Australian Government

Military Rehabilitation and Compensation Commission

Military Rehabilitation and Compensation Act 2004

Section 286

MRCA PHARMACEUTICAL BENEFITS SCHEME

Instrument No. M22 of 2004

Dated this 6th day of December 2004

MARK SULLIVAN **CHAIR**	**IAN CAMPBELL** **MEMBER**	**SIMON HARRINGTON** **MEMBER**
BARBARA BENNETT **MEMBER**		**BRIAN ADAMS** **MEMBER**

CONTENTS

MRCA Pharmaceutical Benefits Scheme 5
Purpose of the MRCA Pharmaceutical Benefits Scheme 5

Part 1 — Interpretation 5
Notification of certain matters in the Explanatory Notes 7
Department to notify of certain matters as agent of the Commission 7

Part 2 — Prescribing of Benefits Procedure by Medical Practitioners 8
Prior Approval 8
Restrictions 8
Prescribing provisions 9
Application of PBS Schedule restrictions and MPBS Schedule restrictions 10
Prescriptions to conform with State or Territory Law 10
Form of prescriptions 10
When prescriptions are invalid 10
Maximum quantity and repeats allowed 11
Prescribing outside the MPBS Schedule or PBS Schedule 11
Medical Practitioner subject to this Scheme 11

Part 3 — Supply of Pharmaceutical Benefits 11
Supply of Pharmaceutical Benefits — Procedure by Community Pharmacists 11
Substitution of lesser priced alternative brand of drug 12
Community Pharmacist to be satisfied as to entitlement 12
Dispensing of deleted items 12
Use of forms as notified by the Department or the Commission 12
Financial responsibility 13
Refund in certain circumstances 13
Expenses incurred in obtaining Pharmaceutical Benefits while not in receipt of a pharmaceutical allowance 13

Part 4 — Claims by Community Pharmacists 14
Lodgement of Claims by Community Pharmacists 14
Payment subject to compliance 14

Part 5 — Payments to Community Pharmacists 15
Dispensing fee payable to Community Pharmacists 15
Dispensing fee payable to Approved Medical Practitioners and Approved Hospital Authorities 15
Other Fees — similar PBS pharmaceutical benefit 15
Other Fees — notified rates 15
Fees not payable in some circumstances 15
Community Pharmacist not entitled to demand or receive payments 15
Community Pharmacist to issue receipt where certain payments received 16

Part 6 — Miscellaneous 16
Standards 16
Editions of monographs and standards 17
Order of precedence 17
Discretionary powers 17
Retention of Documents 17
Agreement with the Pharmacy Guild of Australia 17

Commencement

1. This Determination (known as the MRCA Pharmaceutical Benefits Scheme) commences on 1 January 2005 after the commencement of the *Military Rehabilitation and Compensation Treatment (Revocation) Determination Instrument No. M20 of 2004*.

Purpose of the MRCA Pharmaceutical Benefits Scheme

2. The MRCA 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 *Military Rehabilitation and Compensation Act 2004*;

"Approved Hospital Authority" means a hospital authority approved under section 94 of the *National Health Act 1953* for the purposes of supplying Pharmaceutical Benefits;

"Approved Medical Practitioner" means a medical practitioner approved under section 92 of the *National Health Act 1953* for the purposes of supplying Pharmaceutical Benefits;

"Authority Prescription Form" means the form approved under:

(i) subregulation 13(2) of the National Health (Pharmaceutical Benefits) Regulations; or

(ii) paragraph 14 of declaration No. PB 10 of 1993 made under subsection 85(2) of the *National Health Act 1953*;

"Commission" means the Military Rehabilitation and Compensation Commission established by section 361 of the *Act*;

"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;

"Department" means the Department of Veterans' Affairs;

"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*;

"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.

"Explanatory Notes" means the text entitled "Explanatory Notes" and the text entitled "RPBS Explanatory Notes" that is published in the document, *Schedule of Pharmaceutical Benefits for Approved Pharmacists and Medical Practitioners*, having the International Standard Serial Number 1037-3667, and dated 1 February 2002, to the extent that that text is not inconsistent with this Scheme;

"Medical Practitioner" has the same meaning as "medical practitioner" has in the *Health Insurance Act 1973*;

"**MRCA Treatment Principles**" means the determination called the MRCA Treatment Principles (Instrument No. M21 of 2004) made by the *Commission* under section 286 of the *Act*.

"PBS" means the Pharmaceutical Benefits Scheme authorised under the *National Health Act 1953*;

"PBS Schedule" means the Schedule of Pharmaceutical Benefits constituted by determinations and declarations under Part VII of the *National Health Act 1953* (the Act) — by the Minister who administers that Act — as those determinations and declarations are in force from time to time — and includes any such determination, as in force from time to time, the application of which has been varied under a regulation under the Act.

