

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. 5)

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. 5)* (the Amendment Rules) amend Schedules 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 Amendment 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 Schedule 5 of the Principal Rules to add six additional facilities that are eligible for second-tier default benefits. These changes have increased the table of listed facilities from 376 to 382.

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 A of the Amendment Rules

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 (Pension and Rental Assistance Rates). The latest indexation of these takes effect on 20 September 2012.

Schedule B of the Amendment Rules

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

On 23 August 2012, states and territories were asked whether they would be increasing the NHTP contribution and accommodation rates in their jurisdiction in line with increases in the Pension and Rental Assistance Rates. Tasmania and Victoria advised that they will increase the NHTP accommodation rates in their public hospitals. The Australian Capital Territory, New South Wales, Queensland and South Australia advised that it will not increase its NHTP accommodation rates at this time. Western Australia and the Northern Territory advised of their intention to increase NHTP contribution and accommodation rates at a later date yet to be determined.

Schedule B 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 September 2012, or if registered after 20 September 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

Details of the *Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 5)*

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. 5)* (the Amendment Rules).

Section 2 Commencement

Section 2 provides that the Amendment Rules are to commence on 20 September 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 the Schedule to the Amendment Rules amends 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:

- Tasmania from \$122.25 to \$124.90;
- Victoria from \$105.65 to \$113.70.

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

Item 2 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 \$60.15 to \$59.05.

Schedule B – Amendments

Item 1 – Schedule 5, Clause 4 Facilities, Table

Item 1 of Schedule B 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
Genea Canberra	Suite 17B, 2 King Street, DEAKIN ACT 2600
Mercy Hospital Mount Lawley	Thirlmere Road, MOUNT LAWLEY WA 6050
Reservoir Private Hospital Day Procedure Centre	73-75 Pine Street, RESERVOIR VIC 3073
Subiaco Private Hospital	Suite 9, 1 Salvado Road, SUBIACO WA 6008
The Hornsby Sleep Disorders and Diagnostic Centre	104 Balmoral Street, WAITARA NSW 2077
The Marian Centre	187 Cambridge Street, WEMBLEY WA 6014

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 (Benefit Requirements) Amendment Rules 2012 (No. 5)

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. 5)* amend Schedules 4 and 5 of the *Private Health Insurance (Benefit Requirements) Rules 2011* to update the minimum benefits for Nursing-Home Type Patients at public hospitals in some states and at private hospitals nationally; 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.

Doug Fawns

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Private Health Insurance Branch

Department of Health and Ageing