

REPLACEMENT EXPLANATORY STATEMENT

National Health Act 1953

National Health (Medication Program for Homeless People) Special Arrangement 2021

PB 73 of 2021

Authority

Subsection 100(1) of the *National Health Act 1953* (the Act) enables the Minister to make special arrangements for, or in relation to, providing that an adequate supply of pharmaceutical benefits will be available to certain persons. These are persons who: live in isolated areas; or are receiving treatment in circumstances in which pharmaceutical benefits are inadequate for that treatment; or if the pharmaceutical benefits covered by the arrangements can be more conveniently or efficiently supplied under the arrangements.

Subsection 100(2) of the Act provides that the Minister may vary or revoke an arrangement made under subsection 100(1) of the Act. Subsection 100(3) of the Act provides that Part VII of the Act, and instruments made for the purposes of Part VII, have effect, subject to a special arrangement made under subsection 100(1).

Purpose

The purpose of the *National Health (Medication Program for Homeless People) Special Arrangement 2021* (the Arrangement) is to establish a special arrangement under s 100 of the Act to support the Medication Program for Homeless People (the Program). The Program, formerly known as the Continuing Medication Program (CMP), assists homeless people who are unable to manage their own affairs to continue to access essential Pharmaceutical Benefit Scheme (PBS) medicines where lack of medication could lead to undesirable medical or social consequences.

The CMP was first established in 1990 in response to the introduction of a patient co-payment for pharmaceuticals on the PBS.

The Arrangement continues to benefit eligible homeless people who hold a concession card to receive their PBS General Schedule medicines with no out-of-pocket expense. The eligible patient is not charged a PBS co-payment when they receive a supply of a pharmaceutical benefit through the Arrangement. The co-payment amount that would have been paid without this special arrangement continues to count towards the patient's PBS safety net threshold. The Program operates with the support of approved not-for-profit organisations. Approved organisations present eligible patient prescriptions and repeat authorisations to a nominated pharmacist, receive the pharmaceutical benefits and then provide them to the eligible patient.

Patient eligibility for the Program

The Program operates to support people who are incapable of managing their own affairs to continue to access PBS medicines where failing to receive their prescribed medication could lead to undesirable medical or social consequences.

Experiencing homelessness means not having stable, safe and adequate housing, nor the means and ability of obtaining it. However, there is no one definition of 'homelessness', as different definitions may be used depending on the purpose for which it is being defined. Some definitions also encompass those people who are 'at risk' of becoming homeless.

Under the Arrangement, the definition of homelessness has not changed and is based on the primary and secondary definition of homelessness from a paper titled "*Understanding Contemporary Homelessness: Issues of Definition and Meaning*" published in the Australian Journal of Social Issues Vol.27 No. 4, November 1992 by Chamberlain and MacKenzie, as this best reflects the policy intent of the Program. Although Chamberlain and MacKenzie's definition of homelessness includes three categories, (primary, secondary and tertiary homelessness) in recognition of the diversity of homelessness, under the Program, only the Primary and Secondary definitions are used. A person is defined as 'homeless' if they meet one of the following definitions:

Primary homelessness: *People without conventional accommodation, such as people living on the streets, sleeping in parks, squatting in derelict buildings, or using cars or railway carriages for temporary shelter.*

Secondary homelessness: *People who move frequently from one form of temporary shelter to another. It covers: people using emergency accommodation (such as hostels for the homeless or night shelters); teenagers staying in youth refuges; women and children escaping domestic violence (staying in women's refuges).*

A person is not **homeless** if the person is a residential care recipient (within the meaning of the *Aged Care Act 1997*).

Under the Program, a person is considered an eligible patient if:

- the person is a concessional beneficiary; and
- the person is homeless as defined above; and
- the person has a paper-based prescription or repeat authorisation for PBS medicine; and
- the person is unlikely to receive the benefit without assistance from this Arrangement as the person is incapable of managing their own affairs; and
- undesirable medical or social consequences are likely to occur if the person does not receive the benefit.

