

**EXPLANATORY STATEMENT**  
**NATIONAL HEALTH ACT 1953**  
**NATIONAL HEALTH (SUBSECTION 84C(7)) AMENDMENT**  
**DETERMINATION 2011 (NO. 1)**  
**PB 56 of 2011**

**Summary**

Subsection 84C(7) of the *National Health Act 1953* (the Act) provides that the Minister may determine the manner in which the price for all or any pharmaceutical benefits and repatriation pharmaceutical benefits is to be ascertained for the purpose of the Safety Net.

This price is determined as being the sum of the Commonwealth price for a pharmaceutical benefit, calculated in accordance with the *Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Determination 2010* of the Act, and an additional fee as determined by the Minister in accordance with paragraph 84C(8)(d) of the Act.

**Purpose**

The purpose of this amendment (the Amending Determination) is to amend the *National Health (Subsection 84C(7)) Determination 2010* (the Principal Determination) made on 20 July 2010, to reflect the annual adjustment to the additional fee.

**Background**

Part VII of the Act is the legislative basis of the Pharmaceutical Benefits Scheme (PBS) by which the Commonwealth provides reliable, timely, and affordable access to a wide range of medicines for all Australians.

Division 1A of Part VII the Act provides for the Safety Net scheme in relation to pharmaceutical benefits. The Safety Net scheme is designed to provide financial protection for those patients and their families who require a large number of PBS and Repatriation Pharmaceutical Benefits Scheme (RPBS) medicines.

At the patient's request, a pharmacist records the supply of PBS and RPBS medicines to that person and the cost of the supply. When a patient reaches a certain spending level on PBS or RPBS medicines ("the Safety Net threshold"), the patient qualifies for a Safety Net Concession or Entitlement Card and will receive PBS or RPBS medicines at a reduced rate or free of charge for the remainder of that entitlement period. An entitlement period for the Safety Net scheme is a calendar year from 1 January to 31 December.

Section 84C of the Act provides for eligibility to receive a Safety Net Concession or Entitlement Card, when a patient and their family's expenditure on pharmaceutical benefits during the relevant eligibility period reach the Safety Net threshold.

Section 84C also sets out the amounts in respect of the supply of pharmaceutical benefits which can be taken into account for the purpose of the Safety Net, where the Commonwealth price for that medicine is equal to or greater than the maximum amount a patient may be charged ("the patient co-payment").

Where the Commonwealth price for a pharmaceutical benefit is less than the patient co-payment, subsection 84C(4)(e) of the Act provides that the amount to be taken into account for the purpose of the Safety Net will not exceed the sum of the subsection 84C(7) price for the pharmaceutical benefit or repatriation pharmaceutical benefit and any charges (where

applicable) for supplying the pharmaceutical benefit outside of normal trading hours and/or by delivery to premises other than the approved pharmacy.

Subsection 84C(7) of the Act provides that the Minister may determine the manner in which the price (as referred to in subsection 84C(4)(e)) for all or any pharmaceutical benefit or repatriation pharmaceutical benefit is to be ascertained for the purpose of the Safety Net.

The subsection 84C(7) price is determined as being the sum of the Commonwealth price for a pharmaceutical benefit, calculated in accordance with a determination made under paragraph 98B(1)(a) of the Act, and an additional fee as determined by the Minister in accordance with paragraph 84C(8)(d) of the Act.

The determination provides that the 84C(7) price for a pharmaceutical benefit will not exceed the patient co-payment. In some instances, a pharmacist may not be able to charge the full amount of the additional fee since the amount charged would then exceed the patient co-payment.

On 3 May 2010, the Minister for Health and Ageing and the Pharmacy Guild of Australia signed the Fifth Community Pharmacy Agreement (Fifth Agreement). Clause 12 of the Fifth Agreement specifies that the additional fee, intended as a payment to the approved pharmacist for recording the supply of a pharmaceutical benefit where its Commonwealth price is less than the patient co-payment, will be retained under the Fifth Agreement.

The additional fee is indexed annually. The Amending Determination revises the additional fee for ready-prepared pharmaceutical benefits to \$1.09, and for extemporaneously-prepared pharmaceutical benefits (including an admixed ready-prepared pharmaceutical benefit) to \$1.44.

A provision-by-provision description of this determination is contained in the [Attachment](#).

The Amending Determination commences on 1 August 2011.

The Amending Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

## **Consultation**

Subsection 84C(9) of the Act provides that the Minister may not determine an additional fee without the Pharmacy Guild of Australia's agreement in writing.

The Pharmacy Guild of Australia was consulted on this matter and agreed, in writing, to the revised values of the additional fees for ready-prepared and extemporaneously-prepared pharmaceutical benefits.

## **ATTACHMENT**

### **Details of the *National Health (Subsection 84C(7)) Amendment Determination 2011 (No. 1)***

#### **Section 1 – Name of Determination**

Section 1 provides that the name of the Determination is the *National Health (Subsection 84C(7)) Amendment Determination 2011 (No.1)*. The Determination may also be cited as PB 56 of 2011.

#### **Section 2 – Commencement**

Section 2 provides that the Amendment Determination will commence on 1 August 2011.

#### **Section 3 – Amendment**

Section 3 provides that the Schedule amends the *National Health (Subsection 84C(7)) Determination 2010* made on 20 July 2010.

#### **Schedule – Amendments**

##### **Item 1 – Paragraph 6(1)(a)**

This item provides that the amount of the additional fee for ready prepared pharmaceutical benefits in paragraph 6(1)(a) of the Principal Determination is increased by two cents to \$1.09.

##### **Item 2 – Paragraph 6(1)(b)**

This item provides that the amount of the additional fee for extemporaneously-prepared pharmaceutical benefits (including admixed ready-prepared pharmaceutical benefits) in paragraph 6(1)(b) of the Principal Determination is increased by three cents to \$1.44.