Repatriation Pharmaceutical Benefits Scheme

Instrument 2013 No. R43 as amended
made under the

Veterans' Entitlements Act 1986

Compilation start date: 1 April 2015.
Includes amendments up to: LI No. R1/MRCC1, 2015.
About this compilation

This compilation

This is a compilation of the Repatriation Pharmaceutical Benefits Scheme as in force on 1 April 2015. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 2 April 2015.

The notes at the end of this compilation (the endnotes) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of any uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.
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Name of Scheme

1A. This instrument is the Repatriation Pharmaceutical Benefits Scheme.

Commencement

1B. This instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Transitional-General

1C. Any process under the revoked scheme that had not been finalised before the commencement of this Scheme is to be completed under this Scheme as if it had commenced under this Scheme.

Transitional-pharmaceutical reimbursement

1D. For the purpose of working out a pharmaceutical reimbursement, a co-payment by an Eligible Person for a Pharmaceutical benefit under the revoked scheme, that could have been counted for a pharmaceutical reimbursement under the revoked Scheme but in respect of which a pharmaceutical reimbursement had not been made immediately before the commencement of this Scheme, is taken to be a co-payment for a Pharmaceutical benefit under this Scheme.

Repatriation Pharmaceutical Benefits Scheme

1. The Repatriation Pharmaceutical Benefits Scheme is authorised by, and subject to, section 91 of the Veterans’ Entitlements Act 1986.

Purpose of the Repatriation Pharmaceutical Benefits Scheme

2. The Repatriation Pharmaceutical Benefits Scheme enables Community Pharmacists to supply Pharmaceutical benefits to Eligible Persons.

Part 1 — Interpretation

3. For the purposes of this Scheme, unless a contrary intention appears:

“Act” means the Veterans’ Entitlements Act 1986;

“accepted disability” means a war-caused injury or a war-caused disease, a defence-caused injury or a defence-caused disease or a SRCA disability.

Note: war-caused injury etc is defined in the Act.
“approved hospital” means a hospital in respect of which the hospital authority is approved under section 94 of the National Health Act 1953;

“approval number” means a number allotted by the Secretary under subregulation 8A(1) of the National Health (Pharmaceutical Benefits) Regulations 1960 to an approval under the National Health Act 1953 of a person described in the subregulation who, under the Scheme, is a Community Pharmacist;

“approved electronic communication” means an electronic communication of a kind approved in writing by the Secretary under regulation 5E of the National Health (Pharmaceutical Benefits) Regulations 1960 for the purposes of the provision in those regulations in which the expression is used.

“approved information technology requirements” means information technology requirements of a kind approved in writing by the Secretary under regulation 5F of the National Health (Pharmaceutical Benefits) Regulations 1960 for the purposes of the provision in those regulations in which the expression is used.

“Approved Hospital Authority” has the meaning given by subsection 84(1) of the National Health Act 1953.

“Approved Medical Practitioner” means a medical practitioner approved under section 92 of the National Health Act 1953 for the purposes of supplying Pharmaceutical benefits;

“approved supplier” has the meaning given in Part VII of the National Health Act 1953.

“Authorised Midwife” has the meaning given by subsection 84(1) of the National Health Act 1953;

“Authorised Nurse Practitioner” has the meaning given by subsection 84(1) of the National Health Act 1953;

“authority prescription” means a prescription of a Pharmaceutical benefit for which Prior Approval under section 6 is required;

“Authority Prescription Form” means a prescription in the form, if any, for an “authority prescription” under the National Health (Pharmaceutical Benefits) Regulations 1960;

“Chief Executive Medicare” has the meaning given by the Human Services (Medicare) Act 1973;
“claims rules” mean the rules, in force from time to time, made under subsections 98AC(4) and 99AAA(8) of the National Health Act 1953;

“Commission” means the Repatriation Commission continued in existence by section 179 of the Veterans’ Entitlements Act 1986;

“Community Pharmacist” means:

(a) a registered pharmacist approved for the purposes of section 90 of the National Health Act 1953 in charge of a community pharmacy; or

(b) a registered pharmacist approved for the purposes of section 90 of the National Health Act 1953, being the manager of a registered Friendly Society Dispensary; or

(c) an Approved Hospital Authority; or

(d) an Approved Medical Practitioner;

“concessional beneficiary” has the same meaning it has in section 84 of the National Health Act 1953, in force from time to time;

“concessional beneficiary safety net” has the same meaning it has in section 99F of the National Health Act 1953, in force from time to time;

“concession card” has the meaning given by subsection 84(1) of the National Health Act 1953;

“continued dispensing supply” means the supply of Pharmaceutical benefits in the circumstances in paragraph 16A;

“co-payment”, in respect of a Pharmaceutical benefit, means that part of the price of a Pharmaceutical benefit that is borne by the Eligible Person in relation to a Pharmaceutical benefit made available under the Scheme;

“deferred supply authorisation” means the situation described in regulation 26A of the National Health (Pharmaceutical Benefits) Regulations 1960;

Note: generally a deferred supply authorisation occurs where a prescription contains a direction to supply more than 1 Pharmaceutical benefit and the Community Pharmacist to whom the prescription is presented, at the request of the person for whom the prescription is written, defers the supply of one or more of the Pharmaceutical benefits.

“Department” means the Department of Veterans’ Affairs;
“dependant”, in relation to a concessional beneficiary, has the meaning given by Part VII of the National Health Act 1953;

“Diagnostic Agents” means Agents intended to facilitate the determination of human disease and/or human physiological states;

“Drugs” or “Medicines” means “goods for therapeutic use” as defined for human use by the Therapeutic Goods Act 1989;

“electronic prescription” means a prescription that is prepared and submitted:

(a) in accordance with approved information technology requirements (if any), by means of an approved electronic communication; and

(b) in accordance with the appropriate form under:

(i) sub-subparagraph 19(1)(a)(ia)(B) (prescriptions other than medication chart prescriptions) of the National Health (Pharmaceutical Benefits) Regulations 1960; or

(ii) subregulation 19AA(7) (medication chart prescriptions) of the National Health (Pharmaceutical Benefits) Regulations 1960.

“Eligible Person” means:

(a) a person who holds a Repatriation Health Card - For All Conditions; or
(b) a person who holds a Repatriation Health Card - For Specific Conditions; or
(c) a person who holds a Repatriation Pharmaceutical Benefits Card;

“entitlement card” has the meaning given by subsection 84 (1) of the National Health Act 1953;

“Explanatory Notes” means:

(a) the document forming part of the Pharmaceutical Benefits Scheme that is: SECTION 1 — EXPLANATORY NOTES; and
Note: as at 1 September 2014 the part comprised pages 25-54.

(b) the document forming part of the Pharmaceutical Benefits Scheme that is: the RPBS Explanatory Notes;
Note: as at 1 September 2014 the part comprised pages 1079-1082.

being the version of the document as it exists on the date for the document in Schedule 1.
“general patient safety net” has the same meaning it has in section 99F of the National Health Act 1953, in force from time to time;

“hospital treatment” has the meaning given by section 121-5 of the Private Health Insurance Act 2007;

“income support payment” is a service pension (defined in subsection 5Q(1) of the Act or an income support supplement (referred to in Part IIIA of the Act);

“income support payment under the Social Security Act 1991” means a payment referred to in the definition of “income support payment” in subsection 23(1) of the Social Security Act 1991;

“Medical Practitioner” has the same meaning as “medical practitioner” has in the Health Insurance Act 1973;

“medicare number” has the meaning given by subsection 84 (1) of the National Health Act 1953;

“medication chart” has the meaning given by subsection 11B(6);

“medication chart prescription” has the meaning given by section 11B;

“MRCA supplement” means a payment under section 300 of the Military Rehabilitation and Compensation Act 2004;

“paper-based prescription” means a prescription that is prepared in duplicate in accordance with subparagraph 19(1)(a)(i), (ii) or (iii) of the National Health (Pharmaceutical Benefits) Regulations 1960.

“PBS” or “Pharmaceutical Benefits Scheme” means the document entitled “SCHEDULE OF PHARMACEUTICAL BENEFITS”, with International Standard Serial Number 1037-3667, being the version of the document as it exists on the date for the document in Schedule 1;

“PBS prescriber” has the meaning it has in subsection 84(1) of the National Health Act 1953.

