

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance Act 2007

Private Health Insurance (Accreditation) Amendment Rules 2012

Authority

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Accreditation) Rules 2011* (the Principal Rules) providing for matters required or permitted by section 81-1 of the Act, or necessary or convenient to be provided in order to carry out or give effect to section 81-1 of the Act.

Purpose

The *Private Health Insurance (Accreditation) Amendment Rules 2012* (the Amendment Rules) amends the Principal Rules which commenced on 5 November 2011. The Amendment Rules insert a new subrule 7(3) allowing private health insurers to continue to pay benefits in respect of treatment provided by Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists who have not been registered by the Aboriginal and Torres Strait Islander Health Practice Board, the Chinese Medicine Board, the Medical Radiation Board and the Occupational Therapy Board (collectively referred to in this explanatory statement as the Boards). This exemption will end on 1 January 2013.

Background

Section 81-1 of the Act provides that an insurance policy meets the quality assurance requirements in Division 81-1 of the Act if the policy prohibits the payment of private health insurance benefits for a treatment that does not meet the standards in the Principal Rules.

Each State and Territory has enacted model legislation relating to the accreditation of health professionals (the National Law). From 1 July 2012, under the National Law Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists are required to be registered by the Boards. In accordance with rule 7 of the Principal Rules, private health insurers will not be able to provide benefits to members for treatment provided by Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists who are not registered under the National Law by 1 July 2012.

There is a concern that there may be delays in the Boards accreditation process due to the large volume of initial applications for registration. This may result in some appropriately qualified, but unregistered, Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists providing services for which private health insurance benefits cannot be paid.

The six month extension of time, permitting private health insurers to continue to offer benefits for services rendered by all appropriately qualified Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists, is deemed to be an appropriate transition period for the Boards to consider all applications for registration submitted before 1 July 2012.

Consumers who have been receiving benefits for Aboriginal or Torres Strait Islander health services, Chinese medicine, medical radiation and occupational therapy will be able to continue to receive benefits under the existing arrangements for this treatment until 1 January 2013.

This amendment will not increase safety risks to consumers. Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists whose application for registration has been rejected by the Boards during the six months transition period will be regulated by Australian Health Practitioner Regulation Agency (AHPRA) under the National Law and will be prevented from advertising or describing themselves as Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists.

Details

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

Consultation

In accordance with section 17 of the *Legislative Instruments Act 2003*, the Department of Health and Ageing has consulted with the AHPRA, Private Healthcare Australia and private health insurers regarding this amendment.

The Amendment Rules commence on 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 (ACCREDITATION)* *AMENDMENT RULES 2012*

1. Name of Rules

Rule 1 provides that the title of the Rules is the *Private Health Insurance (Accreditation) Amendment Rules 2012* (the Amendment Rules).

2. Commencement

Rule 2 provides that the Amendment Rules are to commence on the day after registration.

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

Rule 3 provides that the Schedule to the Amendment Rules amend the *Private Health Insurance (Accreditation) Rules 2011* which commenced on 5 November 2011.

Schedule Amendments

Item 1 – Part 1, Rule 4

Item 1 inserts a definition for *Chinese medicine practitioner*. The definition of a Chinese medicine practitioner mirrors the definition of a Chinese medicine practitioner under the National Law. A Chinese medicine practitioner includes a Chinese medicine practitioner, Chinese herbal dispenser, Chinese herbal medicine practitioner, Oriental medicine practitioner or acupuncturist.

Item 2 – Part 1, Rule 4

Item 2 inserts a definition for *Medical radiation practitioner*. The definition of a medical radiation practitioner mirrors the definition of a medical radiation practitioner under the National Law. A medical radiation practitioner includes a diagnostic radiographer, medical imaging technologist, radiographer, nuclear medicine scientist, nuclear medicine technologist or radiation therapist.

It is noted that the Amendment Rules do not provide definitions for Aboriginal or Torres Strait Islander health practitioner or occupational therapists because there are no sub-categories for these practitioner types under the National Law.

Item 3 - Part 2, Subrule 7

Item 3 inserts a new subrule 7(3) clarifying that private health insurers may pay benefits in respect of treatment provided by Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists who are not yet registered under the National law (as defined in rule 4). This clause ceases to have effect on and from 1 January 2013.

PRIVATE HEALTH INSURANCE BRANCH
DEPARTMENT OF HEALTH AND AGEING
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Statement of Compatibility with Human Rights

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

Private Health Insurance (Accreditation) Amendment Rules 2012

This Bill/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 (Accreditation) Amendment Rules 2012* amend schedule 3 of the *Private Health Insurance (Accreditation) Rules 2011* to insert a paragraph in rule 7, providing a six months transition period permitting private health insurers to continue paying benefits for unregistered Aboriginal or Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists.

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.

Tanya Plibersek

Minister for Health

Department of Health and Ageing