

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Private Health Insurance Act 2007

Private Health Insurance (Prostheses) Amendment Rules 2017 (No. 6)

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make Private Health Insurance (Prostheses) Rules, providing for matters required or permitted by Part 3-3 of the Act, or necessary or convenient in order to carry out or give effect to Part 3-3 of the Act.

The *Private Health Insurance (Prostheses) Amendment Rules 2017 (No. 6)* (the Amendment Rules) amend the *Private Health Insurance (Prostheses) Rules 2017 (No. 2)* (the Principal Rules) to correct an error in the benefit payable shown against one billing code.

Item 4 of the table in subsection 72-1(2) of Part 3-3 of the Act provides for requirements that a complying health insurance policy that covers hospital treatment must meet. There must be a benefit for the provision of a prosthesis, of a kind listed in the Principal Rules (i.e. a listed prosthesis), in specified circumstances and under any specified conditions. The specified circumstances are that the listed prosthesis is provided in circumstances in which a Medicare benefit is payable or those other circumstances which are set out in the Principal Rules.

If the complying health insurance policy also covers hospital-substitute treatment, the same requirements apply.

Listed prostheses are currently set out in the Schedule to the Principal Rules.

The Amendment Rules will vary the Principal Rules as follows:

- against billing code DD005, omit the incorrect benefit of \$1,325 and substitute \$3,969.

Consultation

The Department consulted with the sponsor of the affected billing code, advising the benefit would be corrected by an Amendment.

The Department has received a standing Regulatory Impact Statement exemption from the Department of Finance and Deregulation.

The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

Authority: Section 333-20 of the
*Private Health Insurance
Act 2007*

Statement of Compatibility with Human Rights

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

Private Health Insurance (Prostheses) Amendment Rules 2017 (No. 6)

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 (Prostheses) Amendment Rules 2017 (No. 6)* (the Amendment Rules) amend the *Private Health Insurance (Prostheses) Rules 2017 (No. 2)* (the Principal Rules) to correct an error in the benefit payable shown against one billing code.

Item 4 of the table in subsection 72-1(2) of Part 3-3 of the *Private Health Insurance Act 2007* provides for requirements that a complying health insurance policy that covers hospital treatment must meet. There must be a benefit for the provision of a prosthesis, of a kind listed in the Principal Rules (i.e. a listed prosthesis), in specified circumstances and under any specified conditions. The specified circumstances are that the listed prosthesis is provided in circumstances in which a Medicare benefit is payable or those other circumstances which are set out in the Principal Rules.

If the complying health insurance policy also covers hospital-substitute treatment, the same requirements apply.

Listed prostheses, identified by billing code, are currently set out in the Schedule to the Principal Rules.

The Amendment Rules amend the Principal Rules by omitting the incorrect benefit of \$1,325 against billing code DD005, and substituting \$3,969. This provides for the correct benefit to be payable against this prostheses item, delivering better value-for-money for consumers with private health insurance requiring this item.

Human rights implications

The Amendment Rules engage the following human rights:

Right to Health

The right to health – the right to the enjoyment of the highest attainable standard of physical and mental health – is contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR). Whilst the UN Committee on Economic Social and Cultural Rights (the Committee) has stated that the right to health is not to be understood as a right to be healthy, it does entail a right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

The inclusion of prostheses on the Schedule to the Principal Rules assists in patient choice in private hospital settings but this is an adjunct to the public health care and does not replace a patient's access to prostheses as a public patient in a public hospital.

The correction of the benefit payable is intended to provide that the correct benefit is available to provide better value-for-money to the consumer with appropriate private health insurance requiring this prosthesis.

Conclusion

The Amendment Rules are compatible with human rights because they advance the protection of human rights, specifically the right to health.

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