“PBS prescriber” has the meaning given by subsection 84(1) of the National Health Act 1953;

“PBS prescriber number” means the number given by the Chief Executive Medicare to a person who may prescribe a pharmaceutical benefit under the National Health Act 1953;
“PBS Schedule” means the collection of instruments made under Part VII of the National Health Act 1953 (the Act) by the Minister who administers that Act, as those instruments are in force from time to time;

“pension supplement” has the same meaning it has in subsection 5Q(1) of the Act, in force from time to time;

“pharmaceutical allowance” means the component of the veterans supplement or pension supplement or MRCA supplement or war widow/war widower pension that is to assist with the purchase of Pharmaceutical benefits, the calculated value of which is referred to in paragraph 37 (pharmaceutical allowance component) of Part 5A.

“Pharmaceutical benefits” has the same meaning as “pharmaceutical benefits” in subsection 91(9) of the Veterans’ Entitlements Act 1986;

“pharmaceutical item” has the meaning given in Part VII of the National Health Act 1953;

“pharmaceutical reimbursement” means the financial amount described in paragraphs 33-35 of Part 5A.

“Prior Approval” means the prior approval of the Commission.

“Repatriation Health Card - For All Conditions” means an identification card, or written authorisation, provided to:

(a) a person eligible under section 85 of the Veterans’ Entitlements Act 1986 for treatment, subject to the Treatment Principles, for all injuries or diseases; or

(b) a person eligible under section 86 of the Veterans’ Entitlements Act 1986 for treatment, subject to the Treatment Principles, for all injuries or diseases;

“Repatriation Health Card - For Specific Conditions” means an identification card, or written authorisation, provided to a person eligible under section 85 of the Veterans’ Entitlements Act 1986 for treatment, subject to the Treatment Principles, for war-caused or defence-caused injuries or diseases, and certain specified conditions;

"Repatriation Pharmaceutical Benefits Card" means an identification card entitled 'Repatriation Pharmaceutical Benefits Card' which is provided to a person pursuant to section 93X of the Veterans' Entitlements Act 1986 and which entitles the person to pharmaceutical benefits in accordance with this Scheme;
Note: Part VA of the Veterans' Entitlements Act 1986 (Act) has the effect of deeming an eligible Commonwealth veteran, an eligible allied veteran, and an eligible allied mariner, to be entitled to pharmaceutical benefits under the Repatriation Pharmaceutical Benefits Scheme as if such person was eligible for treatment comprised of pharmaceutical benefits under Part V of the Act.

“Repatriation Schedule of Pharmaceutical Benefits” means all that writing in the Pharmaceutical Benefits Scheme for the part “Repatriation Schedule of Pharmaceutical Benefits”;  

Note: as at 1 September 2014 the part comprised pages 1077-1082.

“repeat authorisation form” means the form mentioned in subparagraph 26(1A)(a)(i) of the National Health (Pharmaceutical Benefits) Regulations 1960.

“residential care service” has the meaning given by the Aged Care Act 1997;

“residential care” has the meaning given by section 41–3 of the Aged Care Act 1997;

“revoked scheme” means the Repatriation Pharmaceutical Benefits Scheme (1995 No.12);

“RPBS Explanatory Notes” means the document forming part of the Pharmaceutical Benefits Scheme that is the: RPBS Explanatory Notes – being the version of the document as it exists on the date for the document in Schedule 1;  

Note: as at 1 September 2014 the part comprised pages 1079-1082.

“RPBS prescriber” means an Approved Medical Practitioner, an Authorised Midwife or an Authorised Nurse Practitioner;

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.

“RPBS” means the Repatriation Pharmaceutical Benefits Scheme”.

“RPBS Schedule” means the document forming part of the Pharmaceutical Benefits Scheme that is the Repatriation Schedule of Pharmaceutical Benefits, being the version of the document as it exists on the date for the document in Schedule 1;

“safety net “, in respect of its application to a person under this Scheme, means the concessional beneficiary safety net or general patient safety net, whichever amount first applies to the person for the purposes of section 84C of the National Health Act 1953, in force from time to time:
Note: under section 84C of the National Health Act 1953 a concession card or entitlement card is issued when a person reaches their Safety Net. The card is issued for the “relevant entitlement period”. The relevant entitlement period is the remainder of the calendar year after the card is issued.

“Secretary” has the meaning given in Part 1 of the National Health Act 1953.

“Scheme” means the Repatriation Pharmaceutical Benefits Scheme;

“social security pension supplement” means a rate or amount worked out under section 20A of the Social Security Act 1991;

“Scheduled item” means an item in the PBS Schedule or the RPBS Schedule;

“SRCA disability” means an injury (within the meaning of the Safety, Rehabilitation and Compensation Act 1988):

(a) for which the Military Rehabilitation and Compensation Commission has accepted liability to pay compensation under that Act; and

(b) for which the person with the injury is eligible to be provided with treatment under Part V of the Act.

Note 1: In the Safety, Rehabilitation and Compensation Act 1988 the definition of injury includes a disease (see section 5A of that Act).

Note 2: Section 85(2A) of the Act provides eligibility for treatment of a person with an injury under the Safety, Rehabilitation and Compensation Act 1988.

“Standard Prescription Form” means a prescription prepared in accordance with subparagraph 19(1)(a)(i), (ii) or (iii) of the National Health (Pharmaceutical Benefits) Regulations 1960;

Note: a Standard Prescription Form does not include a medication chart prescription.

“supply certification form” means the form of that name in the claims rules.

“Treatment Principles” is the written document prepared by the Repatriation Commission, approved by the Minister under section 90 of the Veterans’ Entitlements Act 1986, and in force from time to time;

“veterans supplement” means the payment under section 118A of the Act.

“war widow/war widower pension” means a payment received by a war widow/war widower —pensioner comprised of:

(a) a pension under Part II or IV of the Act at a rate determined under or by reference to subsection 30(1) of the Act; or
(b) a lump sum mentioned in paragraph 234(1)(b) of the MRCA or a weekly amount mentioned in that paragraph.

Note: MRCA is defined in subsection 5Q(1) of the Act as the Military Rehabilitation and Compensation Act 2004.

Note: references in the Scheme to paragraphs, subparagraphs, sections and subsections are interchangeable. For example a reference to “paragraph 10” of the Scheme is the same as a reference to “section 10” of the Scheme and vice versa.

“war-caused or defence-caused injuries or diseases” means the injuries or diseases described in, respectively, section 9 and 70 of the Act; and in relation to a person with an SRCA disability means the person’s injury (within the meaning of the Safety, Rehabilitation and Compensation Act 1988) was caused by, or arose out of, the person’s employment in the Defence Force that is covered by the Safety, Rehabilitation and Compensation Act 1988.

Notification of certain matters in the Explanatory Notes

4. Where it is provided for the Department or the Commission to notify of certain matters under the Scheme, the inclusion of the matter in the RPBS Explanatory Notes and publication of the RPBS Explanatory Notes (as part of the publication of the Pharmaceutical Benefits Scheme which includes the RPBS Explanatory Notes) shall be taken to constitute such notification.

Department to notify of certain matters as agent of the Commission

5. Where it is provided that the Department may notify of certain matters, the Department may only do so for and on behalf of the Commission, as its agent.

Part 2 — Prescribing of Benefits
Procedure by Medical Practitioners

Prior Approval

6. (a) The Commission may approve any matters requiring “Prior Approval”; and

(b) Prior Approval must be sought, in advance, in accordance with an Authority Prescription Form.

