



Health Insurance Amendment Act 1991

No. 171 of 1991

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Health Insurance Amendment Act 1991

No. 171 of 1991

An Act to amend the *Health Insurance Act 1973*, and for related purposes

[Assented to 20 November 1991]

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Health Insurance Amendment Act 1991*.

(2) In this Act, “Principal Act” means the *Health Insurance Act 1973*¹.

Commencement

2.(1) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act commence on 1 December 1991.

Interpretation

3. Section 8 of the Principal Act is amended by inserting before subsection (1) the following subsection:

“(1A) In this Part, unless the contrary intention appears:

‘approved investment’ means an investment in:

- (a) an account with a financial institution; or
- (b) a loan, including a loan by way of debentures, bonds or other securities; or
- (c) an accruing return investment; or
- (d) a market-linked investment; or
- (e) an immediate annuity; or
- (f) shares;

within the meaning of the *Social Security Act 1991*;

‘benefit’ means a Medicare benefit;

‘concessional beneficiary’ means:

- (a) a person to whom or in respect of whom:
 - (i) a social security pension (within the meaning of the *Social Security Act 1991*); or
 - (ii) a pension under Part III of the *Veterans’ Entitlements Act 1986*;is being paid; or

- (b) a person:
 - (i) to whom subparagraph (a)(i) applied on 28 February 1991; and
 - (ii) to whom the subparagraph would continue to apply apart from section 4D of the *Social Security Act 1947* or Division 1A of Part 3.10 of the *Social Security Act 1991*;or

- (c) a person:
 - (i) to whom subparagraph (a)(ii) applied on 28 February 1991; and
 - (ii) to whom the subparagraph would continue to apply apart from section 50C of the *Veterans’ Entitlements Act 1986* or Division 8A of Part III of that Act; or

- (d) a person:
 - (i) to whom subparagraph (a)(i) applied at any time after 21 August 1990 and before 28 March 1991; and
 - (ii) to whom the subparagraph does not apply merely because the person has invested his or her available money (within the meaning of section 4D of the *Social Security Act 1947*), or reinvested his or her deposit money (within the meaning of that section) in an approved investment in

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anticipation of, or because of, that section or of Division 1A of Part 3.10 of the *Social Security Act 1991*; or

(e) a person:

- (i) to whom subparagraph (a)(ii) applied at any time after 21 August 1990 and before 21 March 1991; and
- (ii) to whom the subparagraph does not apply merely because the person has invested his or her money (within the meaning of section 50C of the *Veterans' Entitlements Act 1986*), or reinvested his or her deposit money (within the meaning of that section) in an approved investment in anticipation of, or because of, that section or of Division 8A of Part III of that Act; or

(f) a person to whom or in respect of whom a social security benefit within the meaning of the *Social Security Act 1991* is being paid; or

(g) a person who is qualified to receive a family allowance supplement in respect of a child under section 895 of the *Social Security Act 1991*; or

(h) a person who:

- (i) is eligible for treatment under subsection 85(1) or (2) of the *Veterans' Entitlements Act 1986*; or
- (ii) is eligible for treatment under subsection 85(3), (4), (5), (6), (7) or (8) of that Act; or
- (iii) is eligible for treatment under subsection 86(1) or (2) of that Act; or
- (iv) is a child eligible for treatment under section 86 of that Act (not being a child eligible only under subsection (5) of that section); or

(i) a person who is a disadvantaged person within the meaning of this Act; or

(j) a pensioner within the meaning of section 4 or 4AAA of the *National Health Act 1953*;

'dependant', in relation to a concessional beneficiary, means:

(a) in relation to a person who is a concessional beneficiary to whom paragraph (a), (b), (c), (d), (e), (f), (g) or (j) of the definition of 'concessional beneficiary' applies:

- (i) the spouse of the person; or
- (ii) a child under 16 who is in the custody, care and control of the person or of the spouse of the person; or
- (iii) a person who:
 - (A) is 16 or more but under 25; and
 - (B) is receiving full-time education at school, college or university; and
 - (C) is not being paid an invalid pension under the *Social*

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Security Act 1991 or, in a case where he or she is being paid a rehabilitation allowance under that Act, was not eligible to receive such a pension immediately before he or she became eligible to receive that allowance; and

(D) is wholly or substantially dependent on the person or on the spouse of the person; and

(b) in relation to a person to whom paragraph (i) of that definition applies—a person who is, under section 3 of this Act, a dependant of that person;

‘General Manager’ means the General Manager of the Commission;

‘maximum co-payment amount’ means \$2.50;

‘patient contribution’, in relation to a claim for benefit in respect of a service, means:

(a) if benefit is payable under section 20—an amount equal to the difference between:

(i) the Schedule fee or, if the medical expenses in respect of the service are less than that fee, those expenses; and

(ii) the amount of benefit that, apart from section 10AC or 10AD (whichever is appropriate), would be payable in respect of the service; and