Approval of organisations to participate in the Program

The Arrangement sets out the requirements in relation to an organisation applying to the Secretary to be approved to participate in the Program.

In order to be approved under the Arrangement, organisations must:

- Be not-for-profit;
- Be providers of services/care to homeless people; and
- Not be an approved pharmacist or an approved hospital authority.

At an applicant's request, the internal merits review will support a process by which the Department of Health can reconsider an application, thus ensuring procedural fairness and accountability.

Responsibilities of Approved Organisations

The approved organisation must:

- Present PBS prescriptions and repeat authorisations to the nominated community pharmacy;
- Receive the special arrangement supplies of eligible pharmaceutical benefits for eligible patients; and
- Provide the benefits to the patients.

Annotation and dispensing of the prescription

A representative from the approved organisation is responsible for annotating an eligible homeless person's prescription with the organisation's unique individual approval number. The representative from the approved organisation will act as an 'agent' by presenting eligible patient's prescriptions for dispensing by the community pharmacy.

The pharmacist will enter the organisations approval number, along with the eligible patient's PBS concession card number, into the dispensing software to enable an eligible patient's PBS co-payment to be claimed through PBS Online at the time an annotated prescription is dispensed. The entire cost of the medicine, including the patient PBS concessional co-payment, will be reimbursed to the pharmacist by the Commonwealth at the time of dispensing through PBS Online.

Consultation

A targeted consultation has been undertaken with the 14 not-for-profit organisations currently providing services/care to homeless people under the Program. These organisations were kept informed at various stages of the process. The Department of Health wrote to all participating not-for-profit organisations to inform them of the upcoming reforms to the Program, providing them with the opportunity to provide comment on the proposed changes, the draft guidelines and application form. The vast majority of these organisations were happy with the changes to streamline the program, saving them time and resources. One organisation raised a matter regarding the eligibility of current residential care recipients. The matter has been addressed in this Arrangement through a transitional provision.

The Department of Health also consulted with Services Australia, the Medical Software Industry Association and software vendors regarding system changes required to implement these changes through PBS Online. The Department of Health also consulted with the Attorney General's Department.

Details of this Arrangement are set out in the Attachment.

This Arrangement commences on 1 July 2021.

This Arrangement is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *National Health (Medication Program for Homeless People) Special Arrangement 2021*

Part 1 – Preliminary

Section 1 Name

This section provides that the name of the Arrangement is the *National Health (Medication Program for Homeless People) Special Arrangement 2021* (the Arrangement) and that it may also be cited as PB73 of 2021.

Section 2 Commencement

This section provides that the Arrangement commences on 1 July 2021.

Section 3 Authority

This section provides that the Arrangement is made under section 100 of the *National Health Act 1953*.

Section 4 Simplified outline of this instrument

This section explains the purpose of the Arrangement, and summarises its key features, including that:

- the pharmaceutical benefits will be supplied to eligible homeless persons free of charge.
- the pharmaceutical benefits will be supplied by approved pharmacists and provided to eligible homeless people through approved not-for-profit organisations.
- the Arrangement also deals with payments for supplies of the pharmaceutical benefits and administrative matters.

The note to section 4 makes clear that Part VII of the Act, and regulations or other instruments made for the purposes of that Part, have effect subject to this Arrangement (see subsection 100(3) of the Act).

The simplified outline is included to assist readers to understand the substantive provisions, and is not intended to be comprehensive. It is intended that readers should rely on the substantive provisions of the Arrangement.

Section 5 Definitions

A number of terms that are used in the Arrangement are defined in section 5.

The term ‘Act’ refers to the *National Health Act 1953*.

The terms ‘approved hospital authority’, ‘approved pharmacist’, ‘concessionary beneficiary’, ‘pharmaceutical benefit’, ‘prescriber bag provisions’, and ‘value for safety net purposes’ have the same meaning as in Part VII of the Act.

The term ‘paper-based prescription’ and ‘repeat authorisation’ has the same meaning as in the Regulations. ‘Regulations’ means the *National Health (Pharmaceutical Benefits) Regulations 2017*.