Restrictions

7. Restrictions apply to the prescribing of certain items. These include:

(a) items — quantities and repeats: those listed in the RPBS Schedule or PBS Schedule;
(b) **surgical appliances and other treatment aids:** surgical appliances and other treatment aids provided under the *Treatment Principles* may not be prescribed unless specifically listed in the *RPBS Schedule*;

(c) **admixtures:** the following restrictions apply to admixtures:

(i) admixture of two or more ready-prepared items into a single combined form, or the addition of one or more supplementary ingredients to a ready-prepared item, is not recognised as a *Pharmaceutical benefit*;

(ii) the extemporaneous prescribing of two or more official formulary preparations in a single combined form, or the addition of one or more supplementary ingredients to an official formulary preparation, is a recognised *Pharmaceutical benefit*; and

(iii) where one or more of the components of a preparation specified in subsubparagraph (ii) are non-*RPBS Schedule* or non-*PBS Schedule* items, Prior Approval is required for their prescribing;

(d) **conformity with standards:** no drug or therapeutic substance shall be prescribed unless it conforms with:

(i) the specific or general standards as determined by the relevant Minister under the *Therapeutic Goods Act 1989*; or

(ii) the British Pharmacopoeia, the United States Pharmacopoeia, the European Pharmacopoeia, the Australian Pharmaceutical Formulary, or a prescribed Pharmacology text of international standing;

(e) **basis for prescribing:** the prescribing of therapeutic substances other than on the clinical diagnosis of a *Medical Practitioner, Authorised Nurse Practitioner* or *Authorised Midwife* shall be invalid;

Note: an RPBS prescriber who is an *Authorised Midwife* or an *Authorised Nurse Practitioner* may only prescribe a *Pharmaceutical benefit* listed on the PBS and a prescription by an *Authorised Midwife* or an *Authorised Nurse Practitioner* for a *Pharmaceutical benefit* that is not available on the PBS is not recognised under the *Scheme*, even if the *Pharmaceutical benefit* is available under the *Scheme* on the prescription of, say, an *Approved Medical Practitioner*;

(f) **approval for therapeutic use:** it is invalid to prescribe:
(i) an item that is not approved for therapeutic use in the treatment of human illness by the relevant Commonwealth, State or Territory Government agencies, or

(ii) an item for use if it is not in accordance with the terms and conditions specified by the relevant Government agencies in approving the item as a therapeutic substance;

(g) **Prior Approval for non-conforming items**: any drug or medicine intended for use other than in conformity with the requirements in subparagraph (d) requires Prior Approval;

(h) **PBS Schedule restricted items**: the prescribing of PBS Schedule restricted items is to comply with the restrictions relating to the prescribing of such items as indicated in the PBS Schedule unless Prior Approval is obtained to prescribe otherwise;

(j) **RPBS Schedule restricted items**: the prescribing of RPBS Schedule restricted items under this Part is to comply with the restrictions relating to the prescribing of such items as indicated in the RPBS Schedule unless Prior Approval is obtained to prescribe otherwise;

(k) **Prior Approval for non-Schedule items**: the prescribing of an item not included in the RPBS Schedule or PBS Schedule requires Prior Approval.

**Prescribing provisions**

8. The PBS Schedule and RPBS Schedule are the primary references for the prescribing of Pharmaceutical benefits.

**Application of PBS Schedule restrictions and RPBS Schedule restrictions**

9. Restrictions specified in the PBS Schedule and RPBS Schedule which limit supply of items to a particular class of person, or are reserved for specified purposes or require an authority to prescribe, apply unless Prior Approval is obtained to prescribe otherwise.

**Prescriptions to conform with State or Territory Law**

10. For a prescription to be recognised by the Commission it must conform with the provisions of State or Territory law.

**Form of prescriptions**

11. Who can write Prescriptions
(1) Prescriptions are to be written by a Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife and except where inconsistent with the Scheme are to:

(a) satisfy the requirements for prescriptions in the National Health (Pharmaceutical Benefits) Regulations 1960; and

(b) in the case of a prescription written by an Authorised Nurse Practitioner or Authorised Midwife — only be for a Pharmaceutical benefit the person is permitted to prescribe under the National Health Act 1953 (including under the instruments under that Act).

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.

11AA Writing prescriptions-general

A prescription for the supply of a Pharmaceutical benefit must be written in accordance with;

(a) section 11A (prescriptions other than medication chart prescriptions); or

(b) section 11B (medication chart prescriptions).

Note: other provisions of the Scheme may also contain requirements for writing of prescriptions.

11A Writing of prescriptions-prescriptions other than medication chart prescriptions

(1) An RPBS prescriber writes a prescription in accordance with this Scheme if the RPBS prescriber:

(a) prepares the prescription:

(i) in duplicate, by handwriting the prescription in ink on a prescription form:

(A) that is as nearly as practicable 18 centimetres long by 12 centimetres wide; and

(B) on which appears the name and address of the RPBS prescriber and, subject to subsection (4), the letters ‘RPBS’ (or ‘DVA’); and

(C) on the original of which appear the words ‘pharmacist/patient copy’; and

(D) on the duplicate of which appear the words ‘Medicare Australia/DVA copy’; or

(ii) in duplicate, by means of a computer on a prescription form:

(A) that is as nearly as practicable 18 centimetres long by 12 centimetres wide; and
(B) on which appears the name and address of the RPBS prescriber and, subject to subsection (4), the letters ‘RPBS’ (or ‘DVA’); and

(C) on the original of which appear the words ‘pharmacist/patient copy’; and

(D) on the duplicate of which appear the words ‘Medicare Australia/DVA copy’; and

(E) that is approved in writing for the purpose by the Secretary (as defined in the National Health Act 1953); or

(iia) by means of a form:

(A) on which appear the name and address of the RPBS prescriber and the letters ‘RPBS’ (or ‘DVA’); and

(B) that is approved in writing by the Secretary (as defined in the National Health Act 1953) for the purpose of writing an electronic prescription; or

(iii) by another method approved in writing by the Secretary (as defined in the National Health Act 1953); and

(b) signs the prescription after it is prepared; and

(c) for an authority prescription—writes on it that prior approval has been obtained (if the case); and

(d) specifies on the prescription the date on which the prescription is written; and

(e) for a Authorised Midwife or Authorised Nurse Practitioner—states in the prescription the number allotted to his or her approval under regulation 8A of the National Health Act 1953; and

(f) states in the prescription the name of the person for whom the Pharmaceutical benefit is to be supplied and the address of that person; and

(g) identifies in the prescription the Pharmaceutical benefit by such particulars as are necessary to identify the Pharmaceutical benefit; and

(h) states in the prescription:

(i) the quantity or number of units of the Pharmaceutical benefit to be supplied; and

(ii) if the supply of the benefit is to be repeated—the number of times it is to be repeated; and

(i) if the Pharmaceutical benefit to be supplied is not a ready-prepared pharmaceutical benefit (as defined in the National Health (Pharmaceutical Benefits) Regulations 1960)—indicates in the prescription the manner in which the Pharmaceutical benefit is to be administered.

(2) A prescription written in accordance with this section must not provide for the supply of a Pharmaceutical benefit to:

(a) a person if the RPBS prescriber has written, on the same day, another prescription for the supply of the same or an equivalent Pharmaceutical benefit to the person; or

(b) more than 1 person.
(3) For subparagraphs (1)(a)(ii), (iia) and (iii), a prescription must not be prepared using a computer program that operates, or may operate, to indicate on a prescription by default, for the purpose of subsection 103(2A) of the National Health Act 1953, that only the brand of Pharmaceutical benefit specified in the prescription is to be supplied.

11B Writing prescriptions — medication chart prescriptions

Writing prescription by completing section of medication chart

(1) An RPBS prescriber writes a prescription (a medication chart prescription) for a Pharmaceutical benefit in accordance with this section if:

(a) the person for whom the Pharmaceutical benefit is prescribed is receiving treatment in or at:

(i) a residential care service at which the person is receiving residential care; or

(ii) an approved hospital; and

(b) the RPBS prescriber completes a section of a medication chart for the person in relation to the Pharmaceutical benefit in accordance with

(i) subsection (3) and

(ii) if the prescription would be an authority prescription – subsection (4).

(2) A reference in the Scheme to a prescription, or a medication chart prescription, includes a reference to the completed section of the chart by which a medication chart prescription was written.