(b) if benefit is assigned under section 20A and the practitioner concerned is entitled under that section to charge an amount not more than the maximum co-payment amount in respect of the service—the maximum co-payment amount; and

(c) in any other case—nil;

‘prescribed GP service’ means a service:

(a) to which an item in Group A1 or Group A7 of the general medical services table relates; and

(b) that is prescribed for the purposes of this Part;

‘registered family’ means a family registered under section 10AA;

‘safety-net concession card’ means a safety-net concession card issued under section 10AF and includes an additional safety-net concession card, or a replacement safety-net concession card, issued under section 10AH;

‘safety-net amount’ means \$246;

‘Schedule fee’, in relation to a service, means the fee specified in the table in respect of the service;

‘service’ means a professional service.”.

Entitlement to Medicare benefit

4. Section 10 of the Principal Act is amended by omitting subsections (2) to (6) (inclusive) and substituting the following subsections:

“(2) A benefit in respect of a service is:

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- (a) in the case of a service of the kind referred to in paragraph (da) of the definition of 'basic private table' or 'basic table' in subsection 4(1) of the *National Health Act 1953* (not being a service, or a service in a class of services, that, under the regulations, is excluded from this paragraph)—an amount equal to 75% of the Schedule fee; or
- (b) in any other case (not being a case to which paragraph (c) applies)—an amount equal to 85% of the Schedule fee; or
- (c) in the case of a prescribed GP service, where the patient is not a concessional beneficiary or a concessional beneficiary's dependant—an amount equal to 85% of the Schedule fee less:
 - (i) in the period beginning on 1 December 1991 and ending on 31 October 1992—\$3.50; or
 - (ii) in the year beginning on 1 November 1992 or a later year beginning on 1 November—\$5.

“(3) If the Schedule fee exceeds the amount of benefit calculated under paragraph (2)(b) or (c) by more than the greatest permissible gap, the benefit is taken to be the Schedule fee less the greatest permissible gap.

“(4) If an amount calculated under subsection (2), or the greatest permissible gap, is not a multiple of 5 cents, that amount is to be rounded up to the nearest multiple of 5 cents.

“(5) In this section:

'greatest permissible gap' means \$26.80;

'patient' means the person to whom the service was rendered.”.

Insertion of new sections

5. After section 10 of the Principal Act the following sections are inserted:

Registered families

“10AA.(1) For the purposes of this section and sections 10AB to 10AK inclusive, the following are the members of a person's family:

- (a) the person's spouse;
- (b) any dependent child of the person or of the person's spouse.

“(2) Subject to subsection (3), a family member may apply to the Commission at any time, in accordance with a form approved by the General Manager, for registration of the family, and the Commission must register the family accordingly.

“(3) An application for registration must list the names of all family members.

“(4) If, at any time, a person becomes a member of a registered family, that person, or any family member acting on that person's

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behalf, may apply to the Commission in accordance with a form approved by the General Manager, for a variation in the registration to add the new family member, and the Commission must vary the registration accordingly.

“(5) If, at any time, a person ceases to be a member of a registered family, that person, or any family member acting on that person’s behalf, may apply to the Commission, in accordance with a form approved by the General Manager, for a variation in the registration to delete that person, and the Commission must vary the registration accordingly.

“(6) A person is not entitled to be simultaneously treated as a member of more than one registered family unless:

- (a) the person is a child; and
- (b) members of more than one registered family jointly share the right to have, and to make decisions concerning, the daily care and control of the child.

“(7) In this section:

‘child’ means a person who:

- (a) is under 16; or
- (b) is a student child;

‘dependent child’, in relation to any person, means:

- (a) a child under 16 who is:
 - (i) in the custody, care and control of that person; or
 - (ii) where no other person has the custody, care and control of the child—is wholly or substantially in the care and control of the first-mentioned person; or
- (b) a student child who is wholly or substantially dependent on the person;

‘spouse’, in relation to a person, means:

- (a) a person who is legally married to, and is not living, on a permanent basis, separately and apart from, that person; and
- (b) a de facto spouse of that person;

‘student child’ means a person who:

- (a) is 16 or more, but under 25; and
- (b) is receiving full-time education at a school, college or university.

Consequences of altered family composition

“10AB.(1) Where:

- (a) a family is registered; and
- (b) a person becomes a family member after it is so registered; and
- (c) the family’s registration is varied by the addition of the new family member;

then:

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- (d) claims in respect of his or her medical expenses incurred during the calendar year in which the registration is varied but before the variation may be taken into account for the purposes of section 10AC as if the person had, at all times during that year, been a member of the registered family; but
- (e) increased benefits are not payable under that section in relation to medical expenses that are incurred in respect of that person or any other family member and in respect of which benefit has already been paid.