The term ‘residential care recipient’ has the same meaning as in the *Aged Care Act 1997*.

Section 5 also contains definitions for terms that are specific to the Arrangement. These are:

- ‘approved organisation’ – a not-for-profit entity who has been approved by the Secretary based on satisfying the matters set out in subsection 15(2) of the Arrangement and provided with an approval number (see subparagraph 15(1)(a)(ii)).
- ‘eligible patient’ - a person who is a concessional beneficiary, is homeless, has a paper-based prescription or a repeat authorisation for an eligible pharmaceutical benefit and the person is unlikely to receive the benefit without assistance under this instrument because the person is incapable of managing their own affairs and undesirable medical or social consequences are likely to occur if the person does not receive the benefit.
- ‘eligible pharmaceutical benefit’ – means a pharmaceutical benefit, other than a pharmaceutical benefit that can only be supplied under Part VII of the Act; in accordance with a special arrangement under section 100 of the Act; or under the prescriber bag provisions.
- ‘nominated pharmacist’ – an approved pharmacist nominated by an approved organisation to supply eligible pharmaceutical benefits to eligible patients, for which a nomination by the organisation is in force under section 19.
- ‘not-for-profit entity’ – an entity that is entitled to be registered under the *Australian Charities and Not-for-profits Commission Act 2012* or a non-profit body (within the meaning of the *Electronic Transactions Act 1999*).

Section 5 also contains a signpost to the definition of ‘homeless’ in section 6, ‘special arrangement supply’ in section 8 and ‘approval number’ in subparagraph 15(1)(a)(ii).

Section 6 Definition of Homeless

Section 6 provides a definition of homeless. A person is homeless if they do not have conventional accommodation or the person moves frequently from one form of temporary shelter to another. Notes 1-2 in section 6 provide examples of what ‘homeless’ may look like in practice, for example people living on the streets or sleeping in parks. A person is not homeless if the person is a residential care recipient within the meaning of the *Aged Care Act 1997*.

Section 7 Application of this instrument

Section 7 provides the date from when the Arrangement applies to a supply of an eligible pharmaceutical benefit (that is, any supply made on or after 1 July 2021).

Part 2 – Special arrangement supplies of eligible pharmaceutical benefits

Division 1 - Preliminary

Section 8 Definition of *special arrangement supply*

This section defines the circumstances in which the supply of an eligible pharmaceutical benefit will be a ‘special arrangement supply’ for the purposes of the Arrangement.

This section provides that a supply of an eligible pharmaceutical benefit will be a special arrangement supply, if it is supplied to an eligible patient by a nominated pharmacist and is supplied on the basis of a paper-based prescription or a repeat authorisation, annotated with the organisation’s approval number, and presented to the nominated pharmacist by a representative of the organisation acting as an agent on behalf of the eligible patient.

Division 2 – Special arrangement supplies of eligible pharmaceutical benefits

Section 9 Limited charges for supplies (no co-payment)

This section provides that subsection 87(2) of the Act does not apply to a special arrangement supply of an eligible pharmaceutical benefit. This has the effect that an approved pharmacist cannot charge an eligible patient the co-payment under subsection 87(2) of the Act. Section 9 does not prevent an approved pharmacist from charging the patient other fees payable under section 87 of the Act, for example the special patient contribution that applies to a small number of pharmaceutical benefits. There will generally be an alternative premium free brand available that does not attract a special patient contribution.

Section 10 Value for safety net purposes for supplies

This section specifies that the value for safety net purposes for a supply under this Arrangement is the amount that the nominated pharmacist could have charged the eligible patient under paragraph 87(2)(a) of the Act, if section 9 of the Arrangement did not apply.

Under this Arrangement, pharmacists are prevented from charging the co-payment under subsection 87(2) of the Act for supplies, and this means that under section 17A of the *National Health (Pharmaceutical Benefits) Regulations 2017*, the value for safety net purposes would be zero. In practice, this means that the co-payment amount that would have been paid without this Arrangement continues to count towards the patient’s PBS safety net threshold.

