



**PB 83 of 2017**

# **National Health (Entitlement to Pharmaceutical Benefits—Special Evidentiary Categories) Determination 2017**

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I, Louise Clarke, as delegate of the Minister for Health, make the following determination.

Dated                      27 September 2017

Louise Clarke  
Acting First Assistant Secretary  
Technology Assessment and Access Division  
Department of Health

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## Part 1—Preliminary

### 1 Name

- (1) This instrument is the *National Health (Entitlement to Pharmaceutical Benefits—Special Evidentiary Categories) Determination 2017*.
- (2) This instrument may also be cited as PB 83 of 2017.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 October 2017.	1 October 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under subsection 86E(1) of the *National Health Act 1953*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

Note: For the definition of **eligible person**, see subsection 4(1A) of the Act and subsection 3(1) of the *Health Insurance Act 1973*.

In this instrument:

**Act** means the *National Health Act 1953*.

**approved supplier** has the same meaning as in Part VII of the Act.

**medicare card** has the same meaning as in Part VII of the Act.

## Section 6

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*medicare number* has the same meaning as in Part VII of the Act.

*PBS prescriber* has the same meaning as in Part VII of the Act.

*pharmaceutical benefit* has the same meaning as in Part VII of the Act.

*reciprocal health care agreement* means an agreement made under section 7 of the *Health Insurance Act 1973*.

*special number* has the same meaning as in Part VII of the Act.

### 6 Purpose of this instrument

This instrument:

- (a) determines the classes of persons in respect of whom an entitlement to pharmaceutical benefits can be evidenced otherwise than by provision of a medicare number; and
- (b) sets out the particular matters in respect of which an approved supplier must be satisfied before being satisfied that a person is included within a particular class identified in this instrument; and
- (c) sets out, for certain matters mentioned in paragraph (b), the procedure to be followed by the approved supplier in establishing the matters; and
- (d) includes a procedure for allocating a special number applicable to a person included within a class.

## **Part 2—Classes of persons**

### **7 Determination of classes**

Each of the following is a class of persons in respect of whom an entitlement to pharmaceutical benefits can be evidenced otherwise than by provision of a medicare number:

- (a) eligible persons requiring drugs or medicinal preparations in an emergency;
- (b) foreign persons covered by reciprocal health care agreements;
- (c) persons without a medicare number who a PBS prescriber identifies as entitled to pharmaceutical benefits;
- (d) persons without a medicare number who an approved supplier considers are entitled to pharmaceutical benefits;
- (e) eligible persons requiring drugs or medicinal preparations as a matter of clinical urgency;
- (f) persons for whom an inapplicable medicare number is shown on a seemingly valid medicare card or document.

## **Part 3—Matters of which approved suppliers must be satisfied**

### **8 Eligible persons requiring drugs or medicinal preparations in an emergency**

An approved supplier must be satisfied of the following matters before being satisfied that a person is in the class mentioned in paragraph 7(a):

- (a) there is no reason to believe that the person is not, or is not entitled to be treated as, an eligible person;
- (b) the person or another person is likely to suffer imminent death, serious ill health or serious injury (the *emergency*);
- (c) to prevent that emergency, the prescribed pharmaceutical benefit must be supplied:
  - (i) immediately; or
  - (ii) within a period that is too short to enable questions relating to eligibility or identity to be asked and answered, or for other action to be taken to establish the person's eligibility or identity.

### **9 Foreign persons covered by reciprocal health care agreements**

- (1) An approved supplier must be satisfied of the following matters before being satisfied that a person is in the class mentioned in paragraph 7(b):
  - (a) the person is covered by a passport issued by a country with which there is in force a reciprocal health care agreement;
  - (b) the passport has not expired;
  - (c) there is no reason to believe that the person has a medicare number applicable to the person.
- (2) To be satisfied of the matters mentioned in paragraphs (1)(a) and (b), the approved supplier must examine the passport covering the person.
- (3) To be satisfied of the matter mentioned in paragraph (1)(c), the approved supplier must have asked the person, or the person's agent, whether there is a medicare number applicable to the person.