Completing section of medication chart—general

(3) An RPBS prescriber completes a section of a medication chart in accordance with this subsection for a person (the patient) in relation to a Pharmaceutical benefit if:

(a) the RPBS prescriber writes in the section of the chart:

(i) particulars sufficient to identify the Pharmaceutical benefit; and

(ii) the date on which the Pharmaceutical benefit is prescribed; and

(iii) the Pharmaceutical benefit’s dose, frequency of administration and route of administration; and

(iv) the letters ‘RPBS’ or ‘DVA’; and

(b) the chart contains the following information:

(i) the RPBS prescriber’s full name, address and PBS prescriber number (if a PBS prescriber);

(ii) the patient’s full name;
(iii) the patient’s medicare number;

(iv) the number of any *entitlement card* or *concession card* held by the patient;

(v) if the patient is a *concessional beneficiary* or the dependant of a *concessional beneficiary* – the number of any card issued by the Commonwealth and held by the *concessional beneficiary* that is evidence that the patient is entitled to receive the *Pharmaceutical benefit* on terms appropriate for the supply of the benefit to a patient of that kind;

(vi) the name of the *residential care service* or *approved hospital* in or at which the patient is receiving treatment;

(vii) if the patient is receiving treatment in or at a *residential care service*— the Residential Aged Care Service ID for the *residential care service*;

(viii) if the patient is receiving treatment in or at an *approved hospital*— the patient’s address and;

(c) the *RPBS prescriber* writes his or her signature:
   (i) in the section of the chart; and
   (ii) except in the case of an *electronic prescription*— on the cover page of the chart; and

(d) the section of the chart does not provide for the supply of a *Pharmaceutical benefit* to more than one person; and

(e) the section of the chart is not completed using a computer program that operates, or may operate, to indicate on a prescription by default, for subsection 103(2A) of the *National Health Act 1953*, that only the brand of *Pharmaceutical benefit* specified in the prescription is to be supplied; and

(f) if the patient is receiving treatment in or at an *approved hospital*— the chart specifies the day on which the chart’s period of validity ends under subsection 16AA(3A), which must be the last day of one of the following periods starting on the day the first prescription for a *Pharmaceutical benefit* is written in the chart:
   (i) 1 month;
   (ii) 4 months;
   (iii) 12 months; and

(g) in any case— the section of the chart is completed before the end of the chart’s period of validity under subsection 16AA(3) or (3A).

Note: A section in a medication chart may set out fields that only need to have information filled in if the information is relevant to the particular prescription concerned.

Example: For paragraph (f), the first prescription is written in a medication chart on 11 June in a particular year. The day specified in the chart as the day on which the chart’s period of validity ends must be 10 July or 10 October in that year, or 10 June in the following year.
(4) An RPBS prescriber completes a section of a medication chart in accordance with this subsection for a person for the purpose of writing an authority prescription if the section of the chart contains:

(a) the authority prescription number (if one is given); and

(b) one of the following:

(i) a note that Prior Approval for the prescription has been obtained;

(ii) in any case—the streamlined authority code that is part of the circumstances determined under paragraph 85(7)(b) of the National Health Act 1953 for the Pharmaceutical benefit;

(iii) in any case—the streamlined authority code that is part of the conditions determined under subsection 85A(2A) of the National Health Act 1953 for the Pharmaceutical benefit.

(5) Subparagraphs (4)(b) (ii) and (iii) do not apply to authority prescriptions that have been authorised in accordance with authority required procedures that are incorporated by reference into the circumstances determined for a Pharmaceutical benefit under subsection 85B(4) of the National Health Act 1953.

Note: If a streamlined authority code or an authority approval number must be written on an authority prescription, and the code or number is not written on the authority prescription, the special patient contribution mentioned in subsection 85B(4) of the National Health Act 1953 may not be payable by the Commonwealth: see subsection 85B(5) of that Act.

Medication charts

(6) A medication chart is a chart in a form (if any) approved under subsection (7) that is used for prescribing, and recording the administration of, Pharmaceutical benefits to persons receiving treatment in or at a residential care service or a hospital, whether or not the chart:

(a) is used for any other purpose; or

(b) contains any other information.

Note: For paragraph (a), the chart may also be used (for example) to prescribe, and record the administration of drugs, medicines and other substances that are not Pharmaceutical benefits.

(7) The form of a medication chart is approved if the Secretary (as defined in the National Health Act 1953) has approved it.

Supply Certification Form

When prescriptions are invalid

12. A prescription is not a valid Pharmaceutical benefit if the Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife:
(a) except where the prescription is a medication chart prescription, prescribes a Pharmaceutical benefit for a person in respect of whom another prescription for the same benefit has been written on the same day by the same Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife; or

(b) prescribes, on the one form, a Pharmaceutical benefit that is a drug of addiction and another Pharmaceutical benefit, and directs that the supply of either Pharmaceutical benefit is to be repeated (but, if no repeats of either item are ordered, the prescription may be accepted provided that this is in accordance with the relevant State or Territory law); or

(c) prescribes a narcotic drug for the Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife writing the prescription; or

(d) prescribes on a Standard Prescription Form an item not listed in the RPBS Schedule or PBS Schedule; or

(e) prescribes on a Standard Prescription Form a benefit in contravention of any of the restrictions set out in paragraph 7; or

(f) where the prescription is by an Authorised Nurse Practitioner or Authorised Midwife for an Eligible Person — prescribes a Pharmaceutical benefit that is not available to the Eligible Person under the PBS.

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.

Maximum quantity and repeats allowed

13. The quantity and repeats for Scheduled items are to be confined to those specified in the RPBS Schedule or PBS Schedule. However, where inadequate, the Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife may seek Prior Approval to prescribe a quantity greater, or a greater number of repeats, than the maximum listed in the RPBS Schedule or PBS Schedule.

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.
Prescribing outside the RPBS Schedule or PBS Schedule

14. If a Medical Practitioner is of the clinical opinion that there are no therapeutic alternatives available in the RPBS Schedule or PBS Schedule for the treatment of an Eligible Person, the Medical Practitioner may seek Prior Approval from the Commission to prescribe an item not contained in those Schedules.

Medical Practitioner subject to this Scheme

15. Where a Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife prescribes for an Eligible Person, the Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife shall be subject to the terms and conditions of this Scheme and the Explanatory Notes.

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.

Part 3 — Supply of Pharmaceutical Benefits

Supply of Pharmaceutical Benefits — Procedure by Community Pharmacists

16. Subject to paragraph 16A (continued dispensing), a Community Pharmacist is required to supply a Pharmaceutical benefit only upon the surrender of:

(a) a valid Standard Prescription Form; or

(b) a valid Authority Prescription Form; or

(c) a valid repeat authorisation form presented with a duplicate prescription in accordance with the requirements under the PBS; or

(d) a valid medication chart prescription;

Note: The Commonwealth introduced medication chart prescribing (MCP) in stages. Firstly there was a trial of MCP in certain residential care services and then it was adopted for residential care services. Secondly, on 1 April 2015, a trial of MCP at certain hospitals commenced. The intention in the RPBS is to ensure MCP under the RPBS can only occur for patients in residential care services or hospitals where it could occur in respect of those patients under the National Health (Pharmaceutical Benefits) Regulations 1960.

provided that such documents are in accordance with State or Territory law and this Scheme and the Explanatory Notes, and with any requirements which the Department or the Commission, from time to time, notifies.
16AA Supply of pharmaceutical benefit on basis of medication chart prescription

(1) A Pharmaceutical benefit may only be supplied on the basis of a medication chart prescription by:

(a) if the person in respect of whom the Pharmaceutical benefit is to be supplied is receiving treatment in or at a residential care service — a Community Pharmacist; or
(b) if the person in respect of whom the Pharmaceutical benefit is to be supplied is receiving treatment in or at an approved hospital — a Community Pharmacist or the Approved Hospital Authority.

(2) A Community Pharmacist may supply a Pharmaceutical benefit on the basis of a medication chart prescription only if:

(a) the Community Pharmacist has seen:
   (i) the medication chart by which the prescription was written; or
   (ii) a copy of so much of the chart as would indicate that subsections 11B(3) and (4) (if applicable) have been complied with; and
(b) the date on which the Pharmaceutical benefit is supplied is:
   (i) during the period of validity of the medication chart; and
   (ii) no later than the stop date (if any) indicated in the prescription; and
(c) the Community Pharmacist writes on the medication chart or the copy of the chart, the following for the supply:
   (i) the Community Pharmacist’s name and any approval number under regulation 8A of the National Health (Pharmaceutical Benefits) Regulations 1960;
   (ii) an identification number for the supply;
   (iii) the date on which the Pharmaceutical benefit is supplied.

(3) For paragraph (2)(b), the period of validity of a medication chart for a person receiving treatment in or at a residential care service:

(a) starts on the day in a calendar month (the first calendar month) when the first prescription for a Pharmaceutical benefit is written in the medication chart; and
(b) ends on the last day of the third calendar month that starts after the first calendar month.

Example: The first prescription is written in a medication chart on 11 June. The period of validity of the medication chart starts on 11 June and ends on 30 September.

Note: calendar month is defined in section 2B of the Acts Interpretation Act 1901.