Section 11 No supply without prescription (continued dispensing)

This section specifies that section 89A of the Act does not apply to a special arrangement supply of an eligible pharmaceutical benefit. Section 89A of the Act specifies the circumstances when pharmaceutical benefits may be supplied by approved pharmacists without a prescription. Under this Arrangement, pharmaceutical benefits cannot be supplied by approved pharmacists without a valid PBS prescription as there needs to be a paper-based prescription that is annotated with the approved organisation's approval number which acts as a trigger when it is entered into the dispensing software.

Division 3- Payment for special arrangement supplies of eligible pharmaceutical benefits

Section 12 Payment for supply of benefits

Subsection 12(1) provides that an approved pharmacist who has made a special arrangement supply of an eligible pharmaceutical benefit, is entitled to be paid by the Commonwealth an amount that is equal to the amount that the patient could have been charged for the supply under paragraph 87(2)(a) of the Act if section 9 of this instrument did not apply to the supply. This is subject to section 99AAA of the Act and to the conditions determined under section 98C of the Act and applicable at the time of the supply.

Section 99AAA of the Act deals with the contents of a claim for payment relating to the supply of benefits and outlines the procedures that approved suppliers need to follow to make a claim for payment for the supply of a pharmaceutical benefit. Section 98C of the Act enables the Minister to determine conditions to which payments will be made to approved pharmacists.

In practice, this means that when the representative from the approved organisation takes an eligible patient's PBS prescription to the nominated pharmacist, the nominated pharmacist does not charge the co-payment under paragraph 87(2)(a) of the Act. The pharmacist will enter the organisation's approval number, along with the eligible patient's PBS concession card number into the dispensing software to enable an eligible patient's PBS co-payment to be claimed through PBS Online at the time an annotated prescription is dispensed. The patient's PBS concessional co-payment will be paid to the pharmacist by the Commonwealth through PBS Online.

Subsection 12(2) provides that this section has effect in addition to section 99 of the Act. Section 99 of the Act deals with an approved pharmacist's entitlement to payment by the Commonwealth for supply of a pharmaceutical benefit.

Section 13 Claims for payment for supply of benefits

Section 13 provides that an approved pharmacist who wants to receive payment from the Commonwealth for the supply of a pharmaceutical benefit under section 12 must make a claim for payment which includes the approval number of the approved organisation which is annotated on the eligible patient's prescription. The requirement for the approval number to be included in the claim applies in addition to s 99AAA of the Act which provides for rules to be made by the Minister about the procedures for making claims for payment, and

the information to be provided to the Secretary in relation to the supply of pharmaceutical benefits, which must be included in the claim.

A decision not to approve a claim for payment made by an approved pharmacist under subsection 99AAA(2) of the Act is a decision of the Secretary under subsection 99AAA(6) of the Act and is capable of being reviewed by the Administrative Appeals Tribunal under subsection 105AB(12) of the Act.

Part 3 – Administration

Division 1 - Approved Organisation

Section 14 Organisations may apply for approval

Under subsection 14(1) an organisation may apply to become an approved organisation. Subsection 14(2) specifies that the application must be made in writing, include one or more nominations of an approved pharmacist and be made in the form (if any) approved by the Secretary.

Section 15 Decision on application

Subsection 15(1) requires the Secretary to approve an application (made in accordance with section 14) if reasonably satisfied the conditions in subsection 15(2) are met and allocate an approval number to the organisation. An ‘approval number’ is a unique number allocated to the organisation, by the Secretary, for the purposes of annotating the eligible patient’s PBS prescription. If the Secretary is not reasonably satisfied that the matters in subsection 15(2) have been met, then the Secretary must refuse the application.

Subsection 15(2) sets out the conditions that the Secretary must be reasonably satisfied of in order to approve an application. These conditions include:

- the organisation is a not-for-profit entity;
- the organisation has a function of providing care to homeless people;
- the organisation is not an approved pharmacist or an approved hospital authority;
- if approved, the organisation would do the following:
 - present prescriptions and repeat authorisations for special arrangement supplies of eligible pharmaceutical benefits to the nominated pharmacist for the organisation;
 - receive special arrangement supplies of eligible pharmaceutical benefits for eligible patients;
 - provide the benefits to the patients.

