



## **Private Health Insurance (Health Benefits Fund Policy) Rules 2015**

I, SHANE PORTER, delegate of the Minister for Health, make these Rules under item 8 of the table in section 333-20 of the *Private Health Insurance Act 2007*.

Dated 29 June 2015

Shane Porter  
Assistant Secretary  
Private Health Insurance Branch  
Medical Benefits Division  
Department of Health

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## Part 1 Preliminary

### 1. Name of Rules

These Rules are the *Private Health Insurance (Health Benefits Fund Policy) Rules 2015*.

### 2. Commencement

These Rules commence on 1 July 2015.

### 3. Revocation

The *Private Health Insurance (Health Benefits Fund Policy) Rules 2007 (No. 3)* are revoked.

### 4. Authority

These Rules are made under the *Private Health Insurance Act 2007*.

### 5. Definitions

In these rules:

*Act* means the *Private Health Insurance Act 2007*.

Note: Terms used in these Rules have the same meaning as in the Act—see section 13 of the *Legislative Instruments Act 2003*. These terms include:

- assets
- general treatment
- health benefits fund
- hospital treatment
- medicare benefit
- policy holder
- private health insurer

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## Part 2      Meaning of health-related business

### 6.      Overseas treatment

- (1) For the purposes of paragraph 131-15 (1) (d) of the Act, the business described in subrule (2) is specified.
- (2) The business is the undertaking of liability by way of insurance for the provision outside Australia of treatment that is intended to manage a disease, injury or condition, but only when:
  - (a) the disease, injury or condition is chronic and permanent; and
  - (b) the liability is confined to treatment that would be required routinely, whether or not the person had remained in Australia; and
  - (c) the amount of the liability incurred by the insurer for any particular treatment does not exceed the amount of the liability that would be incurred by the insurer for that treatment if it were provided in Australia; and
  - (d) the liability does not extend to any treatment administered to a person more than 60 days after the person last departed from Australia.

### 7.      Agency business

- (1) For the purposes of paragraph 131-15 (1) (d) of the Act, the business described in subrule (2) is specified.
- (2) The business is the offering of goods, services or benefits by a private health insurer under an agency arrangement.
- (3) In this rule **agency arrangement** means a written arrangement between a person (the **agent**) and another person (the **principal**) under which:
  - (a) the agent is permitted to act on behalf of the principal to create legal relations between the principal and a third person in transactions to provide goods, services or benefits; and
  - (b) the principal assumes liability for the transaction to the third person, including for the provision of the goods, services or benefits; and
  - (c) the agent assumes no liability in respect of the transaction, other than to perform its obligations under the arrangement for and on behalf of the principal.

Note: an example of the specified business is a private health insurer offering travel insurance policies under an arrangement with an overseas travel insurance company where the principal assumes the insurable risks under the policy and responsibility for the provision of benefits under the policy, and the private health insurer takes on no such liability, except to duly perform its obligations under the contract or agreement between it and the overseas travel insurance company which establishes the agency arrangement.

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## **Part 3      Risk equalisation jurisdictions**

### **8.      Areas that are risk equalisation jurisdictions**

For subsection 131-20(1) of the Act, the areas specified in the following paragraphs are each a risk equalisation jurisdiction:

- (a) Australian Capital Territory and New South Wales;
- (b) Northern Territory;
- (c) Queensland;
- (d) South Australia;
- (e) Tasmania;
- (f) Victoria;
- (g) Western Australia and the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands.

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## Part 4      Operation of health-related businesses                  through health benefits funds

### 9.      Insurance for overseas students or specified temporary visa holders

- (1) This section applies if a private health insurer has a health benefits fund in respect of its health insurance business and some or all of its health-related businesses.
- (2) For section 131-25 of the Act, requirements are specified in subrule (3) relating to how the insurer must conduct that health-related business.
- (3) The private health insurer must not:
  - (a) take or fail to take any action; or
  - (b) in making a decision, have regard to or fail to have regard to any matter;

that would result in the insurer discriminating between people who are, or wish to be, insured under an overseas student health insurance contract or specified temporary visa holder health insurance contract of the insurer.

- (4) In this rule, *discriminating* relates to:
  - (a) the suffering by a person from a chronic disease, illness or other medical condition or from a disease, illness or medical condition of a particular kind; or
  - (b) the gender, race, sexual orientation or religious belief of a person; or
  - (c) the age of a person; or
  - (d) where a person lives; or
  - (e) any other characteristic of a person (including but not just matters such as occupation or leisure pursuits) that is likely to result in an increased need for hospital treatment or general treatment; or
  - (f) the frequency with which a person needs hospital treatment or general treatment; or
  - (g) the amount or extent of the benefits to which a person becomes entitled during a period under an overseas student health insurance contract or a specified temporary visa holder health insurance contract, as the case may be, except to the extent allowed by the written agreement, between the private health insurer and the Commonwealth, referred to in the definition of overseas student health insurance contract and specified temporary visa holder health insurance contract in the *Private Health Insurance (Health Insurance Business) Rules 2007*.

In this rule, *overseas student*, *overseas student health insurance contract*, *specified temporary visa holder* and *specified temporary visa holder health insurance contract* have the same meaning as in Private Health Insurance (Health Insurance Business) Rules made under the Act, as in force from time to time.