“(2) Where:

- (a) a family is registered; and
- (b) a person ceases to be a family member after it is so registered; and
- (c) the family’s registration is varied by the deletion of the person; and
- (d) the family members (including the person referred to in paragraph (b)) have not, at the time of the variation, become entitled under section 10AC to increased benefits in respect of medical expenses incurred in the calendar year in which the variation is made;

claims in respect of his or her medical expenses incurred during that year may be dealt with separately under section 10AD, or, if the person becomes a member of another registered family, dealt with under section 10AC.

“(3) Where:

- (a) a family is registered; and
- (b) the family members become entitled under section 10AC to increased benefits in respect of medical expenses incurred in a year; and
- (c) a person ceases to be a family member after the family members become so entitled and during that year; and
- (d) the family’s registration is varied by the deletion of the person;

then:

- (e) claims in respect of his or her medical expenses incurred at any time during that year are to be dealt with under section 10AC, as if he or she had remained a family member throughout the year; and
- (f) despite any other provision of this Act and despite the variation, the person is not entitled to be treated as a member of another registered family during the year.

Safety-net—families

“10AC.(1) In this section:

‘relevant service’ means a service:

- (a) in respect of which benefit is payable; and

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- (b) the medical expenses in respect of which exceed the amount of benefit that, apart from this section, would be payable in respect of the service;

but does not include a service of the kind referred to in paragraph (da) of the definition of 'basic private table' or 'basic table' in subsection 4(1) of the *National Health Act 1953*, being a service of that kind provided on or after 1 September 1985;

'year' means the year beginning on 1 January 1992 or a later year beginning on 1 January.

“(2) Subject to this Act, if:

- (a) a claim (in this subsection called the '**threshold claim**') for benefit is made by a claimant in respect of a relevant service:
 - (i) which was rendered to the claimant or to a member of the claimant's registered family; and
 - (ii) in respect of which the medical expenses are incurred in a year;

and the claim is accepted by the Commission; and

- (b) other claims (in this subsection called '**prior claims**') have been made for benefit in respect of relevant services:
 - (i) which were rendered to any member of the family; and
 - (ii) in respect of which the medical expenses were incurred during the year;

and the prior claims were accepted for payment by the Commission before the time when the threshold claim was accepted for payment (in this subsection called the '**relevant time**'); and

- (c) the Commission is satisfied at the relevant time that:
 - (i) the medical expenses of the services relating to the threshold claim and to some or all of the prior claims have been paid; and
 - (ii) the sum of the patient contributions that have been paid in respect of those prior claims is less than the safety-net amount for that year; and
 - (iii) the sum of the patient contribution in respect of the threshold claim and the patient contributions referred to in subparagraph (ii) is equal to or exceeds the safety-net amount;

the benefit payable in respect of a relevant service rendered to any of the family and in respect of which medical expenses were incurred in respect of that year (being the service to which the threshold claim relates or any service that is not the subject of a prior claim referred to in paragraph (b)) is increased by the amount of the patient contribution in respect of that relevant service.

“(3) Where at any time a child is simultaneously a member of 2 families registered in respect of a year:

- (a) if the Commission is satisfied that a medical expense incurred at that time in respect of the child has been incurred by an adult belonging to one or other of the families—that expense is to be treated, for the purposes of this Act, as an expense incurred in respect of the child as a member of that family; and
- (b) if the Commission is not so satisfied—the expense is to be treated as an expense of which half was incurred in respect of the child as a member of one family and half in respect of the child as a member of the other family.

“(4) If a family becomes registered before 1 April 1992, this section extends to a benefit that was paid or payable before the registration in respect of a service for which medical expenses were incurred before that date.

“(5) If a family becomes registered after 31 March 1992, this section applies only to a benefit that becomes payable after the registration, even though expenses incurred before the registration in the year the family becomes registered may be taken into account for the purposes of paragraph (2)(c).

“(6) For the purposes of this section, without affecting the meaning of an expression in any other provision of this Act:

- (a) if a person to whom benefit is payable in respect of a relevant service is given or sent a cheque under subsection 20(2) for the amount of the benefit, the person is taken to have paid so much of the medical expenses in respect of that service as is represented by the amount of the benefit; and
- (b) despite anything else in this Act, the question when medical expenses are incurred in respect of services relating to prescribed items is to be determined under the regulations.

“(7) If, as a result of an assignment to a medical practitioner under section 20A by a person of his or her right to the payment of a benefit in respect of a service, the Commission makes a payment to the practitioner, this section has effect as if:

- (a) that person had made a claim for a benefit in respect of that service; and
- (b) that claim had been accepted by the Commission; and
- (c) the medical expenses in respect of that service had been paid.

Safety-net—individuals

“10AD.(1) Expressions used in this section have the same meaning as in section 10AC.

“(2) Subject to subsection 10AB(3), this section applies to a person who is not a member of a registered family.