"Pharmaceutical benefits" has the same meaning as "pharmaceutical benefits" in subsection 91(9) of the *Veterans' Entitlements Act 1986*;

"Repatriation Health Card - For All Conditions" means an identification card, or written authorisation, provided to a person eligible under Part 3 of Chapter 6 of the *Act* for treatment, subject to the *MRCA 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 Part 3 of Chapter 6 of the *Act* for treatment, subject to the *MRCA Treatment Principles*, for a service injury or a service disease;

"RPBS Schedule" means the Schedule of Pharmaceutical Benefits prepared by the Department of Veterans' Affairs, entitled "Repatriation Schedule of Pharmaceutical Benefits" and dated 1 February 2002;

"Standard Prescription Form" means the form approved under paragraph 19(1)(a) of the National Health (Pharmaceutical Benefits) Regulations;

Notification of certain matters in the Explanatory Notes

4. Where it is provided for the Department or the Commission to notify of certain matters, the publication of the Explanatory Notes shall be taken to constitute such notification to the extent that the Explanatory Notes are relevant and are not inconsistent with other notification given by the Department or the Commission.

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 *MRCA Treatment Principles* or under the *Act* 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 subparagraph (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 shall be invalid;

(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 except in so far as that law is inconsistent with this Scheme.

Form of prescriptions

11. Prescriptions are to conform with the conditions which the Department or the Commission from time to time notifies, and are to be:

(a) written by Medical Practitioners on an Authority Prescription Form or Standard Prescription Form as the case requires; or

(b) produced on a computer by a Medical Practitioner approved, under paragraph 19(1)(a) of the National Health (Pharmaceutical Benefits) Regulations, to use computer generated prescriptions, by the Secretary to the Department that administers the *National Health Act 1953*.

When prescriptions are invalid

12. A prescription is not a valid Pharmaceutical Benefit if the Medical Practitioner:

(a) 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; 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 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.

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 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.

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 prescribes for an Eligible Person, the Medical Practitioner shall be subject to the terms and conditions of this Scheme and the Explanatory Notes.

Part 3 — Supply of Pharmaceutical Benefits

Supply of Pharmaceutical Benefits — Procedure by Community Pharmacists

16. 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;

provided that such documents are in accordance with State or Territory law, or this Scheme and the Explanatory Notes, and with any requirements which the Department or the Commission, from time to time, notifies.

Substitution of lesser priced alternative brand of drug

17. Where a valid prescription, issued by a Medical Practitioner, 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.

Community Pharmacist to be satisfied as to entitlement

18. (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.

Financial responsibility

21. In respect of each Pharmaceutical Benefit provided under this Scheme, the Commonwealth will accept financial responsibility for all of the dispensed price but the amount that would be payable by the person if the person were a "**concessional beneficiary"** under the *National Health Act 1953*.

Refund in certain circumstances

22. 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.

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

23. Where a person would have been eligible to receive a pharmaceutical allowance under section 300 of the Act 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

the person:

(c) was not in receipt of that allowance during that period; and

(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".**

Payment subject to compliance

25. Payment under this Scheme is subject to compliance with paragraph 24.

Part 5 — Payments to Community Pharmacists

Dispensing fee payable to Community Pharmacists

26. The dispensing fee payable to Community Pharmacists (excluding Approved Medical Practitioners 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

27. The dispensing fee payable to Approved Medical Practitioners 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 Approved Medical Practitioners or Approved Hospital Authorities, under the PBS for the supply by them of a pharmaceutical benefit of similar form.

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 an inEligible 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 6 — Miscellaneous

Standards

33. 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

34. The monographs and standards contained in the latest authorised editions of the documents listed in paragraph 33 take precedence over earlier editions unless a specific edition is specified.

Order of precedence

35. The order of precedence for drug monographs and standards is in the same order as set out in paragraph 33, with the monographs of the British Pharmacopoeia having precedence over all others and thereafter in accordance with State or Territory law.

Discretionary powers

36. In order to expedite the processing of claims and to facilitate the efficient management of this Scheme, the Commission may vest in Community Pharmacists acting in good faith such discretionary powers, as it from time to time notifies, to make specified adjustments and/or endorsements to prescriptions and/or repeat authorisations forms. Such discretionary powers may be exercised notwithstanding anything else contained in this Scheme.

Retention of Documents

37. A Community Pharmacist is to retain such documents and keep such records as the Department or the Commission from time to time notifies.

Agreement with the Pharmacy Guild of Australia

38. 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 TRANSITIONAL AND SAVINGS

(1) *MRCA Pharmaceutical Benefits Scheme No. M22 of 2004*

(a) any arrangement entered into by the *Commission* with the Pharmacy Guild of Australia, or any arrangement entered by the Commission or the *Department* with a person, under Repatriation Pharmaceutical Benefits Scheme as modified and applied by MRCA Instrument No.3 of 2004 entitled "Determination for Providing Treatment" (hereafter called MRCA Instrument No.3 of 2004) being an arrangement that is in force at the commencement of the *MRCA Pharmaceutical Benefits Scheme No. M22 of 2004* — is taken to have been entered into under the *MRCA Pharmaceutical Benefits Scheme No. M22 of 2004*.

(b) any action taken (eg issue of a notice, grant of approval, vesting of powers in Community Pharmacists, giving of a receipt), and any document produced in the course of that action, by the *Commission*, the *Department*, a *medical practitioner*, a *Community Pharmacist* or an *Eligible Person*, under MRCA Instrument No.3 of 2004, being action or a document that, at the commencement of the *MRCA Pharmaceutical Benefits Scheme No. M22 of 2004*, is still in effect, is deemed, respectively, to have been taken or produced under the *MRCA Pharmaceutical Benefits Scheme No. M22 of 2004*.