Under subsection 15(3) an approval must be notified in writing to the organisation.

Subsection 6(5) of the Act relevantly permits the Secretary to delegate any of their powers under the Act, or in a legislative instrument made under the Act, except the power of delegation.

In practice, it is intended that the Secretary will delegate the power to approve an organisation to participate in the program to Australian Public Service (APS) employees in the Department of Health.

A decision under section 15 is more mandatory than not given that the delegate must act in a certain way upon being ‘reasonably satisfied’ of certain circumstances.

The delegate must be reasonably satisfied that a fact is established (paragraphs 15(2)(a)-(b)); or not established (paragraph 15(2)(c)) or is likely to occur (paragraph 15(2)(d)) and organisations must provide material or information to reasonably satisfy these conditions.

Paragraph 15(2)(d) relates to a proposed future activity, for the delegate to be reasonably satisfied that an organisation meets this requirement, there is a reliance on an organisation’s response to the question in the application form - “*Will your organisation comply with the requirements outlined in the Guidelines and the legislative instrument?*” which requires them to tick ‘yes’ or ‘no’.

In addition, there is a further reliance on the organisation’s signed declaration in the application form indicating that:

- the organisation meets the eligibility requirements to participate in the Program;
- the organisation will adhere the eligibility requirements outlined in the legislative instrument and guidelines; and
- the information provided in the application form is complete and correct.

Given the nature of the requirements, the question of whether those requirements are met will be a question of fact – either the requirements are met, or they are not. The requirements do not require the delegate to make an evaluative judgment. Where information is missing from an application, the delegate can request further information. If an application is refused, at an applicant’s request, the internal merits review available under section 21 will support a process by which a delegate who is a Senior Executive Service (SES) employee of the Department can reconsider an application, thus ensuring procedural fairness and accountability.

Section 16 Monthly reporting by approved organisations

This section sets out the requirements for approved organisations to provide monthly reports to the Department of Health within 14 days after the end of a month. The report must contain the total number of prescriptions and repeat authorisations presented to nominated pharmacists by the organisation. The monthly report must be provided in writing and in the form (if any) approved under section 20.

Section 17 Secretary may request further information from approved organisations

This section specifies that further information may be requested in writing from the approved organisation in relation to the prescriptions and repeat authorisations mentioned in section 16. The Secretary’s request must be made in writing, and must specify a day for complying with the request which is a minimum of 28 days after the day of the request. It is intended

that the Secretary will delegate powers under section 17 to SES employees within the Department of Health.

Section 18 Approved organisations to supply information on request

This section specifies that the approved organisation must comply with a request for further information from the Secretary under section 17, by the date specified in the request.

Division 2 - Nominated pharmacists

Section 19 Nominating approved pharmacists

This section sets out the requirements for an organisation to nominate an approved pharmacist for the purposes of making special arrangements supplies of eligible pharmaceutical benefits. The approved pharmacist must be able to:

- ensure that prescriptions and repeat authorisations for such supplies are annotated with the organisation's approval number;
- maintain records of the value for safety net purposes of supplies; and
- make such supplies in urgent circumstances.

The nomination must be included when the organisation is making an application under section 14 to the Secretary to become an approved organisation. The nomination must be made in writing and in the form (if any) approved under section 20.

Division 3 - Approved forms

Section 20 Secretary may approve forms

This section specifies that the Secretary may approve a form for the purposes of this instrument. It is intended that the Secretary will delegate powers under section 20 to SES employees within the Department of Health.

Division 4 - Review of decisions

Section 21 Internal review of decisions

Subsection 21(1) provides that a person who is affected by a decision of the Secretary under this Arrangement may apply for review of the decision by the Secretary. An application must be in writing and made within 28 days after the day the decision first came to the notice of the applicant, or a longer period if the Secretary allows (subsection 21(2)).