“(3) Subject to this Act, if:

(a) a claim (in this subsection called the ‘**threshold claim**’) for benefit is made by a claimant in respect of a relevant service:

(i) which was rendered to the claimant; and

(ii) in respect of which the medical expenses are incurred by the claimant in a year;

and the claim is accepted by the Commission; and

(b) the claimant has made other claims (in this subsection called the ‘**prior claims**’) for benefit in respect of relevant services:

(i) which were rendered to the claimant; and

(ii) in respect of which the medical expenses were incurred in that year;

and the prior claims were accepted for payment by the Commission before the time when the threshold claim was accepted for payment (in this subsection called the ‘**relevant time**’); and

(c) the Commission is satisfied at the relevant time that:

(i) the medical expenses of the services relating to the threshold claim and some or all of the prior claims have been paid; and

(ii) the sum of the patient contributions that have been paid in respect of those prior claims is less than the safety-net amount for that year; and

(iii) the sum of the patient contribution in respect of the threshold claim and the patient contributions referred to in subparagraph (ii) is equal to or exceeds the safety-net amount;

the benefit payable in respect of a relevant service rendered to the claimant and in respect of which medical expenses were incurred in respect of that year (being the service to which the threshold claim relates or any service that is not the subject of a prior claim referred to in paragraph (b)) is increased by the amount of the patient contribution in respect of that service.

“(4) For the purposes of this section, without affecting the meaning of an expression in any other provision of this Act:

(a) if a person to whom benefit is payable in respect of a relevant service is given or sent a cheque under subsection 20(2) for the amount of the benefit, the person is taken to have paid so much of the medical expenses in respect of that service as is represented by the amount of the benefit; and

(b) despite anything else in this Act, the question when medical expenses are incurred in respect of relevant services relating to prescribed items is to be determined under the regulations.

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“(5) If, as a result of an assignment to a medical practitioner under section 20A by a person of his or her right to the payment of a benefit in respect of a service, the Commission makes a payment to the practitioner, this section has effect as if:

- (a) that person had made a claim for a benefit in respect of that service; and
- (b) that claim had been accepted by the Commission; and
- (c) the medical expenses in respect of that service had been paid.

Confirmation of family composition

“10AE.(1) If the Commission is satisfied that, apart from this section, a registered family would be, or would be likely soon to become, entitled to increased benefits under subsection 10AC in respect of a calendar year, the Commission must, in writing, request that that person or another family member state, in writing, whether or not:

- (a) the composition of the family remains, or (if the year has already ended) remained, in that year, as originally registered under section 10AA; or
- (b) if, after the registration, the Commission has been notified of a change in the family composition—the composition of the family remains, or (if that year has already ended) remained, in that year, as last notified to the Commission.

“(2) Until a family member provides the information sought under subsection (1), then, despite sections 10AC and 10AF:

- (a) increased benefits are not payable in respect of the family members in respect of the year for which the confirmation was sought; and
- (b) a safety-net concession card cannot be issued in respect of the family members and that year.

Eligibility for issue of safety-net concession card

“10AF.(1) Subject to subsection (6), if the Commission is satisfied of the matters referred to in paragraph 10AC(2)(c) in relation to a family in respect of a year, the Commission must issue a safety-net concession card in respect of that year to the person who registered the family or, if that person has ceased to be a member of the family, to another family member.

“(2) Subject to subsection (6), if the Commission is satisfied of the matters referred to in paragraph 10AD(3)(c) in relation to a person in respect of a year, the Commission must issue a safety-net concession card in respect of that year to that person.

“(3) A safety-net concession card must be in the form approved by the General Manager for that card.

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“(4) Without limiting the generality of subsection (3), a card, other than an additional safety-net concession card, must include particulars of:

- (a) the year in respect of which the card is issued; and
- (b) the person to whom the card is issued and, if the person is a member of a registered family, each other person who is a family member.

“(5) If a member of the person’s registered family is omitted from the card at the time it is issued, the validity of the card is not affected.

“(6) A safety-net concession card must not be issued in respect of a year other than the year of its issue.

Persons covered by card

“10AG. Subject to section 10AH, where a safety-net concession card is issued to a person, the person and each other person who is, at the time the card is issued, a member of his or her registered family, is taken, for the purposes of this Act, to be a holder of the card.

Additional and replacement cards

“10AH.(1) Where a safety-net concession card has been issued in respect of a year, an additional card may, in accordance with the regulations, be issued in respect of that year to a person who is a holder of the card.

“(2) Without limiting the generality of subsection (1), regulations made for the purposes of that subsection may provide for the issue of an additional card to a person:

- (a) who is or was a holder of a card that has been lost, stolen, damaged or destroyed; or
- (b) who is a holder of a card but whose particulars are not included on the card.

“(3) Where:

- (a) a person (in this section called the ‘**original card holder**’) has been issued with a card in respect of a year; and
- (b) a person (in this section called the ‘**new family member**’) becomes, through a variation of the registration of the original card holder’s family, registered as a member of that family;

a replacement card may, in accordance with the regulations, be issued in respect of that year to the original card holder.

