

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Health

*Private Health Insurance Act 2007*

*Private Health Insurance (Benefit Requirements) Amendment Rules 2014 (No. 6)*

### **Authority**

Section 333-20 of the *Private Health Insurance Act 2007* (the Act) provides that the Minister may make *Private Health Insurance (Benefit Requirements) Rules* providing for matters required or permitted by Part 3-3 of the Act, or necessary or convenient to be provided in order to carry out or give effect to Part 3-3 of the Act.

The *Private Health Insurance (Benefit Requirements) Amendment Rules 2014 (No. 6)* (the Amendment Rules) amend the schedule of the *Private Health Insurance (Benefit Requirements) Rules 2011* (the Principal Rules) which commenced on 1 November 2011.

### **Purpose**

*Schedule A of the Amendment Rules*

The purpose of the amendment to Schedule 5 of the Principal Rules is to update the reference to the new Second Tier Advisory Committee (the Committee) approved list of facilities that are eligible for second-tier default benefits.

### **Background**

The Principal Rules, which commenced on 1 November 2011, provide for the minimum benefit requirements for psychiatric, rehabilitation and palliative care and other hospital treatment. Schedules 1 to 5 of the Principal Rules set out the minimum levels of benefits which are payable for hospital treatment. Namely, benefits for overnight accommodation (Schedules 1 and 2), same day accommodation (Schedule 3), nursing-home type patients (Schedule 4) and second-tier default benefits (Schedule 5).

Schedule 5 of the Principal Rules requires a health insurer to pay second-tier default benefits for most episodes of hospital treatment provided in private hospital facilities that are specified in Schedule 5 if the health insurer does not have a negotiated agreement with the hospital. Schedule 5 sets a higher minimum level of benefit (for overnight treatment and day only treatment provided in specified facilities) than the minimum benefit set for such treatment by Schedules 1, 2 and 3 of the Principal Rules.

### **Details**

Details of the Amendment Rules are set out in the **Attachment**.

### **Consultation**

*Schedule A of the Amendment Rules*

Consultation for changes to Schedule 5 occurred with industry through the Committee, which includes equal representation from both private hospital and private health insurance sectors. Facilities wishing to be considered for inclusion in Schedule 5 were individually assessed and decided by the Committee.

The Amendment Rules commence on 1 January 2015 or, if registered after 1 January 2015, the day after registration.

The Amendment Rules are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Authority: Section 333-20 of the  
*Private Health Insurance Act 2007*

MEDICAL BENEFITS DIVISION  
DEPARTMENT OF HEALTH  
DECEMBER 2014

## ATTACHMENT

### DETAILS OF THE *PRIVATE HEALTH INSURANCE (BENEFIT REQUIREMENTS) AMENDMENT RULES 2014 (No. 6)*

#### **Section 1 Name of Rules**

Section 1 provides that the title of the Rules is the *Private Health Insurance (Benefit Requirements) Amendment Rules 2014 (No. 6)* (the Amendment Rules).

#### **Section 2 Commencement**

Section 2 provides that the Amendment Rules are to commence on 1 January 2015 or, if registered on a later date, the day after registration.

#### **Section 3 Authority**

Section 3 provides that the Amendment Rules are made under item 3A of the table in section 333-20 of the *Private Health Insurance Act 2007*.

#### **Section 4 Schedule**

Section 4 provides that the Amendment Rules amend the *Private Health Insurance (Benefit Requirements) Rules 2011* as set out in Schedule A of the Amendment Rules.

#### **Schedule A – Amendment**

Schedule A provides that the Amendment Rules amends the *Private Health Insurance (Benefit Requirements) Rules 2011* which commenced on 1 November 2011.

#### **Item 1 – Schedule 5, Clause 4 Facilities, subclause (1)**

Item 1 of Schedule A to the Amendment Rules updates the reference to the latest Second Tier Advisory Committee-approved list. The list of facilities eligible for second tier default benefits is the list existing at the time of this amendment and is published on the Department of Health's website at <http://www.health.gov.au/>.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Private Health Insurance (Benefit Requirements) Amendment Rules 2014 (No. 6)**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

The *Private Health Insurance (Benefit Requirements) Amendment Rules 2014 (No. 6)* amends Schedule 5 of the *Private Health Insurance (Benefit Requirements) Rules 2011* to update the reference to the latest Second-Tier Advisory Committee approved list.

#### **Human rights implications**

This legislative instrument engages Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Private health insurance regulation assists with the advancement of these human rights by improving the governing framework for private health insurance in the interests of consumers. Private health insurance regulation aims to encourage insurers and providers of private health goods and services to provide better value for money to consumers, to improve information provided to consumers of private health services to allow consumers to make more informed choices when purchasing services and requires insurers not to differentiate the premiums they charge according to individual health characteristics such as poor health.

#### **Conclusion**

This legislative instrument is compatible with human rights because it advances the protection of human rights.

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**Medical Benefits Division**

**Department of Health**