveland Road, ASHWOOD VIC 3147
Subiaco Private Hospital	Ground Floor, Suite F and Level 1, 1 Salvado Road, SUBIACO WA 6008
Sydney IVF Canberra	2 King Street - Suite 17B, DEAKIN ACT 2600
The Hornsby Sleep Disorder and Diagnostic Centre	104 Balmoral Street, WAITARA NSW 2077
The Marian Centre	187 Cambridge Street, WEMBLEY WA 6014
Victor Harbor Private Hospital	Bay Road, VICTOR HARBOR SA 5211

Item 1 provides that the table in Schedule 5, Clause 4 of the Principal Rules is amended to remove the following facility due to an amalgamation with Calvary Health Care Tasmania – St Luke’s Campus:

Name	Address
Calvary Health Care Tasmania - St Vincent’s Campus	5 Frederick Street, LAUNCESTON TAS 7250

Item 1 provides that the table in Schedule 5, Clause 4 of the Principal Rules is amended to insert the following 11 new facilities:

Name	Address
Albury Day Surgery	4 Baker Court, ALBURY NSW 2640
Canberra Specialist Surgical Centre	Level 3, Building 2, Equinox Business Park, 70 Kent Street, DEAKIN ACT 2600
Churchill Day Surgery	136 Churchill Avenue, SUBIACO WA 6008
Healthbridge Hawthorn Private Hospital	50 Burwood Road, HAWTHORN VIC 3122
Marie Stopes International Maroondah Centre	411-415 Dorset Road, CROYDON VIC 3142
North Lakes Day Hospital	7 Endeavour Boulevard, NORTH LAKES QLD 4509
North Tas Urology	25-27 Canning Street, LAUNCESTON TAS 7250
Northwest Day Hospital	221 Maribyrnong Road, ASCOT VALE VIC 3032
Rosebery Day Surgery	308 Gardeners Road, ROSEBERY NSW 2018
Springvale Endoscopy Centre and Day Hospital	20 Balmoral Avenue, Springvale VIC 3171

Westpoint Endoscopy Day Hospital	243 Heaths Road, HOPPERS CROSSING VIC 3029
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Schedule D – Amendments

Item 1 – Schedule 1, Part 2, Type A procedures, Subclause 6(3) Surgical Patient

Item 1 amends Schedule 1, Part 2, subclause 6(3) of the Principal Rules by deleting MBS item number 37219 so that it is no longer categorised as a Type A procedure unless it is medically certified as requiring an overnight stay. MBS item number 37219 relates to biopsy of the prostate. This item is also currently a Type B procedure. It is a drafting error that item 37219 is both a Type A and Type B procedure. It has been decided that item 37219 does not normally require an overnight stay in hospital so it is being deleted from the Type A category, but remains listed under Schedule 3, Part 2, subclause 5(1), Type B.

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

Item 3 of Schedule B to the Amendment Rules inserts two MBS item numbers (13318 and 13815) to reflect that they should be categorised as same day accommodation procedures. These items relate to central vein catheterisation. It is expected that these items will most likely be performed in association with Type A or Type B procedures. However, it is recognised that these items may be performed, in rare cases, in isolation in hospital.

Item 3 – Schedule 3, Part 3, Type C procedures, Clause 8, Category 6 – Pathology services

Item 3 inserts three new pathology MBS item numbers (73328, 73330 and 73332) into Type C, Category 6 – Pathology services, P7.

PRIVATE HEALTH INSURANCE BRANCH
DEPARTMENT OF HEALTH AND AGEING
JUNE 2012

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 4)

This Legislative Instrument is 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*.

Overview of the Legislative Instrument

The *Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 4)* amend schedules 1 - 5 of the *Private Health Insurance (Benefit Requirements) Rules 2011* to update the listing of Medicare Benefits Schedule item numbers; to increase hospital accommodation minimum benefits; to update minimum benefits for Nursing Home Type Patients; and to update the list of Second Tier facilities.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Richard Magor

Assistant Secretary

Private Health Insurance Branch

Department of Health and Ageing