

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health and Minister for Sport

Dental Benefits Act 2008

DENTAL BENEFITS (RELEVANT PROFESSIONAL BODIES UNDER SUBSECTION 32B(4)) DECLARATION 2017

Subsection 32B(4) provides that the Minister may, by legislative instrument, declare a body to be a relevant professional body for the purposes of section 32B of the *Dental Benefits Act 2008* (the Act).

The Act provides for the payment of dental benefits through the Child Dental Benefits Schedule.

Part 4A of the Act establishes a compliance regime for the Child Dental Benefits Schedule, including creating a power for the Chief Executive Medicare (CEM) to obtain documents relevant to ascertaining whether amounts paid as dental benefits should have been paid. The CEM cannot require the production of documents from the person to whom a dental service was rendered or the person who incurred the expense in respect of the dental service (ie from the patient).

Section 32B of the Act sets out when Part 4A applies. In accordance with section 32B, before the CEM may require the production of documents, the CEM must, amongst other things, take reasonable steps to consult with a relevant professional body about the types of documents that contain information relevant to a compliance audit of a dental benefit paid in respect of a dental service.

A **relevant professional body** for the purposes of section 32B of the Act is a body declared as such by the Minister for Health under subsection 32B(4). The *Dental Benefits (Relevant Professional Bodies under subsection 32B(4)) Declaration 2017* (the Declaration) declares the Australian Dental Association to be a relevant professional body.

As a result, the CEM will be required to consult the Australian Dental Association about the types of documents that contain information relevant to substantiate a dental benefit paid in respect of a dental service under the Child Dental Benefits Schedule before exercising his or her powers under Part 4A.

This Declaration commences on the day after it is registered on the Federal Register of Legislation and is a legislative instrument for the purposes of the *Legislation Act 2003*.

Consultation

The ADA, as the peak representative body for dentists in Australia, is the most appropriate organisation to act as a **relevant professional body** under the Act and therefore consultation was not carried out.

Authority: Subsection 32B(4) of the
Dental Benefits Act 2008

Statement of Compatibility with Human Rights

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

Dental Benefits (Relevant Professional Bodies under subsection 32B(4)) Declaration 2017

The *Dental Benefits (Relevant Professional Bodies under subsection 32B(4)) Declaration 2017* (the Declaration) 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

Part 4A of the *Dental Benefits Act 2008* (the Act) establishes a compliance regime for the Child Dental Benefits Schedule, including creating a power for the Chief Executive Medicare (CEM) to obtain documents relevant to ascertaining whether amounts paid as dental benefits should have been paid. The CEM cannot require the production of documents from the person to whom a dental service was rendered or the person who incurred the expense in respect of the dental service

Before the CEM may require the production of documents under Part 4A, section 32B of the Act requires the CEM to, amongst other things, take reasonable steps to consult with a relevant professional body about the types of documents that contain information relevant to a compliance audit of a dental benefit paid in respect of a dental service.

Subsection 32B(4) of the Act provides that the Minister may, by legislative instrument, declare a body to be a relevant professional body.

This Declaration declares the Australian Dental Association (ADA) to be a relevant professional body. As a result, the CEM will be required to consult with the ADA about the types of documents that contain information relevant to substantiate a dental benefit paid in respect of a dental service under the Child Dental Benefits Schedule before exercising his or her powers under Part 4A.

Human rights implications

This Declaration does not engage any of the applicable rights or freedoms as it is machinery in nature

Conclusion

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

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