(3A) For paragraph (2)(b), the period of validity of a medication chart for a person receiving treatment in or at a hospital:

(a) starts on the day when the first prescription for a Pharmaceutical benefit is written in the chart; and
(b) ends at the end of the day specified in the chart as the day on which the chart’s period of validity ends (see paragraph 11B(3)(f)).
(4) A **Community Pharmacist** may supply up to a maximum quantity of a Pharmaceutical item or **Pharmaceutical benefit** more than once on the basis of a particular medication chart prescription for the **Pharmaceutical benefit** only if:

(a) the prescription indicates that an ongoing supply of the **Pharmaceutical benefit** is authorised for the period of validity of the chart; or

(b) the prescription indicates a stop date for the supply of the **Pharmaceutical benefit** and, based on the dose and frequency of administration of the **Pharmaceutical benefit** indicated in the prescription, more than one supply of a maximum quantity of the Pharmaceutical item or **Pharmaceutical benefit** is needed before the stop date is reached.

Note: See paragraph 85A(2)(a) of the **National Health Act 1953**, the PBS Schedule, and the RPBS Schedule, in relation to maximum quantities of pharmaceutical items or pharmaceutical benefits.

(5) If paragraphs (4)(a) and (b) do not apply, a **Community Pharmacist** may only supply the quantity of the **Pharmaceutical benefit** needed to give effect to the prescription, up to a maximum quantity of the pharmaceutical item or **Pharmaceutical benefit**.

Note: The following information entered in the prescription may also indicate the quantity of the Pharmaceutical benefit that is needed:

(a) the dose and frequency of administration of the Pharmaceutical benefit;

(b) the date of prescribing, or the start date (if any) for administration of the Pharmaceutical benefit;

(c) the stop date (if any) for administration of the Pharmaceutical benefit.

(6) However, for a supply:

(a) on the basis of a prescription mentioned in paragraph (4)(a); or

(b) mentioned in paragraph (5);

a **Community Pharmacist** may supply up to a maximum quantity of the pharmaceutical item or **Pharmaceutical benefit** even if the period of validity of the medication chart will end before administration of that quantity in accordance with the prescription would finish.

**Continued Dispensing**

16A. **When Pharmaceutical benefits may be supplied by Community Pharmacists without prescription**

(1) A **Community Pharmacist** may, at or from premises in respect of which the pharmacist is for the time being approved under the **National Health Act 1953**, supply a **Pharmaceutical benefit** to an **Eligible Person** without a **prescription** for that supply if:

(a) the **Pharmaceutical benefit** is covered by the **Scheme** and Schedule 1 to the instrument (the instrument) made under subsection 89A(3) of the **National Health Act 1953**; and

(b) the supply is made in accordance with conditions that are specified in the instrument as if the supply under the **Scheme** is a supply covered by the instrument and as if a reference in the instrument to:
“approved pharmacist” includes a Community Pharmacist;

“PBS prescriber” includes a prescriber of a Pharmaceutical benefit under the Scheme;

“pharmaceutical benefit” or “pharmaceutical item” includes a Pharmaceutical benefit under the Scheme;

“Part VII of the Act” includes the Scheme;

“subsection 89A(1) of the Act”, for dispensing in a previous 12 month period, includes a reference to this section in the Scheme;

“paragraph 89A(3)(a) of the Act” includes a reference to this section in the Scheme; and

Note: as at 1 August 2012 the instrument under ss. 89A(3) is the National Health (Continued Dispensing) Determination 2012.

(c) the supply otherwise conforms to this section.

(2) If a Community Pharmacist makes a supply in accordance with (1), then this Scheme applies in relation to the supply as if the Eligible Person had presented the pharmacist with a prescription that had been written in accordance with this Scheme.

(3) The supply of a Pharmaceutical benefit in accordance with this section is a continued dispensing supply.

(4) A Community Pharmacist must not supply a Pharmaceutical benefit under this section unless the pharmacist writes on the repeat authorisation form for the supply:

(a) the pharmacist’s name and approval number under regulation 8A of the National Health (Pharmaceutical Benefits) Regulations 1960; and

(b) an identification number for the supply; and

(c) the date on which the Pharmaceutical benefit is supplied by the pharmacist.

Note: a failure to observe these requirements means the supply is not a continued dispensing supply.

(5) For a continued dispensing supply a Community Pharmacist or Approved Medical Practitioner must collect the following information at the time of supply:

(a) information about whether the patient is, at the time of the supply:
   
   (i) a concessional beneficiary or a dependant of a concessional beneficiary; or

   (ii) the holder of a concession card or entitlement card;
(b) for a person mentioned in subparagraph (a) (i)—the number specified on a card, issued by the Commonwealth, as an entitlement number (however described) in relation to the person;

(c) for a person mentioned in subparagraph (a) (ii)—the number of the concession card or entitlement card.

(6) The Community Pharmacist or Approved Medical Practitioner must include the information collected under subsection (5) in the claim for a payment from the Commonwealth in relation to the supply using the Claims Transmission System, within the meaning given by subsection 99AAA (1) of the National Health Act 1953.

Note: a failure to observe these requirements means the supply is not a continued dispensing supply.

(7) For the supply of a Pharmaceutical benefit by a Community Pharmacist on the basis of a previous prescription from a PBS prescriber or RPBS prescriber, if the PBS prescriber or RPBS prescriber directed in the prescription the supply on one occasion of a quantity or number of units of the Pharmaceutical benefit allowable under subsection 88(6) of the National Health Act 1953, instead of directing a repeated supply, the direction does not apply for the purposes of the continued dispensing supply.

(8) If, for a continued dispensing supply, a Pharmaceutical benefit is supplied a number of times greater than the number specified in the prescription, then subject to subregulation 25(2) of the National Health (Pharmaceutical Benefits) Regulations 1960 (the regulations), subregulation (3) or (4) of those regulations applies as if:

(a) the person had presented the supplier with a prescription that:
  (i) had been written by a PBS prescriber or RPBS prescriber in accordance with the National Health Act 1953, the regulations and the Scheme; and
  (ii) did not include a medicare number; and
  (iii) did not direct a repeated supply of a Pharmaceutical benefit; and
(b) subparagraphs (3)(b)(ii) and (c)(ii) or (4)(b)(ii) and (c)(ii), of the regulations, were omitted, and the words ‘immediate supply necessary’ were required to be written on the repeat authorisation form for the supply; and
(c) subparagraphs (3)(b)(iii) and (c)(iii) or (4)(b)(iii) and (c)(iii), of the regulations, were omitted, and the supplier were required to sign the repeat authorisation form mentioned in paragraph (b).

(9) A Community Pharmacist must use a repeat authorisation form for the purposes of making a claim for a payment from the Commonwealth under section 99AAA of the Act in relation to a continued dispensing supply, however, the pharmacist must not use the form for authorising a repeated supply of the pharmaceutical benefit under this section.
(10) For a continued dispensing supply a Community Pharmacist is to obtain, from the person receiving the Pharmaceutical benefit (whether or not for the person’s own use), a written acknowledgement that the person has received the benefits but if it is not practicable for the pharmacist to obtain, from the person a written acknowledgement, the pharmacist must write on the repeat authorisation form for the supply:

(a) the date on which the Pharmaceutical benefit were supplied by the pharmacist; and
(b) the reason why it was not practicable for the pharmacist to obtain the written acknowledgement.

16AB Information about status of person—continued dispensing and medication chart prescriptions

(1) This section applies in relation to:

(a) the supply of a Pharmaceutical benefit to a person (the patient) by a Community Pharmacist (the supplier) under subsection 16A (continued dispensing); and

(b) the supply of a Pharmaceutical benefit by a Community Pharmacist, on the basis of a medication chart prescription written for a person (the patient);

(2) The supplier must collect the following information at the time of supply:

(a) information about whether the patient is, at the time of the supply:
   (i) a concessional beneficiary or a dependant of a concessional beneficiary; or
   (ii) the holder of a concession card or entitlement card;

(b) for a person mentioned in subparagraph (a)(i)—the number specified on a card, issued by the Commonwealth, as an entitlement number (however described) in relation to the person;

(c) for a person mentioned in subparagraph (a)(ii)—the number of the concession card or entitlement card.

(3) The supplier must include the information collected under subsection (2) in the claim for a payment from the Commonwealth in relation to the supply using the Claims Transmission System, within the meaning given by subsection 99AAA(1) of the National Health Act 1953.

