

EXPLANATORY STATEMENT

MRCA Pharmaceutical Benefits Scheme (Veterans' Pharmaceutical Reimbursement Scheme) Determination 2011

EMPOWERING PROVISION

Subsection 286(3) of the *Military Rehabilitation and Compensation Act 2004* (the Act).

PURPOSE

The attached instrument (M46/2011) amends the *MRCA Pharmaceutical Benefits Scheme* (the Scheme).

The Scheme is a legislative instrument made under subsection 286(3) of the Act and sets out the circumstances in which the Military Rehabilitation and Compensation Commission (Commission) may accept financial responsibility for pharmaceutical benefits provided to members of the Australian Defence Force or their dependants.

The purpose of the attached instrument is to enable the Department of Veterans' Affairs (DVA) to pay for out-of-pocket expenses incurred by eligible members (including eligible former members) in the purchase of pharmaceuticals under the Scheme.

An eligible member (eligible member) is a member who:

- (a) has rendered *warlike service*; and
- (b) is entitled to compensation under section 68 or section 75 of the Act.

A member who does not satisfy the above conditions, and a dependant of a member, is not eligible for a pharmaceutical reimbursement under the Scheme.

When a member purchases a pharmaceutical benefit under the Scheme he/she pays a co-payment. The level of co-payment is the amount the person would pay as a concessional beneficiary under the *National Health Act 1953* (\$5.60 as at 1 January 2011).

The member stops making co-payments for pharmaceuticals when the person's "Safety Net" of 60 scripts is reached (\$336 as at 1 January 2011).

The member may also be paid an allowance in a year, part of which is to cover the cost of pharmaceuticals (pharmaceutical allowance component). The allowances are: Pension Supplement, MRCA Supplement and Veterans Supplement albeit the allowances are not payable at the same time.

As at July 2011 the pharmaceutical allowance component for the MRCA Supplement, Pension Supplement and Veterans Supplement was \$156 p.a. but for a member mentioned in 5(c) of the attached instrument, the pharmaceutical allowance component of the Pension Supplement as at July 2011 was \$78 p.a.

However the amount of the pharmaceutical component of the allowance (pharmaceutical allowance) may not cover the amount of co-payments the member paid in a year meaning the member is out-of-pocket. The attached instrument enables DVA to pay eligible members the amount (reimbursement) by which the co-payments in a year exceed the amount of pharmaceutical allowance for the year.

DVA pays the reimbursement to and until the sum of co-payments the member pays reaches the threshold amount for the Safety Net to apply. Not all co-payments are counted for a reimbursement to be paid. Only those that are counted for the Safety Net will be counted for the Scheme. For example, co-payments that infringe the "Safety Net 20 day rule" (purchase of certain pharmaceuticals within 20 days after similar purchase) will not be counted under the Scheme.

The first year in which co-payments for pharmaceutical benefits will be counted is 2012 with the first payments made in early 2013.

Essentially the attached instrument, together with the Safety Net provisions in the *National Health Act 1953*, will result in eligible members receiving free pharmaceuticals.

RETROSPECTIVE

If the attached instrument does commence retrospectively it will not contravene subsection 12(2) of the *Legislative Instruments Act 2003* because it does not negatively affect any person and only applies in a benevolent way.

CONSULTATION

No consultation on the actual instruments because there has been consultation on the proposal implemented by the instruments.

In 2007, as part of its election commitments, the Government gave an undertaking to review out-of-pocket expenses relating to the purchase of pharmaceuticals for the treatment of service-related disabilities under DVA's pharmaceutical benefits scheme.

In 2009 the review commenced (the Review of War Caused Disabilities and Pharmaceutical Costs) and in 2010 the then DVA Minister, the Hon Alan Griffin MP, released the Review's Consultation Paper. During the 2010 Election the Government agreed to introduce a Pharmaceutical Reimbursement Scheme.

DOCUMENTS INCORPORATED-BY-REFERENCE

No.

FURTHER EXPLANATION

Attachment A.