“(4) A replacement card issued under subsection (3) must include particulars of the holders of the original card and of the new family member and each original card holder and the new family member is taken, from the time when the replacement card is issued, to be a replacement card holder.

“(5) If an officer makes a decision under subsection (1) or (3) refusing to issue an additional card or replacement card (as the case may be), a notice of that decision must be issued to the person who made the request for the additional card or replacement card.

Review of decisions

“10AI.(1) In this section:

‘decision’ has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

“(2) If a decision is made:

- (a) by an officer under subsection 10AH(1) or (3) refusing to issue an additional safety-net concession card or replacement safety-net concession card (as the case may be); or
- (b) by the General Manager to issue a notice under subsection 10AK(1);

then:

- (c) in the case of paragraph (a), the person who requested the additional card or replacement card (in this section called the **‘applicant’**); or
- (d) in the case of paragraph (b), the person to whom the notice was issued under subsection 10AK(1);

may apply to the General Manager for reconsideration by the General Manager of the decision.

“(3) An application under subsection (2) must be made by an applicant or the person to whom a notice was given (as the case may be), within 28 days after the applicant or the person receives:

- (a) in the case of a decision under subsection 10AH(1) or (3), a notice under subsection 10AH(5); or
- (b) in the case of a decision under subsection 10AK(1), a notice under that subsection.

“(4) If an applicant applies to the General Manager under subsection (2) for reconsideration of a decision to issue an additional concession card or replacement concession card (as the case may be), the General Manager may:

- (a) affirm the decision; or
- (b) make a decision to issue an additional card or replacement card, as the case requires.

“(5) If a person to whom a notice was issued under subsection 10AK(1) applies to the General Manager under subsection (2) for a reconsideration of the decision, the General Manager may:

- (a) affirm the decision; or
- (b) make a decision to withdraw the notice given to the person.

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“(6) Where the General Manager makes a decision under subsection (4) or (5), a written notice must be given to the applicant containing:

- (a) the terms of the decision and the reasons for it; and
- (b) a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for a review of the decision.

“(7) A notice under subsection (6) must be given within 28 days after the General Manager makes a decision under subsection (4) or (5), as the case may be.

“(8) Failure to include in a notice under subsection (6) a statement of the kind mentioned in paragraph (6)(b) does not affect the validity of the General Manager’s decision.

“(9) Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal by:

- (a) a person whose interests are affected by a decision of the General Manager made under paragraph (4)(a); or
- (b) a person whose interests are affected by a decision under paragraph (5)(a);

for review of that decision.

“(10) Despite section 131, the General Manager may, in writing, delegate his or her powers under subsection (4) or (5) to a person holding or performing the duties of the office of Assistant General Manager or Deputy State Manager (however described) of the Commission.

Period of effect of card

“10AJ. Where a safety-net concession card is issued in respect of a calendar year, it begins to have effect on the day on which it is issued and ceases to have effect at the end of that year.

Return of card

“10AK.(1) Where a safety-net concession card is issued to a person who is not eligible to be issued with the card, the General Manager may, by notice in writing to a card holder, require the holder to deliver the card, within such period (not being a period of less than 7 days) as is specified in the notice, to the Commission for cancellation and the holder must comply with the notice.

“(2) A person must not, without reasonable excuse, fail to comply with a notice given to the person under subsection (1).

Penalty: \$6,000 or imprisonment for 12 months, or both.”.

Indexation

6. Section 10A of the Principal Act is amended:

- (a) by omitting from subsection (1) the definition of ‘year’ and substituting the following definition:

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“‘year’ means:

- (a) for the purpose of the indexation of the amount specified in subparagraph 10(2)(c)(ii)—the year beginning on 1 November 1993 or a later year beginning on 1 November; or
- (b) for the purpose of the indexation of the amount of the greatest permissible gap—the year beginning on 1 November 1992 or a later year beginning on 1 November; or
- (c) for the purpose of the indexation of the safety-net amount—the year beginning on 1 January 1993 or a later year beginning on 1 January; or
- (d) for the purpose of the indexation of the maximum co-payment amount—the year beginning on 1 November 1993 or a later year beginning on 1 November; or
- (e) for the purpose of the indexation of the amount payable to a practitioner under section 20C—the year beginning on 1 November 1993 or a later year beginning on 1 November.

Note 1: greatest permissible gap is defined in subsection 10(5).”;

(b) by omitting subsection (2) and substituting the following subsection:

“(2) The amount referred to in an item in the CPI Indexation Table below is to be indexed under this section every year on the indexation day specified in that item by using the reference quarter in that item.