### **10 Persons without a medicare number who a PBS prescriber identifies as entitled to pharmaceutical benefits**

An approved supplier must be satisfied of the following matters before being satisfied that a person is in the class mentioned in paragraph 7(c):

- (a) the PBS prescriber has indicated on the prescription that they consider the person to be entitled to pharmaceutical benefits;
- (b) there is no reason to believe that the person is not, or is not entitled to be treated as, an eligible person;
- (c) there is no reason to believe that the person has a medicare card or document issued by the Chief Executive Medicare that shows a medicare number applicable to the person.



**11 Persons without a medicare number who an approved supplier considers are entitled to pharmaceutical benefits**

An approved supplier must be satisfied of the following matters before being satisfied that a person is in the class mentioned in paragraph 7(d):

- (a) the person is an eligible person (but not a person treated as an eligible person under a reciprocal health agreement);
- (b) either:
  - (i) there is no reason to believe that the person has a medicare card or document issued by the Chief Executive Medicare that shows a medicare number applicable to the person; or
  - (ii) it is not reasonable to require the person to otherwise provide, or give the approved supplier permission to obtain, a medicare number applicable to the person.

**12 Eligible persons requiring drugs or medicinal preparations as a matter of clinical urgency**

An approved supplier must be satisfied of the following matters before being satisfied that a person is in the class mentioned in paragraph 7(e):

- (a) there is no reason to believe that the person is not, or is not entitled to be treated as, an eligible person;
- (b) the immediate supply of the prescribed pharmaceutical benefit is clinically necessary:
  - (i) to initiate urgent treatment; or
  - (ii) to continue without interruption an existing regime of treatment.

**13 Persons for whom an inapplicable medicare number is shown on a seemingly valid medicare card or document**

- (1) An approved supplier must be satisfied of the following matters before being satisfied that a person is in the class mentioned in paragraph 7(f):
  - (a) there is no reason to believe that the person is not, or is not entitled to be treated as, an eligible person;
  - (b) the approved supplier has made a previous claim for payment by the Commonwealth in relation to the supply of a pharmaceutical benefit to the person;
  - (c) the previous claim included a number that appears to be a medicare number applicable to the person, as shown on a medicare card or document issued by the Chief Executive Medicare;
  - (d) the previous claim was rejected because the number did not correspond with a medicare number that was held in the records of the Chief Executive Medicare as applicable to the person;
  - (e) the approved supplier is unable to obtain another medicare number applicable to the person.
- (2) To be satisfied of the matter mentioned in paragraph (1)(c), the approved supplier must obtain a true and readable photocopy or photograph of the medicare card or document.

## Part 4—Procedure for allocation of special numbers

### 14 Allocating special numbers

- (1) The special number allocated to a person must be the number specified in subsection (2) for the class of persons that the person is included in.
- (2) The special number for a class is as follows:
  - (a) for eligible persons requiring drugs or medicinal preparations in an emergency (paragraph 7(a))—2543 77541 1 1;
  - (b) for foreign persons covered by reciprocal health care agreements (paragraph 7(b))—2543 77596 1 1;
  - (c) for persons without a medicare number who a PBS prescriber identifies as entitled to pharmaceutical benefits (paragraph 7(c))—2543 77666 1 1;
  - (d) for persons without a medicare number who an approved supplier considers are entitled to pharmaceutical benefits (paragraph 7(d))—2543 77684 1 1;
  - (e) for eligible persons requiring drugs or medicinal preparations as a matter of clinical urgency (paragraph 7(e))—2543 75299 1 1;
  - (f) for persons for whom an inapplicable medicare number is shown on a seemingly valid medicare card or document (paragraph 7(f))—2543 77833 1 1.

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## **Schedule 1—Repeals**

### ***National Health (Entitlement to Pharmaceutical Benefits — Special Evidentiary Categories) Determination 2001***

#### **1 The whole of the instrument**

Repeal the instrument.