Substitution of lesser priced alternative brand of drug

17. Where a valid prescription, issued by a Medical Practitioner, Authorised Nurse Practitioner or Authorised Midwife, prescribes a brand of drug listed on the PBS or RPBS Schedule, a Community Pharmacist may substitute, with the approval of the prescriber, a lesser priced alternative PBS or RPBS listed brand of the drug in lieu of the brand prescribed and shall endorse the original, duplicate and repeat authorisation accordingly.

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an
Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.

18. **Community Pharmacist to be satisfied as to entitlement**

(a) A Community Pharmacist shall not supply a Pharmaceutical benefit to a person on terms that are appropriate for the supply of a Pharmaceutical benefit to a holder of a Repatriation Health Card - For All Conditions, a Repatriation Health Card - For Specific Conditions or a Repatriation Pharmaceutical Benefits Card, unless the Community Pharmacist is satisfied that the person is entitled to receive the Pharmaceutical benefit on those terms.

(b) Without limiting the generality of subparagraph (a), a Community Pharmacist may refuse to supply a Pharmaceutical benefit to a person on terms that are appropriate for the supply of the Pharmaceutical benefit to a holder of a Repatriation Health Card - For All Conditions, a Repatriation Health Card - For Specific Conditions or a Repatriation Pharmaceutical Benefits Card, unless the person produces such a card to the Community Pharmacist that indicates that the person is entitled to receive the Pharmaceutical benefit on those terms.

**Dispensing of deleted items**

19. Prescriptions, including repeat authorisations, for items deleted from the RPBS Schedule or PBS Schedule may not be dispensed as Pharmaceutical benefits as from the date of effect of deletion, unless the prescriptions for the items comply with Prior Approval arrangements under this Part.

**Use of forms as notified by the Department or the Commission**

20. When supplying a Pharmaceutical benefit under this Scheme a Community Pharmacist will use and issue such forms, as are notified by the Department or the Commission from time to time, in the manner notified by the Department or the Commission.

**21. Financial responsibility**

(1) In respect of each Pharmaceutical benefit provided to an Eligible Person under this Scheme, the Commission will accept financial responsibility for:

(a) subject to (b) all of the dispensed price but the *co-payment* that would be payable by the person if the person were a concessional beneficiary; or
Note 1: (a) deems the person to be a *concessional beneficiary* for the purposes of working out the co-payment.

Note 2: co-payments not covered by the *pension supplement amount*, *veterans supplement* or *MRCA supplement* or *war widow/war widower pension* may be reimbursed under Part 5A up to the safety net amount for a person.

(b) if the *safety net* applies to the person, all of the dispensed price.

22. **Refund in certain circumstances**

(1) Where:

(a) a *Community Pharmacist* charges an *Eligible Person* an amount in respect of the provision of a *Pharmaceutical benefit*; and

(b) information indicating the person’s eligibility under this *Scheme* was not supplied to the *Community Pharmacist*; and

(c) the *Commission* is satisfied that, in the circumstances, the person should be treated as if the relevant information had been supplied,

the person is entitled to be paid by the Commonwealth an amount equal to any amount that the person paid that would not have been payable if the relevant information had been supplied.

23. **Expenses incurred in obtaining Pharmaceutical Benefits while not in receipt of a pharmaceutical allowance**

(1) Where a person would have been eligible to receive a pharmaceutical allowance under paragraph 118A(1)(c) of the *Veterans’ Entitlements Act 1986* during a period, but the *Department*:

(a) did not have the information needed to enable the *Commission* to make payment of the pharmaceutical allowance; and

(b) has obtained that information since that period and after 30 June 1992; and

the person:

(c) was not in receipt of that allowance during that period; and
Repatriation Pharmaceutical Benefits Scheme

(d) has incurred expenses in obtaining *Pharmaceutical benefits* during that period which could be obtained under this *Scheme*; and

(e) has provided material which satisfies the *Commission* that the person has incurred those expenses,

the *Commission* may reimburse the person for any or all of those expenses. The maximum amount which may be reimbursed is the amount that the person would have been entitled to receive by way of pharmaceutical allowance during that period had the *Department* had the information needed to enable the *Commission* to make payment of the allowance.

**Part 4 — Claims by Community Pharmacists**

**Lodgement of Claims by Community Pharmacists**

24. Claims by *Community Pharmacists* under this Part shall be made in accordance with section 99AAA of the *National Health Act 1953* as though references in that section, and in the rules made under that section which relate to the supply of and payment for *Pharmaceutical benefits* under that Act and its Regulations, were references to the supply of, and payment for, *Pharmaceutical benefits*, except that:

(a) *prescriptions* for the supply of *Pharmaceutical benefits* under this Part shall be marked in the S section or S sections (as defined in those rules) with one or more serial numbers allotted in respect of each *Pharmaceutical benefit* commencing at “R1” in each claim and continuing consecutively in respect of that claim;

(b) these *prescriptions* shall be collected into one bundle, separate to the four bundles provided for in those rules, with the prescriptions sorted into the order of the serial numbers allocated under subparagraph (a), with the least serial number at the top of the bundle; and

(c) the information to be provided to the Secretary to the *Department* that administers the *National Health Act 1953*, in respect of each supply of a *Pharmaceutical benefit* shall include a Form Category (within the meaning of the schedule to those rules) with a value of “8” where the *Pharmaceutical benefit* was supplied on an original authority prescription or “9” where the *Pharmaceutical benefit* was supplied on a repeat authority prescription, and a Payment Category (within the meaning of that schedule) with a value of “4”.

Federal Register of Legislative Instruments F2015C00298
Note (1): this provision incorporates into the Scheme, among other relevant “National Health Act 1953 requirements” (particularly the requirements in the claims rules made under subsections 98AC(4) and 99AAA(8) of the National Health Act 1953), the requirement for a claimant to include a “supply certification form” with a claim (manual and electronic).

Note (2): if a claim is made electronically, the supply certification form is to be given electronically (claims rules).

Note (3): for electronic claims, prescriptions need not be provided (claims rules).

25. Claims Requirements and Payment

(1) The payment of a claim under the Scheme is subject to:

(a) compliance with the Scheme, in particular section 24; and
(b) submission of a completed supply certification form under the claims rules.

Part 5 — Payments to Community Pharmacists

Dispensing fee payable to Community Pharmacists

26. The dispensing fee payable to Community Pharmacists (excluding Approved Medical Practitioners, Authorised Nurse Practitioner or Authorised Midwife and Approved Hospital Authorities) for the supply by them, under this Scheme, of Pharmaceutical benefits in the form of ready prepared items or of extemporaneously prepared items, shall be the fee payable to pharmacists under the PBS for the supply by them of a Pharmaceutical benefit of similar form.

Dispensing fee payable to Approved Medical Practitioners and Approved Hospital Authorities etc

27. The dispensing fee payable to Approved Medical Practitioners, Approved Hospital Authorities, Authorised Nurse Practitioner or Authorised Midwife for the supply by them, under this Scheme, of Pharmaceutical benefits, in the form of ready prepared items or of extemporaneously prepared items, shall be the fee payable to Approved Medical Practitioners, Approved Hospital Authorities, Authorised Nurse Practitioner or Authorised Midwife under the PBS for the supply by them of a Pharmaceutical benefit of similar form.

Note: an RPBS prescriber who is an Authorised Midwife or an Authorised Nurse Practitioner may only prescribe a Pharmaceutical benefit listed on the PBS and a prescription by an Authorised Midwife or an Authorised Nurse Practitioner for a Pharmaceutical benefit that is not available on the PBS is not recognised under the Scheme, even if the Pharmaceutical benefit is available under the Scheme on the prescription of, say, an Approved Medical Practitioner.
Other Fees — similar PBS pharmaceutical benefit

28. Where a Pharmaceutical benefit is provided which is not covered by paragraphs 26 or 27, payment is to be made in accordance with the fee payable under the PBS for provision of a similar Pharmaceutical benefit.

Other Fees — notified rates

29. Where a Pharmaceutical benefit is provided which is not covered by paragraphs 26, 27 or 28, payment is to be made in accordance with such conditions and at such rates as the Department or the Commission from time to time notifies.

Fees not payable in some circumstances

30. The fees payable under paragraphs 26, 27, 28 or 29, may not be payable to a Community Pharmacist where that person does not satisfy the requirements of paragraph 18 and supplies Pharmaceutical benefits to a person who is not an Eligible Person.