CPI INDEXATION TABLE			
Item	Amount	Indexation day	Reference quarter
1.	The amount specified in subparagraph 10(2)(c)(ii)	1 November	June
2.	The amount of the greatest permissible gap	1 November	June
3.	The safety-net amount	1 January	September
4.	The maximum co-payment amount	1 November	June
5.	The amount payable to a practitioner under section 20C	1 November	June

(c) by omitting from subsection (5) the definition of “Previous index number” and substituting the following definition:

“‘Previous index number’, in relation to the indexation of an amount referred to in an item in the CPI Indexation Table in subsection (2), means the index number for the reference quarter in that item immediately before the most recent reference quarter in that item ending before the indexation day.”.

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Assignment of Medicare benefit

7. Section 20A of the Principal Act is amended:

(a) by inserting in paragraph (1)(b) “(subject to subsection (1A))” after “payment”;

(b) by inserting after subsection (1) the following subsections:

“(1A) If:

(a) a prescribed GP service is rendered to a person on or after 1 January 1992; and

(b) the right to benefit in respect of that service is assigned to the practitioner;

then, despite the assignment, the practitioner may charge for the prescribed GP service an amount not more than the maximum co-payment amount unless the practitioner is satisfied:

(c) that the person is a concessional beneficiary or a concessional beneficiary’s dependant; or

(d) that the amount of the medicare benefit in respect of the service is subject to an increase under section 10AC or 10AD.

“(1B) If a practitioner renders a prescribed GP service to a person (in this subsection called the ‘**patient**’) and:

(a) there is produced to the practitioner evidence of a type determined by the General Manager, in writing, to be evidence that the patient is a concessional beneficiary or a concessional beneficiary’s dependant; or

(b) if that evidence cannot be produced, the patient, or another person on the patient’s behalf, signs a document in the form approved by the General Manager to the effect that the patient is a concessional beneficiary or a concessional beneficiary’s dependant and produces any other evidence of identity required by that form to be produced;

the practitioner is entitled to be satisfied that the patient is a concessional beneficiary or a concessional beneficiary’s dependant.

“(1C) A person must not, for the purpose of demonstrating that he or she, or some other person on whose behalf he or she is acting, is a concessional beneficiary or a concessional beneficiary’s dependant:

(a) produce evidence of a type referred to in paragraph (1B)(a); or

(b) sign a document of the kind referred to in paragraph (1B)(b);

unless he or she, or the person on whose behalf he or she is acting (as the case may be), is a concessional beneficiary or a concessional beneficiary’s dependant.

Penalty for contravention of this subsection: \$1,000.

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“(1D) If a practitioner renders a prescribed GP service to a person and there is produced to the practitioner a current safety-net concession card relating to that person, the practitioner is entitled to be satisfied that the benefit in respect of the service is subject to an increase under section 10AC or 10AD.

“(1E) A person must not, for the purpose of demonstrating that the benefit in respect of a prescribed GP service is subject to an increase under section 10AC or 10AD, produce to the practitioner any document purporting to be a current safety-net concession card relating to the person to whom the service was rendered unless it is such a safety-net concession card.

Penalty for contravention of this subsection: \$1,000.”.

8. After section 20B of the Principal Act the following sections are inserted:

Additional fees payable in certain bulk billing cases

“20C. If a benefit in respect of a prescribed GP service for which a practitioner would have a right to charge an amount under subsection 20A(1A) is assigned to that practitioner, the Commission must pay the practitioner, at the time of payment of that benefit, an additional amount of \$1.00 in respect of the provision of that service.

Adjustment of benefit and refund of co-payment in certain circumstances

“20D.(1) If:

- (a) a prescribed GP service has been rendered to a person (in this section called the ‘**patient**’); and
- (b) the right to benefit in respect of that service has been assigned to the practitioner; and
- (c) the claim for benefit in respect of that service was submitted to the Commission as a claim in respect of benefit under paragraph 10(2)(c); and
- (d) the Commission is or becomes aware that, at the time the service was rendered;
 - (i) the patient was in fact a concessional beneficiary or a concessional beneficiary’s dependant; or
 - (ii) the service was in fact a service that was subject to an increased benefit under section 10AC or 10AD;

the Commission may, in the circumstances provided for in subsection (3):

- (e) refund any amount charged by the practitioner under subsection 20A(1A) (in this section called a ‘**co-payment**’) in respect of that service; and
- (f) adjust the amount of any benefit paid to the practitioner in

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respect of that service so that the total amount received by the practitioner is equal to 85% of the Schedule fee.

“(2) In adjusting the amount of benefit paid to the practitioner, the Commission must take account of the following amounts paid in respect of the service:

- (a) any co-payment paid to the practitioner;
- (b) any benefit already paid to the practitioner by the Commission; and
- (c) any additional amount paid under section 20C by the Commission.

“(3) The Commission may do the things provided for in paragraphs (1)(e) and (f):

- (a) on its own initiative; or
- (b) on written application, supported by such evidence as it requires, by:
 - (i) the patient to whom the service was rendered; or
 - (ii) the practitioner who rendered the service; or
 - (iii) the person who paid the co-payment (if any) in respect of the service.

