

HEALTH INSURANCE AMENDMENT ACT (No. 2) 1976

No. 101 of 1976

An Act to amend the *Health Insurance Act 1973*.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

1. (1) This Act may be cited as the *Health Insurance Amendment Act (No. 2) 1976*.¹ Short title,
&c.

(2) The *Health Insurance Act 1973*² is in this Act referred to as the Principal Act.

2. (1) Sections 1, 2, 5, 11 and 13 shall come into operation on the day on which this Act receives the Royal Assent.¹ Commence-
ment.

(2) The remaining provisions of this Act shall come into operation on 1 October 1976.

3. After section 16 of the Principal Act the following section is inserted:—

“16A. (1) In this section, unless the contrary intention appears—

‘pathology service’ means a professional service to which an item in Part 7 of the table relates;

‘recognized pathologist’ means a medical practitioner who, by reason of a determination under section 61, is to be recognized for the purposes of this Act as a specialist in the specialty of pathology.

Special
provisions
relating to
pathology
services.

“(2) A medical benefit is not payable in respect of a pathology service rendered by or on behalf of a medical practitioner unless the medical practitioner has, in his account or receipt for his fees in respect of the service or, if he has entered into an agreement under sub-section 20 (3) in relation to the medical benefit in respect of the service, on the form of agreement, recorded—

- (a) if the service was rendered in pursuance of a request by another practitioner—the name of the requesting practitioner and the date on which the request was made; or
- (b) if the service was not rendered at the request of another practitioner—a statement that, on a specified date, he determined that the service was necessary.

“(3) Where a pathology service is rendered by or on behalf of a medical practitioner and—

- (a) the medical practitioner is not a recognized pathologist; or
- (b) the medical practitioner is a recognized pathologist but the service is rendered—
 - (i) otherwise than in pursuance of a request made to the medical practitioner by another practitioner;
 - (ii) in pursuance of a request made in the course of the provision of an out-patient service at a recognized hospital; or
 - (iii) in pursuance of a request made in respect of a person who was, at the time when the request was made, a private patient in a recognized hospital,

then, for the purpose of calculating the medical benefit payable in respect of the service, the amount specified in the table in relation to the State in which the service is rendered as the fee in respect of the service shall be deemed to be reduced by 25 per centum.

“(4) Where—

- (a) the total number of pathology services requested by a practitioner on the one day to be rendered by a medical practitioner in respect of the one person; or
- (b) the total number of pathology services rendered by a medical practitioner, each being a service determined, on the one day, by the medical practitioner to be necessary in respect of the one person,

exceeds 3, then, subject to this section, for the purposes of calculating the amounts of the medical benefits payable in respect of those services, each of the amounts specified as fees in the items relating to those services, other than the 3 greatest of those amounts, shall be deemed to be reduced by 80 per centum.

“(5) For the purposes of sub-section (4), where sub-section (3) is applicable in relation to a service, the amount specified as the fee in the item relating to that service shall be deemed to be the amount so specified as deemed to be reduced in accordance with sub-section (3).

“(6) The Minister may, if he is satisfied that the circumstances justify him in so doing, direct that, in relation to a particular pathology service rendered in respect of a particular person, an amount that would, but for this sub-section, be deemed to be reduced in accordance with sub-section (4) shall not be deemed to be so reduced.

“(7) For the purposes of sub-sections (3) and (4), where, by virtue of a reduction in accordance with either of those sub-sections, an amount is not a multiple of 5 cents, the amount shall be increased to the nearest higher amount that is a multiple of 5 cents.

“(8) For the purposes of sub-section (4), where 2 or more amounts referred to in that sub-section are equal, 1 of those amounts shall be treated as being greater than the other or others of those amounts.

“(9) For the purposes of this section, a request by a practitioner in respect of the rendering of a pathology service by a medical practitioner shall be deemed to have been made—

- (a) in the case of a request in writing—on the day on which the request was reduced to writing; and
- (b) in any other case—on the day on which the request was communicated to the medical practitioner, or to a person receiving the request on his behalf.”.

4. Section 20 of the Principal Act is amended by omitting from sub-section (3A) the words “section 15 or 16” and substituting the words “section 15, 16 or 16A”.

Persons entitled to medical benefits.

5. Section 21 of the Principal Act is amended by omitting from sub-section (1) the words “Australian resident, other than a privately insured person” and substituting the words “eligible person”.

Medical services outside Australia.

6. Sections 30 and 31 of the Principal Act are repealed and the following section is substituted:—

“30. (1) The Commonwealth may enter into an agreement with a State for and in relation to the provision of hospital services to eligible persons.

Agreements with States for provision of hospital services.

“(2) An agreement referred to in sub-section (1) shall be in terms that give effect substantially to the Heads of Agreement specified in Schedule 2 but may include provisions with respect to other matters.

“(3) The Commonwealth may, from time to time, enter into agreements varying an agreement made under sub-section (1), but so that the agreement as varied shall comply with sub-section (2).”.

7. Section 32 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-section:—

Payments to recognized hospitals in internal Territories.

“(2) There is payable by the Commonwealth, in respect of each financial year or such other period as the Minister fixes, to each recognized hospital in an internal Territory an amount equal to 50 per centum of the net operating costs of that hospital in respect of that financial year or other period.”.

8. Section 33 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “On and after the date fixed for the purposes of section 30, there is payable by Australia” and substituting the words “There is payable by the Commonwealth”; and

Daily bed payments to private hospitals.

(b) by omitting sub-section (4) and substituting the following sub-section:—

“(4) For the purposes of this section, the day of admission and the day of discharge or death of an in-patient at a hospital shall be counted together as one day.”.

