

EXPLANATORY STATEMENT

National Health Act 1953

Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Amendment Determination 2024

PB 62 of 2024

Authority

Paragraph 98B(1)(a) of the *National Health Act 1953* (the Act) provides that a function of the Pharmaceutical Benefits Remuneration Tribunal (the Tribunal) is to determine the manner in which the Commonwealth price for all or any pharmaceutical benefits is to be worked out for the purpose of payments to approved pharmacists for the supply of pharmaceutical benefits.

Subsection 98BAA(1) of the Act requires that, where the Commonwealth and the Pharmacy Guild of Australia (the Guild) or another pharmacists' organisation that represents a majority of approved pharmacists have entered into an agreement relating to the manner in which the Commonwealth price for pharmaceutical benefits is to be calculated, the Tribunal, when making a determination pursuant to paragraph 98B(1)(a) of the Act, is to give effect to the terms of that agreement.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Purpose

The *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Amendment Determination 2024* (Amendment Determination) amends the *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Determination 2020* (the Principal Determination), to increase the Tier 1 Administration, Handling, and Infrastructure fee (Tier 1 AHI fee), the dispensing fee for ready-prepared pharmaceutical benefits, the dispensing fee for extemporaneously-prepared pharmaceutical benefits, and the dangerous drug fee, as specified in the Eighth Community Pharmacy Agreement (Eighth Agreement), on 1 July 2024. A copy of the Eighth Agreement can be found on the Department of Health and Aged Care's website.

The Eighth Agreement between the Commonwealth and the Guild, which commenced on 1 July 2024 and expires on 30 June 2029, includes an agreement between the Commonwealth and the Guild for the purposes of subsection 98BAA(1) of the Act, setting out the manner in which the Commonwealth price for pharmaceutical benefits is to be calculated.

The Tier 1 AHI fee, the dispensing fee for ready-prepared pharmaceutical benefits, the dispensing fee for extemporaneously-prepared pharmaceutical benefits, and the dangerous drug fee were all increased on commencement of the Eighth Agreement and will then be indexed annually on 1 July in each year of the Eighth Agreement.

Consistent with the values stipulated in the Eighth Agreement for commencement on 1 July 2024, the Amendment Determination increases the Tier 1 AHI fee from \$4.62 to **\$4.79**, the dispensing fee for ready-prepared pharmaceutical benefits from \$8.37 to **\$8.67**, the dispensing fee for extemporaneously-prepared pharmaceutical benefits fee from \$10.41 to **\$10.71**, and the dangerous drug fee from \$5.18 to **\$5.37**.

Consultation

The Eighth Agreement includes an agreement between the Commonwealth and the Guild for the purposes of subsection 98BAA(1) of the Act. The Guild has been consulted in relation to the changes made by this Amendment Determination as they relate to that agreement. Services Australia has also been consulted in relation to implementation of the Pharmaceutical Benefits Scheme payment systems changes managed by Services Australia, to support the changes made by this Amendment Determination.

Commencement

This Amendment Determination commences on 1 July 2024.

General

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

Details of this Amendment Determination are set out in **Attachment A**.

This Amendment Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

Details of the *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Amendment Determination 2024*

Section 1 Name

This section provides that the title of the instrument is the *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Amendment Determination 2024* and may also be cited as PB 62 of 2024.

Section 2 Commencement

Section 2 provides that the instrument commences on 1 July 2024.

Section 3 Authority

Section 3 provides that the instrument is made under paragraph 98B(1)(a) of the *National Health Act 1953*.

Section 4 Schedules

Section 4 provides that each instrument that is specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item has effect according to its terms.

Schedule 1 Amendments

Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Determination 2020

Items 1 to 3 – Section 6 (Definitions of *dangerous drug fee*, *extemporaneously-prepared dispensing fee*, *ready-prepared dispensing fee*)

Items 1 to 3 amend the definitions of ‘dangerous drug fee’, ‘extemporaneously-prepared dispensing fee’ and ‘ready-prepared dispensing fee’ in section 6 of the *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Amendment Determination 2020* (Principal Determination) to increase the amount of the dangerous drug fee from \$5.18 to **\$5.37**, extemporaneously-prepared dispensing fee from \$10.41 to **\$10.71** and ready-prepared dispensing fee from \$8.37 to **\$8.67** in order to give effect to the initial price stipulated in the Eighth Agreement.

Item 4 – Paragraph 12(1)(a) (table)

This item replaces the table in paragraph 12(1)(a) of the Principal Determination to increase the amount of the Tier 1 AHI fee for ready-prepared pharmaceutical benefits from \$4.62 to **\$4.79**.

Item 5 – Section 20 (table)

This item replaces the table in section 20 of the Principal Determination to increase the amount of the Tier 1 AHI fee for extemporaneously-prepared pharmaceutical benefits from \$4.62 to **\$4.79**.

Statement of Compatibility with Human Rights

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

Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Amendment Determination 2024

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This Disallowable 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 purpose of this Disallowable Legislative Instrument, made under paragraph 98B(1)(a) of the *National Health Act 1953* (the Act), is to amend the *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Determination 2020*. This Disallowable Legislative instrument gives effect to increases on 1 July 2024 to the Tier 1 Administration, Handling and Infrastructure fee (Tier 1 AHI fee), the Dispensing fee for Ready Prepared Pharmaceutical Benefits, the Dispensing fee for Extemporaneously Prepared Pharmaceutical Benefits, and the Dangerous Drug fee as components of the Commonwealth price paid to approved pharmacists for the supply of pharmaceutical benefits.

The Pharmaceutical Benefits Remuneration Tribunal (the Tribunal) is an independent statutory body established under section 98A of the Act. The main functions of the Tribunal are to make a determination to give effect to the terms of an agreement between the Commonwealth and the Pharmacy Guild of Australia for the purposes of subsection 98BAA(1) of the Act, as currently applies under the Eighth Community Pharmacy Agreement.

This Disallowable Legislative Instrument amends, with effect on 1 July 2024, the Tier 1 AHI fee from \$4.62 to **\$4.79**, the Dispensing fee for Ready Prepared Pharmaceutical Benefits from \$8.37 to **\$8.67**, the Dispensing fee for Extemporaneously Prepared Pharmaceutical Benefits from \$10.41 to **\$10.71** and the Dangerous Drug fee from \$5.18 to **\$5.37**.

Human rights implications

This Disallowable Legislative Instrument engages Articles 2, 7, 9 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The legislative instrument assists with the provision of favourable conditions of work to ensure remuneration for workers with fair wages. In addition it also assists in the progressive realisation by all appropriate means of the right of everyone to social security, and the enjoyment of the highest attainable standard of physical and mental health.

The Pharmaceutical Benefits Scheme (PBS) is a benefit scheme which assists with providing subsidised access for people to medicines. This is a positive step towards attaining the highest standard of health for all Australians. Efficient operational arrangements for the PBS support effective administration of the scheme.

The amendments are only in relation to the additional amounts described above. It does not change the protection of human rights to health and social security by all Australians under the PBS implemented under the Principal Determination.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights because it promotes the protection of human rights to health and social security.

Judith Wright
Chairperson
Pharmaceutical Benefits Remuneration Tribunal