“(4) For the purpose of subsection (1), if the right to benefit in respect of a service is assigned under section 20A, the claim for benefit in respect of that service is taken to have been submitted to the Commission as a claim in respect of benefit under paragraph 10(2)(c) if:

- (a) neither the assignment form nor any accompanying document indicates that the patient is a concessional beneficiary or a concessional beneficiary’s dependant; and
- (b) the assignment form does not indicate that the patient is the holder of a safety-net concession card.

“(5) If the Commission adjusts the amount of the benefit paid to a practitioner in respect of a prescribed GP service by taking into account the amount of any co-payment or any additional amount paid to the practitioner under section 20C, then the amount of that co-payment or that additional amount is to be treated, for all purposes of this Act, as if it were an amount paid to the practitioner by the Commission on behalf of the Commonwealth as a part of the benefit payable in respect of that service.”.

Transitional provision—safety-net entitlements

9.(1) If a person has become, or, at any time after this section commences, becomes, entitled to increased benefits under subsection 10(3) of the Principal Act in respect of professional services in respect of which medical expenses were incurred before 1 July 1991, the

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person's entitlement to those increased benefits is unaffected by this section.

(2) Despite the amendments of section 10 of the Principal Act made by this Act, subsection 10(3) of that Act is taken to have applied in respect of the year commencing on 1 January 1991 (in this section called the “**transitional year**”) as if the transitional year were a year for the purposes of that subsection but subject:

- (a) to the modifications to that section set out in subsections (3), (4), (5) and (6); and
- (b) to the modifications to sections 20A, 20C and 20D of the Principal Act as amended by this Act that are set out in sections 10, 11 and 12 of this Act.

(3) For the purposes of subsection 10(3) of the Principal Act as so applied:

- (a) any patient contribution in respect of a professional service to which subsection (1) of this section applies is to be disregarded in computing a person's entitlement to increased benefits; and
- (b) any patient contribution in respect of any other professional service in respect of which medical expenses were incurred during the transitional year is to be taken into account in computing a person's entitlement to increased benefits; and
- (c) subsection 10(4A) of the Principal Act continues to apply, despite its repeal, for the whole of the transitional year; and
- (d) subsections 10(5) and (6) of the Principal Act are to be treated as if they had been repealed on 1 January 1991.

(4) If, as a result of an assignment to a medical practitioner under section 20A of the Principal Act by a person of his or her right to the payment of a benefit in respect of a professional service rendered on or after 1 December 1991, the Commission makes a payment of medicare benefit to the practitioner, subsection 10(3) of the Principal Act as so applied has effect as if:

- (a) that person had made a claim for a benefit in respect of that service; and
- (b) that claim had been accepted by the Commission; and
- (c) the medical expenses in respect of that service had been paid.

(5) For the purposes of subsection 10(3) of the Principal Act as so applied:

- (a) where a person to whom medicare benefit is payable in respect of a professional service is given or sent a cheque under subsection 20(2) of the Principal Act for the amount of the medicare benefit, the person is taken to have paid so much of the medical expenses in respect of that service as is represented by the amount of the medicare benefit; and
- (b) a reference to a professional service is taken, if the service is a

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service in respect of which expenses are incurred before 1 December 1991, to be a reference to a service:

- (i) in respect of which medicare benefit is payable; and
- (ii) the medical expenses in respect of which exceed the amount of medicare benefit that, but for subsection 10(3) of the Principal Act as so applied, would be payable in respect of the service.

(6) For the purposes of subsection 10(3) of the Principal Act as so applied:

“medicare benefit” has the meaning:

- (a) before 1 December 1991—given by subsections 10(2), (2A) and (4) of the Principal Act; and
- (b) on or after 1 December 1991—given by subsections 10(2), (3) and (4) of the Principal Act as amended by this Act;

“patient contribution”, in relation to a claim for medicare benefit in respect of a professional service for which medical expenses were incurred before 1 December 1991, means an amount equal to the difference between:

- (a) the Schedule fee or, if the medical expenses in respect of the service are less than that fee, those medical expenses; and
- (b) the amount of medicare benefit that, but for subsection 10(3) of the Principal Act as so applied, would be payable in respect of that service;

“patient contribution”, in relation to a claim for benefit in respect of a professional service in respect of which medical expenses are incurred on or after 1 December 1991, means:

- (a) if benefit is payable under section 20 of the Principal Act as amended by this Act—an amount equal to the difference between:
 - (i) the Schedule fee or, if the medical expenses in respect of the service are less than that fee, those expenses; and
 - (ii) the amount of benefit that apart from subsection 10(3) of the Principal Act as it applies to the transitional year, would be payable in respect of the service; and
- (b) if benefit is assigned under section 20A of the Principal Act as amended by this Act and the practitioner concerned is entitled under that section to charge an amount not exceeding \$2.50 in respect of the service—\$2.50; and
- (c) in any other case—nil;

“relevant amount” means \$246;

“Schedule fee”, in relation to a professional service, means the fee specified in the table in respect of that service.

