

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance Act 2007

Private Health Insurance (Incentives) Amendment Rules 2014 (No. 1)

Authority

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Incentives) Rules* providing for matters required or permitted by Part 2-2, section 206-1, and Part 6-4 of the Act, or necessary or convenient to be provided in order to carry out or give effect to these provisions.

The *Private Health Insurance (Incentives) Amendment Rules 2014 (No. 1)* (the Amendment Rules) amend the *Private Health Insurance (Incentives) Rules 2012 (No. 2)* (the Principal Rules), which commenced on 4 July 2012.

Purpose

The purpose of the amendments is to determine the adjustment factor under section 22-15(5E) of the Act.

The Amendment Rules amend the Principal Rules to insert a new section 5A. Section 5A determines the adjustment factor, defined for the purposes of the Principal Rules as ‘the rebate adjustment factor’, for the purposes of subsection 22-15(5A) of the Act. The rebate adjustment factor is used to uniformly adjust all rebate percentages from the commencement of the *Private Health Insurance Legislation Amendment Act 2014* (“the Amending Act”).

Background

The Act has been amended by the Amending Act. The effect of the Amending Act is to remove the amendments inserted into the Act by the *Private Health Insurance Legislation Amendment (Base Premium) Act 2013* and to insert a new provision, subsection 22-15(5A).

Consultation

The private health insurance industry was consulted on this amendment and its intent. It was discussed during meetings and conversations between insurers and the Department of Health and during a Department lead industry workshop on the implementation of the policy.

The Amendment Rules commence immediately after the commencement of the Amending Act.

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 (Incentives) Amendment Rules 2014 (No. 1)*

Section 1 Name of Rules

Section 1 provides that the title of the Rules is the *Private Health Insurance (Incentives) Amendment Rules 2014 (No. 1)*.

Section 2 Commencement

Section 2 provides that the Rules commence immediately after the commencement of the *Private Health Insurance Legislation Amendment Act 2014* (the Amending Act).

Section 3 Amendment of the *Private Health Insurance (Incentives) Rules 2012 (No. 2)*

Section 3 provides that the Schedule to the Rules amends the *Private Health Insurance (Incentives) Rules 2012 (No. 2)* as amended (the Principal Rules).

Schedule – Amendments

Item 1 – Rule 4 Definition

Item 1 amends the notes to the definitions to delete the reference to the ‘*weighted average ratio.*’ and insert a reference to ‘*adjustment factor*’ and to ‘*adjustment year*’.

Item 2 – Rule 4 Definition, after definition of *private health insurance tax offset*

Item 2 amends the definition to insert the definition of ‘*rebate adjustment factor*’ taking the meaning of ‘*adjustment factor*’ for the purposes of the Principal Rules.

Item 3 – Rule 5A

Item 3 amends the Principal Rules to delete section 5A and insert a new section 5A.

Subsection 5A determines the rebate adjustment factor as a formula for the purposes of subsection 22-15(5A) of the *Private Health Insurance Act 2007* (the Act) as amended by the Amending Act.

The rebate adjustment factor is calculated as a proportional rebate adjustment so that the rebate levels are reduced by the difference between the growth in premiums and the change in the Consumer Price Index (CPI).

The rebate adjustment factor is calculated to three decimal places. The rebate adjustment factor is expressed as a factor, rounding up where the fourth decimal place is five or more.

The *average premium increase for the relevant incentive year* is the industry average premium increase (including rate protection), which is published by the Department in a private health insurance circular each incentive year. The Department publishes the average premium increase each year expressed as a percentage. For the purposes of the rebate adjustment factor, the average premium increase will be expressed as a factor to 4 decimal places equivalent to the percentage figure published by the Department.

The rebate adjustment factor will apply so that the applicable rebate percentage is the same for all insurance policies, subject to income testing reductions.

Statement of Compatibility with Human Rights

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

Private Health Insurance (Incentives) Amendment Rules 2014 (No. 1)

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 (Incentives) Amendment Rules 2014 (No. 1)* amends the *Private Health Insurance (Incentives) Rules 2012 (No. 2)* to insert a new section 5A, which determines the adjustment factor, defined for the purposes of the Principal Rules as ‘the rebate adjustment factor’ for the purposes of subsection 22-15(5A) of the *Private Health Insurance Act 2007*.

Human rights implications

This legislative instrument engages Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Private health insurance regulation assists with the advancement of these human rights by improving the governing framework for private health insurance in the interests of consumers. Private health insurance regulation aims to encourage insurers and providers of private health goods and services to provide better value for money to consumers, to improve information provided to consumers of private health services to allow consumers to make more informed choices when purchasing services. Private health insurance regulation also restricts insurers from differentiating the premiums they charge according to individual health characteristics such as poor health.

Conclusion

This legislative instrument is compatible with human rights because it advances the protection of human rights.

The Hon Peter Dutton MP

Minister for Health