



Private Health Insurance (Complying Product) Amendment (Psychiatric Care) Rules 2018

I, Julianne Quaine, as delegate of the Minister for Health, make the following rules.

Dated 26 March 2018

Julianne Quaine
Assistant Secretary
Private Health Insurance and Pharmacy Branch
Technology Assessment and Access Division
Department of Health

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1 Name

This instrument is the *Private Health Insurance (Complying Product) Amendment (Psychiatric Care) Rules 2018*.

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 April 2018.	1 April 2018

Note: This table relates only to the provisions of this instrument as originally made.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 the *Private Health Insurance Act 2007*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Private Health Insurance (Complying Product) Rules 2015

1 Rule 4

Insert:

addiction medicine specialist means a specialist (within the meaning of the *Health Insurance Act 1973*) in relation to addiction medicine.

consultant psychiatrist means a specialist (within the meaning of the *Health Insurance Act 1973*) in relation to psychiatry.

period of pre-upgrade hospital cover has the meaning given by subrule 9A(5).

psychiatric treatment means hospital treatment, or hospital-substitute treatment, that is psychiatric care.

specialist psychiatric treatment means psychiatric treatment provided to a person who is:

- (a) an admitted patient of a hospital; and
- (b) under the care of an addiction medicine specialist or consultant psychiatrist.

upgrade, in relation to psychiatric treatment, has the meaning given by subrules 9A(2) and (3).

2 Rule 4 (note at the end)

After:

standard information statement

insert:

transfer

3 After rule 5

Insert:

5A Psychiatric treatment—limitations

For the purposes of paragraph 63-10(g) of the Act, an insurance policy must not reduce a benefit for psychiatric treatment provided to a person if the reduction is because of:

- (a) the number of psychiatric treatments, for which there is or has been an entitlement to a benefit under any policy, provided to the person during a period; or
- (b) the number of a particular kind of such psychiatric treatments provided to the person during a period.

4 After rule 9

Insert:

9A Specialist psychiatric treatment—portability requirements

- (1) For the purposes of subsection 78-1(6) of the Act, subrules (4) to (8) of this rule modify the requirements of section 78-1 of the Act in relation to:
 - (a) an insurance policy (the ***new policy***) to which a person transfers from another policy (the ***old policy***), if:
 - (i) the transfer is an upgrade in relation to psychiatric treatment; and
 - (ii) the person chooses under rule 9B to have the upgrade treated in accordance with those subrules; and
 - (b) a benefit (the ***higher benefit***) under the new policy for specialist psychiatric treatment provided to the person.
- (2) The transfer is an ***upgrade***, in relation to psychiatric treatment, if the benefit for psychiatric treatment under the new policy is higher than the benefit for psychiatric treatment under the old policy.
- (3) For the purposes of subrule (2), disregard any co-payment or excess that is required to be paid under the old policy or the new policy in respect of psychiatric treatment.

Waiting periods

- (4) The new policy must not:
 - (a) if the length of the person's period of pre-upgrade hospital cover was 2 months or longer—apply to the person a waiting period for the higher benefit; or
 - (b) otherwise—apply to the person a waiting period for the higher benefit that is longer than 2 months reduced by the length of the person's period of pre-upgrade hospital cover.
- (5) The person's ***period of pre-upgrade hospital cover*** is the longest period:
 - (a) that ended immediately before the upgrade; and
 - (b) at all times during which the person had hospital cover.

Retrospective cover

- (6) Subrules (7) and (8) apply if the upgrade occurs:
 - (a) on or after the day (the ***admission day***) the person became an admitted patient of a hospital in relation to the specialist psychiatric treatment mentioned in paragraph (1)(b); and
 - (b) on or before the fifth business day to occur on or after the admission day.
- (7) The new policy's coverage of specialist psychiatric treatment must start no later than the admission day.

Example: A person is admitted to hospital for specialist psychiatric treatment. The person's insurance policy provides minimum benefits for psychiatric treatment. 3 business days later, the person upgrades to a new policy and chooses to have the upgrade treated in accordance with subrules (4) to (8). The higher benefits under the new policy for specialist psychiatric treatment must apply from the day of the admission.

- (8) Subrule (7) does not prevent the new policy from applying a waiting period in accordance with subrule (4). The reference in paragraph (5)(a) to the upgrade is taken to be a reference to the start of the new policy's coverage of specialist psychiatric treatment.

9B Specialist psychiatric treatment—choice to have upgrade treated in accordance with rule 9A

- (1) A person may choose to have an upgrade in relation to psychiatric treatment treated in accordance with subrules 9A(4) to (8) if the person has not previously made such a choice in relation to any such upgrade.
- (2) If:
 - (a) a person transfers to an insurance policy (the *new policy*), and the transfer is an upgrade in relation to psychiatric treatment; and
 - (b) a claim is made under the new policy for a benefit for specialist psychiatric treatment provided to the person; and
 - (c) a benefit of the amount claimed is only payable under the new policy for the treatment if the person chooses to have the upgrade treated in accordance with subrules 9A(4) to (8);the making of the claim is sufficient evidence of the person choosing to have the upgrade treated in accordance with those subrules.
- (3) For the purposes of paragraph (2)(c) of this rule, disregard any co-payment or excess that is required to be paid under the new policy in respect of psychiatric treatment.

5 After Part 4

Insert:

Part 5—Transitional provisions

19 Transitional provisions relating to the *Private Health Insurance (Complying Product) Amendment (Psychiatric Care) Rules 2018*

Definitions

- (1) In this rule:

amending rules means the *Private Health Insurance (Complying Product) Amendment (Psychiatric Care) Rules 2018*.

Application of subrule 9A(4)

- (2) Subrule 9A(4), as inserted by the amending rules, applies to a waiting period that ends on or after 1 April 2018, whether the upgrade occurred before, on or after 1 April 2018.

Application of subrules 9A(6) to (8)

- (3) Subrules 9A(6) to (8), as inserted by the amending rules, apply to an upgrade that occurs on or after 1 April 2018.
- (4) If a person:
 - (a) became an admitted patient of a hospital in relation to specialist psychiatric treatment before 1 April 2018; and
 - (b) is still an admitted patient in relation to the treatment on 1 April 2018;

the reference in paragraph 9A(6)(a), as inserted by the amending rules, to the day the person became an admitted patient of a hospital in relation to the treatment is taken to be a reference to 1 April 2018.

- (5) If subrule 9A(7), as inserted by the amending rules, would, apart from this subrule, require an insurance policy's coverage of specialist psychiatric treatment to start before 1 April 2018, subrule 9A(7) is taken to require the coverage to start no later than 1 April 2018.