

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Health

*Private Health Insurance Act 2007*

*Private Health Insurance (Benefit Requirements) Amendment Rules 2017 (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 2017 (No. 6)* (the Amendment Rules) amends schedules 4 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*

Schedule A of the Amendment Rules sets out the minimum benefit payable per night by private health insurers for patients that are classified as nursing-home type patients (NHTP) in public hospitals. Item 1 of the Schedule to the Amendment Rules increases the minimum benefit per night for South Australian public hospitals.

### **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 1 categorises MBS item numbers into overnight patient classifications comprising 'Advanced surgical patient', 'Obstetric patient', 'Surgical patient', 'Psychiatric patient', 'Rehabilitation patient' and 'Other patients'. Schedule 3 sets out MBS items for the same day hospital accommodation benefits which are payable for privately insured patients in all states and territories.

The minimum benefits payable per night for hospital treatment provided to NHTPs in Schedule 4 of the Principal Rules is subject to review and change twice annually, to reflect the indexation applied to the Adult Pension Basic Rate and Maximum Daily Rate of Rental Assistance (Pension and Rental Assistance Rates). The latest indexation of these rates took effect on 20 March 2017.

Schedule 5 of the Principal Rules requires a private 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 private 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 - Item 1*

One minor error was identified in the *Private Health Insurance (Benefit Requirements) Amendment Rules 2017 (No. 5)* that came into effect on 1 July 2017. The issue was due to a clerical error resulting in an incorrect NHTP contribution rate calculation for South Australia.

These Amendment Rules commence on the day after registration on the Federal Register of Legislation.

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

## ATTACHMENT

### DETAILS OF THE *PRIVATE HEALTH INSURANCE (BENEFIT REQUIREMENTS) AMENDMENT RULES 2017 (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 2017 (No. 6)* (the Amendment Rules).

#### **Section 2 Commencement**

Section 2 provides that the Amendment Rules are to commence the day after registration on the Federal Register of Legislation.

#### **Section 3 Amendment of *Private Health Insurance (Benefit Requirements) Rules 2011***

Section 3 provides that Schedule A to the Amendment Rules amends the *Private Health Insurance (Benefit Requirements) Rules 2011* (the Principal Rules) which commenced on 1 November 2011.

#### **Schedule A – Amendments**

##### **Item 1 – Schedule 4, Clause 6 Minimum benefit, Table 1**

Item 1 of Schedule A to the Amendment Rules amends the minimum benefit payable per night for nursing-home type patients in public hospitals in the following state: in clause 6, Table 1:

- South Australia from \$116.00 to \$118.00

## **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 2017 (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 2017 (No.6)* amends Schedule 4 of the *Private Health Insurance (Benefit Requirements) Rules 2011* to update the minimum benefit for Nursing-Home Type Patients at public hospitals in South Australia.

#### **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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**Private Health Insurance Branch**

**Pharmaceutical Benefits Division**

**Department of Health**