

## **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. 10)*

### **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. 10)* (the Amendment Rules) amend Schedule 5 of the *Private Health Insurance (Benefit Requirements) Rules 2011* (the Principal Rules) which commenced on 1 November 2011.

### **Purpose**

The purpose of the Amendment Rules is to make consequential and minor amendments to the Principal Rules in light of the new National Safety and Quality Health Service Standards developed by the Australian Commission on Safety and Quality in Healthcare (the Commission) which are scheduled to commence from 1 January 2013.

The Amendment Rules state that the new safety and quality requirements to be eligible to enter the list of second-tier eligible facilities are the new National Standards. It is noted that there is no change in the way in which payment of second-tier benefits are implemented.

To provide clarity, the Amendment Rules specify the eligibility criteria (reflecting existing criteria in the *Administrative Arrangements for the Second Tier Default Benefits for Overnight and Day Only Treatment*) that the Second Tier Advisory Committee (STAC) must consider for second-tier eligibility. These relate to providing evidence of being a private hospital, Informed Financial Consent, simplified billing, and Hospital Casemix Protocol data, as well as accreditation to the level of the National Standards when required.

Additionally, for administrative simplicity, the Principal Rules will no longer contain a list of second-tier eligible hospitals. Instead, the Department of Health and Ageing will publish a Private Health Insurance Circular with the list of the STAC-approved facilities after each STAC meeting. Inclusion on this list will determine second-tier eligibility. Future changes to the list, as recommended by the STAC, will be referred to in relevant amendments to the Principal Rules by referring to the list existing at the time the future amending instrument takes effect.

### **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 benefits 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 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 meet the eligibility requirements in Clause 4 of 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

In accordance with Section 17 of the *Legislative Instruments Act 2003*, the Department of Health and Ageing has consulted with the Australian Commission on Safety and Quality in Health Care, the Australian Private Hospitals Association and Private Healthcare Australia regarding this amendment.

The Amendment Rules commence on 1 January 2013, or if registered after 1 January 2013, 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. 10)*

#### 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. 10)* (the Amendment Rules).

#### Section 2 Commencement

Section 2 provides that the Amendment Rules are to commence on 1 January 2013 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 amend the *Private Health Insurance (Benefit Requirements) Rules 2011* (the Principal Rules) which commenced on 1 November 2011.

#### Schedule – Amendments

##### Item 1 – Schedule 5, Subclause 1(1) Interpretation

Item 1 inserts the definitions of:

***accredited*** which means being assessed by an appropriate accrediting body as being fully compliant with the National Safety and Quality Health Service Standards; or a hospital that was listed in the table at clause 4 Schedule 5 as in force immediately before the commencement of these Amendment Rules until the first time from the commencement of the Amendment Rules that hospital's accreditation expires or otherwise ceases.

It is noted that hospitals currently eligible for second-tier benefits that are on the Second Tier Advisory Committee approved list are not impacted. These facilities that hold the accreditation certificate that was used for establishing their current second-tier eligibility continue to be able to use that accreditation for the purposes of re-applying for second-tier eligibility until that accreditation expires. After that accreditation expires, the hospital would be required to meet the full National Standards existing at the time the hospital re-applies for second-tier eligibility.

***appropriate accrediting body*** which means a body approved by the Australian Commission on Safety and Quality in Healthcare to accredit health care organisations or health care providers against the National Safety and Quality Health Service Standards as at 1 January 2013.

***facility*** to mean a hospital that satisfies the criteria in Clause (4) of Schedule 5.

***Hospital Casemix Protocol Data*** to mean the data required to be provided by hospitals to insurers under Rule 4 of the *Private Health Insurance (Health Insurance Business) Rules* made under item 6 of the table in section 333-20 of the *Private Health Insurance Act 2007*.

***informed financial consent*** in respect of a hospital to mean the hospital having procedures in place to inform a patient or nominee, in writing, of what hospital charges, health insurer benefits and out-of-pocket costs (where applicable) are expected in respect of the hospital treatment. The patient or nominee must be informed for scheduled admissions, at the earliest opportunity before admission for the hospital treatment; or for unplanned admissions – as soon after the admission as the circumstances reasonably permit.

***National Safety and Quality Health Service Standards*** to mean the standards developed by the Australian Commission on Safety and Quality in Healthcare as at 1 January 2013.

***simplified billing*** in respect of a hospital to mean the hospital providing patients, within 1 month after the patient has been discharged from the hospital, a single account in respect of that hospital treatment, covering all hospital services and related services (not necessarily including professional services); and having processes in place that would allow the inclusion of in-hospital medical bills in a simplified billing arrangement.

## **Item 2 – Schedule 5, Clause 4 Facilities**

Item 2 removes the existing Clause 4 of Schedule 5 and substitutes it with a new Clause 4 specifying the eligibility requirements for second-tier benefits. The Amendment Rules provide that a hospital is a facility for the purposes of Schedule 5 if it is included in the list of second-tier eligible facilities approved by the Second Tier Advisory Committee (STAC) existing at the time that these Amendment Rules commence. The list of STAC approved second tier eligible facilities will be published on the Department of Health and Ageing's website and sent to stakeholders via industry circular. To be considered as a second-tier eligible facility for the purposes of clause 4, the hospital must be assessed by the STAC when being considered for the purposes of entry on the list of second-tier eligible facilities as:

- being a private hospital within the meaning of subsection 121-5(8) of the Act;
- being accredited;
- providing simplified billing;
- providing informed financial consent; and
- submitting Hospital Casemix Protocol Data to health insurers electronically, where possible, with claims.

PRIVATE HEALTH INSURANCE BRANCH  
DEPARTMENT OF HEALTH AND AGEING  
DECEMBER 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. 10)**

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. 10)* make consequential and minor amendments to Schedule 5 of the *Private Health Insurance (Benefit Requirements) Rules 2011* to state that the new safety and quality requirements to be eligible to enter the list of second-tier eligible facilities are the new National Safety and Quality Health Service Standards. There is no change in the way in which payment of second-tier benefits is implemented, and there will be no impact on hospitals that are currently eligible for second-tier eligible benefits that are on the Second Tier Advisory Committee approved list.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms as it makes consequential and minor amendments and does not significantly alter existing arrangements.

#### **Conclusion**

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

**Richard Bartlett**

**First Assistant Secretary**

**Medical Benefits Division**

**Department of Health and Ageing**