Community Pharmacist not entitled to demand or receive payments

31. A Community Pharmacist is not entitled to demand of, or receive from, a person in receipt of a Pharmaceutical benefit, payment in money or a valuable consideration for goods and services rendered under this Scheme except:

   (a) for goods or services that are provided in an emergency; or
   (b) for payment of an after-hours fee; or
   (c) for payment for packaging material, postage or freight; or
   (d) for payment that represents the required payment under the PBS of the price difference between the drug prescribed and supplied and the lowest priced brand of the same drug listed on the PBS Schedule; or
   (e) where payment represents the difference between the Commonwealth’s financial responsibility for the provision of the Pharmaceutical benefit and the dispensed price of the Pharmaceutical benefit supplied.

Community Pharmacist to issue receipt where certain payments received

32. Where a payment is received, under any of subparagraphs 31(a), (b), (c) or (d), from a person in receipt of a Pharmaceutical benefit, the Community Pharmacist is required to issue that person an official receipt which states:

   (a) the goods and/or services provided; and
(b) the date of receipt of those goods and/or services by the person.

**Part 5A — Pharmaceutical Reimbursement**

**Definitions:**

In this Part:

“**member**” means a person eligible under the *MRCA Pharmaceutical Benefits Scheme* for the payment known as the “pharmaceutical reimbursement”.

“**veteran**” means an Eligible Person eligible for payment of a pharmaceutical reimbursement.

33. The Commission may, subject to this Part, accept financial responsibility for the pharmaceutical reimbursement.

Note: if the Commission accepts financial responsibility for a cost in relation to the provision of a *Pharmaceutical benefit* to an Eligible Person, the Commonwealth pays that cost.

34. The pharmaceutical reimbursement is a financial amount that would compensate an Eligible Person for out-of-pocket expenses:

   (a) that the person incurred in respect of a *Pharmaceutical benefit* provided under this Scheme; or

   (b) that the person incurred in respect of a *Pharmaceutical benefit* provided other than under this Scheme but provided on or from a date when the Commission accepted liability to provide treatment to the person under the *Act*.

Note 1: under the *Acts Interpretation Act 1901* words in the singular number (e.g. *Pharmaceutical benefit*) include the plural and words in the plural number include the singular.

Note 2: paragraph (b) covers what are known as “MEPIs” (Medical Expenses Privately Incurred). Under the *Act* eligibility for treatment can be backdated for 3 months before a claim for pension is received and treatment costs incurred in that period e.g. *co-payments* for *Pharmaceutical benefits*, may be met by the Department.

35. The amount of pharmaceutical reimbursement is worked out under 39.

36. **Eligibility for Payment of Pharmaceutical Reimbursement**

   (1) To be eligible for payment of the pharmaceutical reimbursement an *Eligible Person* must:
(a) have rendered qualifying service; and

(b) suffer from an accepted disability; and

(c) receive pension under Part II or Part IV of the Act in respect of the accepted disability.

(2) For the purposes of (1)(c), a person is taken to receive pension under Part II or Part IV of the Act if, apart from section 25A, Division 5A of Part II and section 74 of the Act, the person would receive a rate of pension greater than nil.

Calculation of annual value of pharmaceutical allowance component of Pension Supplement, Veterans Supplement, MRCA supplement

37. The annual value of the pharmaceutical allowance component is calculated as follows:

(a) for a veteran in receipt of veterans supplement or MRCA supplement at different times throughout the year, the amount of $6 per fortnight, indexed according to section 198F of the Act:

   (i) as if the amount of $6 is the dollar amount in subsection 198F(1);
   (ii) since September 2009 (i.e. once annually since 1 January 2010), calculated at a daily rate and valued according to the number of days in the calendar year veterans supplement or MRCA supplement was payable;

(b) subject to (c), for a veteran in receipt of an income support payment or an income support payment under the Social Security Act 1991 that, respectively, attracts pension supplement, or social security pension supplement greater than the basic amount of pension supplement, the amount of $6 per fortnight, indexed according to Division 18 of Part IIIB of the Act:

   (i) as if the amount of $6 is an amount of PS rate (pension supplement rate) in Item 1A of the CPI Indexation Table in section 59B;
   (ii) since September 2009 (i.e. each 20 March and 20 September commencing 20 March 2010), calculated at a daily rate and valued according to the number of days in the calendar year pension supplement was payable;

Note: this provision could also apply to a veteran who is a member of a couple.
(c) for a veteran in receipt of pension supplement who is a member of a couple:

(i) if the veteran's partner does not receive an income support payment that attracts pension supplement or an income support payment under the Social Security Act 1991 that attracts social security pension supplement greater than the basic amount of pension supplement — 50% of the amount in (b); or

(ii) if the veteran and partner are an illness separated couple — the amount in (b); or

(iii) if the veteran and partner are not an illness separated couple but the veteran's partner is a veteran or a member — 50% of the amount in (b);

(d) for a veteran who is a war widow/war widower — pensioner, the amount of $6 per fortnight, indexed according to Division 18 of Part IIIB of the Act:

(i) as if the amount of $6 is an amount of PS rate (pension supplement rate) in Item 1A of the CPI Indexation Table in section 59B;

(ii) since September 2009 (i.e. each 20 March and 20 September commencing 20 March 2010), calculated at a daily rate and valued according to the number of days in the calendar year the person was a war widow/war-widower — pensioner.

Note: a pharmaceutical allowance component calculated under (d) may be in addition to a pharmaceutical allowance component calculated under (b) or (c) and the sum of all the pharmaceutical allowance components could reduce the amount of the pharmaceutical reimbursement.

Note: the following terms are defined in the Act:

“member of a couple” - 5E(2).
“partner” – 5E(1).
“war widow/war-widower — pensioner” – 5Q(1).

38. Payment of Pharmaceutical Reimbursement

(1) On and after 1 January 2013 the pharmaceutical reimbursement is payable to a person eligible for it under this Part.

(2) Subject to (3), the pharmaceutical reimbursement is payable in the first quarter in each calendar year in respect of co-payments the person made for a Pharmaceutical benefit under this Scheme in the previous calendar year – not being a calendar year before 1 January 2012.
Note: calendar year is defined in section 2B of the *Acts Interpretation Act 1901.*

(3) The *pharmaceutical reimbursement* is not payable for a person in the first quarter in a calendar year as mentioned in (2) if the data necessary to calculate the payment for the person is not available to the Department in which case the *pharmaceutical reimbursement* is payable to the person as soon as practicable after the data is available.

**38A. Five Year Limit on Payment of Pharmaceutical Reimbursement**

(1) Unless the *Commission* is of the opinion that there are special circumstances, a *pharmaceutical reimbursement* shall not be paid in respect of co-payments incurred by a person more than 5 calendar years before the Commission decision to accept financial responsibility for the *pharmaceutical reimbursement* for the person.

(2) If the *Commission* decides there are special circumstances in relation to a person, then it is to determine a date on and from which co-payments are to be counted for the *pharmaceutical reimbursement* for the person.

**39. Pharmaceutical Reimbursement Calculator**

(1) The *pharmaceutical reimbursement* for an *Eligible Person* is worked out as follows:

*Step 1* add the co-payments for the *Pharmaceutical benefits* incurred by the person in the previous calendar year (sum of co-payments) up to the threshold of payments according to the *safety net* and disregarding any uncounted co-payment.

*Step 2* compare the sum of co-payments with the sum of the pharmaceutical allowance component of the *veterans supplement, MRCA supplement, pension supplement* and *war widow/war widower pension* payable to the person in respect of the previous calendar year.

*Step 3* if the sum of co-payments (amount 1) exceeds the sum of the pharmaceutical allowance component of the *veterans supplement, MRCA supplement, pension supplement* and *war widow/war widower pension* payable (amount 2), the amount by which amount 1 exceeds amount 2 is the pharmaceutical reimbursement for the person.

Note: the amount of any of these payments may be zero.

**40. Uncounted Co-Payment**
(1) For the Pharmaceutical Reimbursement Calculator an uncounted co-payment is a co-payment for a Pharmaceutical benefit where the co-payment is not counted for the purposes of the safety net applying to the person.

Note: included here are co-payments for Pharmaceutical benefits dispensed under the “Safety Net 20 Day Rule” (subsection 84C(4AA)) of the National Health Act 1953.