On receiving an application for the review of decision, the Secretary must review the decision and affirm, vary or set aside the decision. If the decision is **affirmed**, the decision remains unchanged; if the decision is **varied**, the decision is changed or altered in some way; and if the decision is **set aside**, a new decision is made in substitution (subsection 21(3)).

Subsection 21(4) provides that a decision by the Secretary on review takes effect on the day specified in the decision on review, or, where a day is not specified, or the day the decision on review was made. After making a decision, the Secretary must give the applicant written notice of the terms of the decision and the reasons for the decision (subsection 21(5)).

In practice, it is intended that the Secretary will delegate the power to review decisions to Senior Executive Services (SES) employees in the Department of Health. As a matter of administrative practice, the review of the decision will not be undertaken by the maker of the decision for which review has been sought, but by a different person.

The provision for internal merits review and supporting administrative practice will ensure that organisation have access to a mechanism for the reconsideration of decisions by the Department, which ensures procedural fairness and accountability.

Section 105AB of the Act, which is in Part VIIA, sets out decisions of the Secretary that are the subject of review by the Administrative Appeals Tribunal (AAT). The decisions that are listed do not include decisions made by the Secretary under instruments made under section 100 of the Act.

A decision under section 15 would appear to be more of a “mandatory” decision that is, the Secretary or delegate, must act in a certain way upon the occurrence of a specified set of circumstances. Therefore it is not inappropriate that AAT review isn’t available. Informing this view reference has been made to the Administrative Review Council’s guidance - *What decisions should be subject to merit review?*

An internal review decision under section 21 will be subject to judicial review under the *Administrative Decisions (Judicial Review) Act 1977*, and under s 75(v) of the Constitution or section 39B of the *Judiciary Act 1903*, as a decision of an officer of the Commonwealth.

Part 4—Transitional provisions for this instrument as originally made

Section 22 Approved organisations, approval numbers and nominated pharmacists

Subsection 22(1) provides the transitional provisions applies until 30 September 2021. The transitional provisions cease on 30 September 2021, as between 1 July 2021 and 30 September 2021, organisations will apply and be individually processed. The provision will no longer be required after 30 September 2021.

Subsection 22(2) provides that column 1 contains the list of organisations that are considered to be approved organisations. Column 2 of the table contains the number which is taken to be the organisation's approval number.

Subsection 22(3) provides that an approved pharmacist is considered a nominated pharmacist for an approved organisation mentioned in the table if the approved pharmacist could be nominated by the organisation under section 19 of the Arrangement and is presented with a prescription or repeat authorisation from this approved organisation. As the organisation is best placed to select a nominated pharmacist, this decision is a matter for the approved organisation. The Department of Health has no involvement in this process.

Section 23 Eligible patients—homelessness

Section 23 provides a three-year transitional arrangement for specific eligible residential care recipients. Subsection 23(1) provides that this transitional arrangement applies until 30 June 2024. Subsection 23(2) provides that a person is considered 'homeless' if they meet the following criteria:

- the person is a residential care recipient of an organisation mentioned in section 22; and
- immediately before 1 July 2021, the person was a residential care recipient of the organisation; and
- before 1 July 2021, while the person was a residential care recipient of the organisation, the person received a supply of a pharmaceutical benefit from an approved pharmacist with assistance from the organisation; and the amount that the approved pharmacist could have charged for the supply under paragraph 87(2)(a) of the Act was paid by the Commonwealth.

Statement of Compatibility with Human Rights

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

National Health (Medication Program for Homeless People) Special Arrangement 2021

This *National Health (Medication Program for Homeless People) Special Arrangement 2021* (the Arrangement) 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 Instrument

The purpose of the *National Health (Medication Program for Homeless People) Special Arrangement 2021* (the Arrangement) is to establish a special arrangement under s 100 of the Act to support the Medication Program for Homeless People (the Program). The Program, formally known as the Continuing Medication Program (CMP), assists homeless people who are unable to manage their own affairs to continue to access essential Pharmaceutical Benefit Scheme (PBS) medicines where lack of medication could lead to undesirable medical or social consequences.