Supplemen-
tary daily
bed
payments to
private
hospitals.

9. Section 34 of the Principal Act is amended by omitting sub-sections (5) and (6) and substituting the following sub-section:—

“(5) For the purposes of sub-section (4), the day of admission and the day of discharge or death of a hospital patient at a hospital shall be counted together as one day.”.

Schedule 2.

10. Schedule 2 to the Principal Act is repealed and the following Schedule substituted:—

SCHEDULE 2

Section 30

HEADS OF AGREEMENT

1. The agreement is to relate to a specified period but may provide for the extension of that period.

2. The agreement is to list the hospitals in the State that are to be recognized hospitals for the purpose of the agreement but may provide for the making of alterations to the list.

3. (1) The agreement may provide for the whole or a part of the costs or receipts of authorities or institutions listed in the agreement, being authorities or institutions providing services related to the conduct of recognized hospitals, to be taken into account in ascertaining the operating payments or operating receipts of recognized hospitals and the net operating costs of recognized hospitals.

(2) The agreement may provide for the making of alterations to the list of authorities or institutions contained in the agreement in accordance with sub-paragraph (1) of this paragraph and for the variation of the extent to which costs or receipts of any authority or institution are to be taken into account in accordance with that sub-paragraph.

4. Subject to provisions made in accordance with paragraph 5, the Commonwealth is to pay to the State amounts equal in total to—

(a) 50 per centum of the net operating costs, as defined by the agreement, in respect of all recognized hospitals in the State in respect of the period to which the agreement relates; or

(b) the total of the amounts paid by the State from its own resources towards meeting those costs,

whichever is the less.

5. A committee, to be provided for by the agreement—

(a) is to formulate, in respect of each of specified periods included in the period to which the agreement relates, a budget relating to all recognized hospitals in the State and setting out estimates of the operating payments and operating receipts, as defined by the agreement, in respect of those hospitals in the period to which the budget relates;

(b) is to review, as provided by the agreement, budgets so formulated and, where appropriate, formulate variations of any such budget; and

(c) is to submit budgets so formulated, and any such variations, for approval in accordance with the agreement,

and the agreement may make provision for limiting the obligation of the Commonwealth referred to in paragraph 4 in respect of a period by reference to a budget in respect of that period approved in accordance with the agreement and any variation of that budget so approved, but, if the agreement makes such a provision, it may authorize the Minister to approve further payments under the provision made in accordance with paragraph 4 where he is satisfied that circumstances justify those payments.

6. The State is to endeavour to ensure that all eligible persons in the State are able to obtain, at a recognized hospital in the State, care and treatment in accordance with the agreement.

7. An eligible person, other than a privately insured person, is to be entitled to receive care and treatment as a hospital patient in a recognized hospital free of charge and the agreement may extend such entitlement to all or any privately insured persons.

8. Subject to paragraph 9, an eligible person, other than a privately insured person, is to be entitled to receive, free of charge, out-patient services provided by a recognized hospital.

9. The agreement may provide that entitlement to out-patient services—

(a) in the case of particular services, is to be, or may be, restricted to persons who are able to satisfy a means test; and

(b) in the case of particular services, is to be, or may be, subject to charges.

10. The agreement may provide that the supply of all or any out-patient services to privately insured persons is, subject to any provision made in accordance with paragraph 9, to be free of charge or is to be subject to charges.

11. Notwithstanding the foregoing paragraphs, the agreement may permit, either generally or as specified in the agreement, the making, otherwise than in accordance with the foregoing paragraphs, of charges in respect of the provision of care and treatment of an eligible person by a recognized hospital in respect of injury, illness or disease where the eligible person is or may be entitled to, or receives, compensation, damages or other benefits in respect of that injury, illness or disease.

12. Subject to the foregoing paragraphs, the agreement may make provision for and in relation to the making of charges in respect of care and treatment provided to eligible persons by recognized hospitals.

11. The Principal Act is amended as set out in the Schedule to this Act. Additional amendments.

12. The amendments of the Principal Act made by sections 3 and 4 of this Act do not apply in relation to a professional service that was requested before 1 October 1976 or was, before that date, determined to be necessary by the medical practitioner by whom or on whose behalf it was rendered. Application.

13. At any time after this Act receives the Royal Assent and before 1 October 1976, agreements may be entered into in accordance with section 30 of the Principal Act as amended by this Act as if all the provisions of this Act had come into operation on the day on which this Act receives the Royal Assent, but any agreement so entered into shall not be expressed to operate with respect to a period before 1 October 1976. Transitional provision.

14. Payments made in accordance with a document purporting to be an agreement entered into before 1 October 1976 by the Commonwealth with a State under section 30 of the Principal Act shall be deemed to have been as validly and effectually made as if that document had been a valid agreement. Validation of payments.

SCHEDULE

Section 11

ADDITIONAL AMENDMENTS

The Principal Act is amended as set out in the following table:—

Provision	Amendment
Sections 7 (1), 21 (4) (c), 23B (1) (a), (2) and (4), 23C (3), 24 (3) (a), 34 (4), 43 (2), 64, 78, 93, 100, 105 (e), 106 (4), 106F (2) (b) (iii) (b), 125 and 129A	Omit "Australia" (wherever occurring), substitute "the Commonwealth".
Section 133 (3)	Omit "Australia" (first occurring), substitute "the Commonwealth".

NOTES

1. Act No. 101, 1976; assented to 29 September 1976.
2. Act No. 42, 1974, as amended. For previous amendments *see* Act No. 58, 1975; and No. 59, 1976.