Part 5B — Under Co-payment Data Collection

40A. Giving information

(1) A Community Pharmacist who gives information to the Secretary in relation to the supply, under the Scheme, of a Pharmaceutical benefit by the pharmacist to an Eligible Person, is taken to have given that information under, and for the purposes of, the Scheme, provided that:

(a) no claim for payment is made by the Community Pharmacist on the Commission or Department for dispensing the Pharmaceutical benefit; and

(b) the dispensing price of the pharmaceutical benefit is less than, or equal to, the co-payment that would have been paid by the Eligible Person for the pharmaceutical benefit if it had been dispensed at a price for which a co-payment is payable; and

(c) the information is given in accordance with the requirements, to the extent applicable, that apply under section 98C of the National Health Act 1953 to an approved supplier giving information to the Secretary in relation to the supply to a person of a pharmaceutical benefit, as if references in section 98C to an approved supplier and a pharmaceutical benefit are references to, respectively, a Community Pharmacist and a Pharmaceutical benefit and the pharmaceutical benefit has been supplied under the Scheme.

Note: a Community Pharmacist includes an Approved Hospital Authority.

Part 6 — Miscellaneous

Standards

41. The minimum acceptable standard for a Pharmaceutical benefit is that described in the following documents:

(a) the British Pharmacopoeia or the Pharmaceutical Codex as amended and authorised by regulations under the Therapeutic Goods Act 1989;
(b) the regulations under the *Therapeutic Goods Act 1989* which relate to specific standards for drugs;

(c) the Australian Pharmaceutical Formulary which describe drugs and medicinal preparations;

(d) previous editions of the British Pharmacopoeia, Pharmaceutical Codex or the Australian Pharmaceutical Formulary which describe drugs and medicinal preparations; and

(e) the Extra Pharmacopoeia, the European Pharmacopoeia, the United States Pharmacopoeia or similar pharmaceutical texts of international standing which describe drugs.

**Editions of monographs and standards**

42. The monographs and standards contained in the latest authorised editions of the documents listed in paragraph 41 take precedence over earlier editions unless a specific edition is specified.

**Order of precedence**

43. The order of precedence for drug monographs and standards is in the same order as set out in paragraph 41, with the monographs of the British Pharmacopoeia having precedence over all others and thereafter in accordance with State or Territory law.

**45 Keeping documents—other than for continued dispensing or medication chart prescriptions**

(1) If a *Community Pharmacist* supplies a *Pharmaceutical benefit*, other than a *Pharmaceutical benefit* that is:

(a) a dangerous drug (defined below); or

(b) supplied under section 16A (continued dispensing); or

(c) supplied on the basis of a medication chart prescription;

the *Community Pharmacist* must keep a document specified in subsection (2) that relates to the supply for at least 2 years after the supply.

(2) For subsection (1), the following documents are specified:

(a) in the case of supply upon a prescription not bearing instructions to supply the *Pharmaceutical benefit* more than once:

   (i) for a paper-based prescription—the pharmacist/patient copy and the Medicare Australia/DVA copy; or

   (ii) for an electronic prescription—the electronic prescription;
(ab) in the case of supply upon a prescription bearing instructions to supply the Pharmaceutical benefit more than once, if it is supplied on the first occasion on which supply is authorised:
   (i) for a paper-based prescription—the Medicare Australia/DVA copy; or
   (ii) for an electronic prescription—the electronic prescription and the repeat authorisation;

(ac) in the case of supply upon a prescription bearing instructions to supply the Pharmaceutical benefit more than once, if it is supplied other than on the first or last occasion on which supply is authorised:
   (i) for a paper-based prescription—the repeat authorisation for the most recent previous supply; or
   (ii) for an electronic prescription—the electronic prescription and the repeat authorisation for the most recent previous supply;

(b) in the case of supply upon a prescription bearing instructions to supply the Pharmaceutical benefit more than once, if it is supplied on the last occasion on which supply is authorised:
   (i) for a paper-based prescription—the pharmacist/patient copy and the repeat authorisation for the most recent previous supply; or
   (ii) for an electronic prescription—the electronic prescription and the repeat authorisation for the most recent previous supply;

(3) In this section:

   dangerous drug means a drug or medicinal preparation in respect of which the law of the State or Territory in which the prescription is written provides that a pharmacist who dispenses that drug or medicinal preparation, or who dispenses it on the last of a number of occasions of supply indicated in a prescription for its supply, must take possession of the prescription and cancel it or deliver it to the authority administering that law.

45A Keeping documents—continued dispensing

(1) If a Community Pharmacist supplies a Pharmaceutical benefit to a person under section 16A (continued dispensing), the pharmacist is to keep the following information for at least 2 years from the date on which the Pharmaceutical benefit was supplied by the Community Pharmacist:
   (a) the information that supports the claim for payment made under section 24 (in effect, under section 99AAA of the National Health Act 1953) in relation to the supply of the Pharmaceutical benefit including the repeat authorisation form;
   (b) the information, about the supply of the Pharmaceutical benefit, that is given to the RPBS prescriber who most recently prescribed the Pharmaceutical benefit to the person.

45B Keeping documents—medication chart prescriptions

(1) If a Community Pharmacist supplies a Pharmaceutical benefit on the basis of a medication chart prescription, the pharmacist is to keep the medication chart, or
a copy of the medication chart on which the Community Pharmacist wrote the details mentioned in paragraph 16AA(2)(c) in relation to the prescription, for at least 2 years from the date of supply.

**Agreement with the Pharmacy Guild of Australia**

46. The *Commission* may enter into agreements concerning the administration of this Part with The Pharmacy Guild of Australia and, subject to this Part, shall abide by such agreements.
SCHEDULE 1 – INCORPORATED DOCUMENTS

The following documents, in the version in which they exist on 1 April 2015, are incorporated-by-reference into the Scheme:

List A

- Explanatory Notes
- RPBS Explanatory Notes
- PBS or Pharmaceutical Benefits Scheme
- RPBS Schedule
- the British Pharmacopoeia
- the United States Pharmacopoeia
- the European Pharmacopoeia
- the Australian Pharmaceutical Formulary
- a prescribed Pharmacology text of international standing
- the Pharmaceutical Codex as amended and authorised by regulations under the Therapeutic Goods Act 1989.

List B

The following documents are incorporated-by-reference into the Scheme:

- previous editions of the British Pharmacopoeia which describe drugs and medicinal preparations
- previous editions of the Pharmaceutical Codex as amended and authorised by regulations under the Therapeutic Goods Act 1989 which describe drugs and medicinal preparations
- previous editions of the Australian Pharmaceutical Formulary which describe drugs and medicinal preparations.

Note: paragraph 43 provides that the later versions of certain documents in list A take precedence over earlier versions of the documents in List B.
Endnotes

Endnote 1—About the endnotes
The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2
The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5
The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

Modifications—Endnote 6
If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7
An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.
Miscellaneous—Endnote 8
Endnote 8 includes any additional information that may be helpful for a reader of the compilation.
**Endnote 2—Abbreviation key**

- ad = added or inserted
- am = amended
- c = clause(s)
- Ch = Chapter(s)
- def = definition(s)
- Diet = Dictionary
- disallowed = disallowed by Parliament
- Div = Division(s)
- exp = expired or ceased to have effect
- hdg = heading(s)
- LI = Legislative Instrument
- LIA = *Legislative Instruments Act 2003*
- mod = modified/modification
- No = Number(s)
- o = order(s)
- Ord = Ordinance
- orig = original
- par = paragraph(s)/subparagraph(s)
- pres = present
- prev = previous
- (prev) = previously
- Pt = Part(s)
- r = regulation(s)/rule(s)
- reloc = relocated
- renum = renumbered
- rep = repealed
- rs = repealed and substituted
- Sch = Schedule(s)
- Sdiv = Subdivision(s)
- SLI = Select Legislative Instrument
- SR = Statutory Rules
- Sub-Ch = Sub-Chapter(s)
- SubPt = Subpart(s)
- exp = expired or ceased to have effect
- rep = repealed
- rs = repealed and substituted
- LI = Legislative Instrument
- LIA = *Legislative Instruments Act 2003*
- mod = modified/modification
- No = Number(s)
- o = order(s)
- Ord = Ordinance
- orig = original
- par = paragraph(s)/subparagraph(s)
Endnote 3—Legislation history

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Endnote 4—Amendment history

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Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]