The CMP was first established in 1990 in response to the introduction of a patient co-payment for pharmaceuticals on the PBS.

The Arrangement continues to benefit eligible homeless people who hold a concession card to receive their PBS General Schedule medicines with no out-of-pocket expense. The eligible patient is not charged a PBS co-payment when they receive a supply of a pharmaceutical benefit through the Arrangement. The co-payment amount that would have been paid without this special arrangement continues to count towards the patient's PBS safety net threshold. The Program operates with the support of approved not-for-profit organisations. Approved organisations present eligible patient prescriptions and repeat authorisations to a nominated pharmacist, receive the pharmaceutical benefits and then provide them to the eligible patient.

Patient eligibility for the Program

The Program operates to support people who are incapable of managing their own affairs to continue to access PBS medicines where failing to receive their prescribed medication could lead to undesirable medical or social consequences.

Experiencing homelessness means not having stable, safe and adequate housing, nor the means and ability of obtaining it. However, there is no one definition of 'homelessness', as different definitions may be used depending on the purpose for which it is being defined. Some definitions also encompass those people who are 'at risk' of becoming homeless.

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definition of homelessness includes three categories, (primary, secondary and tertiary homelessness) in recognition of the diversity of homelessness, under the Program, only the Primary and Secondary definitions are used. A person is defined as 'homeless' if they meet one of the following definitions:

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Secondary homelessness: *People who move frequently from one form of temporary shelter to another. It covers: people using emergency accommodation (such as hostels for the homeless or night shelters); teenagers staying in youth refuges; women and children escaping domestic violence (staying in women's refuges).*

A person is not **homeless** if the person is a residential care recipient (within the meaning of the *Aged Care Act 1997*).

Under the Program, a person is considered an eligible patient if:

- the person is a concessional beneficiary; and
- the person is homeless as defined above; and
- the person has a paper-based prescription or repeat authorisation for PBS medicine; and
- the person is unlikely to receive the benefit without assistance from this Arrangement as the person is incapable of managing their own affairs; and
- undesirable medical or social consequences are likely to occur if the person does not receive the benefit.

Approval of organisations to participate in the Program

The Arrangement sets out the requirements in relation to an organisation applying to the Secretary to be approved to participate in the Program.

In order to be approved under the Arrangement, organisations must:

- Be not-for-profit;
- Be providers of services/care to homeless people; and
- Not be an approved pharmacist or an approved hospital authority.

At an applicant's request, the internal merits review will support a process by which the Department can reconsider an application, thus ensuring procedural fairness and accountability.

Responsibilities of Approved Organisations

The approved organisation must:

- Present PBS prescriptions and repeat authorisations to the nominated community pharmacy;
- Receive the special arrangement supplies of eligible pharmaceutical benefits for eligible patients; and

- Provide the benefits to the patients.

Annotation and dispensing of the prescription

A representative from the approved organisation is responsible for annotating an eligible homeless person's prescription with the organisation's unique individual approval number. The representative from the approved organisation will act as an 'agent' by presenting eligible patient's prescriptions for dispensing by the community pharmacy.

The pharmacist will enter the organisations approval number, along with the eligible patient's PBS concession card number, into the dispensing software to enable an eligible patient's PBS co-payment to be claimed through PBS Online at the time an annotated prescription is dispensed. The entire cost of the medicine, including the patient PBS concessional co-payment, will be reimbursed to the pharmacist by the Commonwealth at the time of dispensing through PBS Online.

Human Rights Implications

This Arrangement engages Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

This Arrangement assists with advancement of these human rights by providing for PBS subsidised access to medicines, free of charge to eligible homeless people. This instrument ensures more ready and equitable access to PBS medicines for eligible homeless people.

Conclusion

This Arrangement is compatible with human rights as it promotes the protection of human rights.

David Laffan
Assistant Secretary, Technology Assessment and Access Division
Health Resourcing Group
Department of Health