Attachment A

Items	Explanation
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| [1] | sets out the name of the instrument. |
| [2] | provides that the instrument commences, or is taken to have commenced, on 1 January 2012. |

Schedule

1. is a definition section.
2. replaces paragraph 21. New paragraph 21 provides that for each pharmaceutical benefit provided to an eligible person under the Scheme, the Commission accepts financial responsibility for all of the dispensed price except for the co-payment the person would pay if the person were a concessional beneficiary under the *National Health Act 1953*.

The eligible person need not actually be a concessional beneficiary but the level of co-payment is fixed by reference to the co-payment the person would pay had the person been a concessional beneficiary.

A concessional beneficiary includes a holder of a pensioner concession card under the *Social Security Act 1991* and a person who is paid a service pension under the Act.

Once the Safety Net is reached by the eligible person i.e. person has spent the relevant amount in a year on co-payments, above which pharmaceuticals are free, the Commission accepts financial responsibility for all of the dispensed price of a pharmaceutical.

3. inserts new Part 5A in the Scheme.
 1. enables the Commission to accept financial responsibility for the pharmaceutical reimbursement.
 2. explains the pharmaceutical reimbursement, namely that it is a financial amount that would compensate an eligible member for put-of-pocket expenses incurred in respect of a pharmaceutical benefit provided under the Scheme.

3. provides that the amount of the pharmaceutical benefit is calculated under paragraph 7 of the Scheme.
4. sets out the eligibility requirements for the pharmaceutical reimbursement. To be eligible for the pharmaceutical reimbursement an Eligible Person (member) must:
 - have rendered warlike service (defined in subsection 6(1) of the Act).
 - be entitled to compensation under section 68 of the Act and as that section is affected by sections 69, 71 and 75 of the Act.
5. sets out how the annual value of the pharmaceutical allowance component (pharmaceutical allowance) of the MRCA Supplement, Pension Supplement or Veterans Supplement is to be calculated.

The amount by which the sum of co-payments in a year exceeds the pharmaceutical allowance for the year is the amount to be reimbursed to an eligible member until the member reaches the Safety Net.

5(a) provides that for a member receiving MRCA supplement, or MRCA supplement and veterans supplement, the pharmaceutical allowance is \$6 per fortnight calculated at a daily rate and on the days the MRCA supplement or veterans supplement was payable. The pharmaceutical allowance is indexed under section 198F of the *Veterans' Entitlements Act 1986*.

5(b) provides that for a member receiving pension supplement, the pharmaceutical allowance is \$6 per fortnight calculated at a daily rate and on the days pension supplement was payable. The pharmaceutical allowance is indexed under Division 18 of Part IIIB of the *Veterans' Entitlements Act 1986*.

5(c) provides that for a member receiving pension supplement who is a member of a couple and whose partner does not receive an income support payment under the Act, or under the *Social Security Act 1991* that attracts a "social security pension supplement" (worked out under section 20A of the *Social Security Act 1991*) greater than the basic

amount of pension supplement, the annual value of the pharmaceutical allowance is 50% of the amount in 5(b).

6. specifies that on and after 1 January 2013 the pharmaceutical reimbursement is payable to an eligible person. Payment is to be made in the first quarter in each calendar year in respect of co-payments for pharmaceutical benefits made by the eligible person under the *MRCA Pharmaceutical Benefits Scheme* in the previous year – not being a calendar year before 1 January 2012.

7. sets out the steps for calculating the pharmaceutical reimbursement for an Eligible Person (member).

Step 1 – add co-payments incurred by the person in the previous calendar year, rejecting any co-payment that is not counted for the Safety Net.

Step 2 – compare the sum of co-payments with the sum of the “pharmaceutical allowance” for the year in question.

Step 3 – pay the pharmaceutical reimbursement for the amount the sum of co-payments exceeds the sum of pharmaceutical allowance.

8. specifies that co-payments not counted for an Eligible Person’s (member’s) Safety Net are not to be counted as co-payments for working out the pharmaceutical reimbursement for the person.

An example of an uncounted co-payment is a co-payment made for a pharmaceutical benefit caught by the “Safety Net 20 Day Rule” under the *National Health Act 1953* (see p.2 for an explanation of the rule).

4. enables the Scheme to be renumbered as a result of the amendments made by the attached instrument.