Transitional provision—assignment of medicare benefit

10. Section 20A of the Principal Act as amended by this Act is taken as having effect, in respect of prescribed GP services rendered during the period from 1 December 1991 to 31 December 1991, as if:

(a) subsection (1A) had read as follows:

“(1A) If:

(a) a prescribed GP service is rendered to a person on or after 1 December 1991 and before 1 January 1992; and

(b) the right to medicare benefit in respect of that service is assigned to the practitioner;

then, despite the assignment, the practitioner may charge for the service an amount not more than \$2.50 unless the practitioner is satisfied:

(c) that the person is a concessional beneficiary or a concessional beneficiary’s dependant; or

(d) that the amount of the medicare benefit in respect of that service is subject to an increase under subsection 10(3) of the Principal Act as that subsection is applied in respect of the year commencing on 1 January 1991.”; and

(b) the references in subsections (1D) and (1E) to a current safety-net concession card relating to a person were a reference to such evidence as the General Manager determines in respect of the person for the purpose of this provision; and

(c) the references in subsections (1D) and (1E) to section 10AC or 10AD were references to subsection 10(3) of the Principal Act as that subsection is applied in respect of the year commencing on 1 January 1991.

Transitional provision—additional fees

11. Section 20C of the Principal Act as amended by this Act is taken to have effect, in respect of prescribed GP services rendered during the period from 1 December 1991 to 31 December 1991, as if the reference in that section to a right to charge an amount under subsection 20A(1A) of the Principal Act were a reference to a right to charge an amount under that subsection as it has effect in accordance with section 10 of this Act.

Transitional provision—adjustment of benefit and refund of co-payment in certain circumstances

12. Section 20D of the Principal Act as amended by this Act is taken to have effect, in respect of prescribed GP services rendered during the period from 1 December 1991 to 31 December 1991 as if:

(a) the reference in that section to subsection 20A(1A) was a

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reference to that subsection as it has effect in accordance with section 10 of this Act; and

- (b) the references in that section to section 20C were references to that section as it has effect in accordance with section 11 of this Act; and
- (c) the reference in that section to section 10AC or 10AD was a reference to subsection 10(3) of the Principal Act as that subsection is applied in respect of the year commencing on 1 January 1991; and
- (d) the reference in that section to the holder of a safety-net concession card was a reference to a person in respect of whom there is available such evidence as the General Manager determines to be appropriate for the purposes of section 20A as that section has effect in accordance with section 10 of this Act.

Retrospective payment of benefit increases

13. If:

- (a) a claim in respect of a professional service had been accepted by the Commission before 1 December 1991; and
- (b) under subsection 10(3) of the Principal Act as modified by section 9 of this Act, that claim is to be taken into account in computing a person's entitlement to increased benefits in respect of the year beginning on 1 January 1991; and
- (c) if the claim had been taken into account for that purpose when it was accepted the person would have been entitled to an increased benefit in respect of that service;

the Commission must pay the amount of that increase to that person on, or as soon as practicable after, 1 December 1991.

Payments by the Commonwealth

14. Section 125 of the Principal Act has effect:

- (a) for the purpose of enabling payments (including retrospective payments) of increased medicare benefits in respect of professional services for which medical expenses were incurred during the year commencing on 1 January 1991; and
- (b) for the purpose of making additional payments to practitioners under section 20C of that Act as it applies in respect of prescribed GP services rendered during the period from 1 December 1991 to 31 December 1991; and
- (c) for the purpose of making payments by way of refund under section 20D of that Act as it applies in respect of prescribed GP services rendered during the period from 1 December 1991 to 31 December 1991;

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as if the reference in subsection (1) of that section to amounts payable under Part II of that Act included a reference to any amounts payable by virtue of the operation of sections 9, 10, 11, 12 and 13 of this Act.

NOTE

1. No. 42, 1974, as amended. For previous amendments, see No. 58, 1975; Nos. 59, 91, 101, 109 and 157, 1976; No. 75, 1977; Nos. 36, 89 and 133, 1978; Nos. 53 and 123, 1979; No. 132, 1980; Nos. 118 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 54 and 139, 1983; Nos. 15, 46, 63, 120, 135 and 165, 1984; Nos. 24, 65, 70, 95 and 167, 1985; Nos. 28, 75 and 94, 1986; Nos. 44, 131, 132 and 141, 1987; Nos. 85, 87, 99 and 155, 1988; Nos. 59, 84, 95 and 164, 1989; Nos. 3, 106 and 141, 1990; Nos. 6, 57, 68, 70, 73, 84 and 116, 1991.

*[Minister's second reading speech made in—
House of Representatives on 20 August 1991
Senate on 7 November 1991]*