

1984

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HEALTH INSURANCE AMENDMENT BILL 1984

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Health, the
Hon. Neal Blewett, M.P.)

OUTLINE

The purpose of this Bill is to amend section 17 of the Health Insurance Act 1973. The amendments would:

- . enable the Minister for Health to declare that the provisions of section 17 relating to private practice agreements between recognized hospitals and medical practitioners do not apply where arrangements have been made by a State or Territory to regulate private practice arrangements in a manner consistent with guidelines which have been formulated by the Minister under section 17 and with which the private practice agreements would be required to comply, in the absence of such a declaration, in order for Medicare benefits to be payable; and
- . provide for the tabling of guidelines under section 17 and would enable either House of Parliament to disallow them.

Clause 1: Short Title

This clause would provide that the amending Act may be cited as the Health Insurance Amendment Act 1984 and the Principal Act is identified as the Health Insurance Act 1973.

Clause 2: Commencement

This clause would provide that the amending Act shall come into effect on the day on which it receives the Royal Assent.

Clause 3: Medicare Benefits
Not Payable in Respect of Certain
Medical Expenses

Sub-clause 3(1) would provide for the amendment of section 17 of the Principal Act by the insertion of a new sub-section 17(1A) which would provide that where the Minister has formulated guidelines, which are in force, for the purposes of section 17, he may cause, by declaration signed by him, paragraph 17(1)(aa) of the Principal Act to have no application in relation to the rendering of medical services to which the guidelines apply in a particular State or Territory if he is satisfied that that State or Territory has made arrangements which will regulate the right of private practice of a medical practitioner or a class of medical practitioners in a manner consistent with those guidelines. Provision is made for such a declaration to be able to have retrospective effect because some States and Territories have, or are expected to make, appropriate arrangements before the commencement of operation of this proposed amendment.

Paragraph 17(1)(aa) of the Principal Act provides that Medicare benefits are not payable in respect of prescribed professional services rendered to patients of or at recognized State and Territory hospitals, by a medical practitioner exercising rights of private practice, unless the practitioner has entered into an agreement (in a form approved by the Minister for Health (sub-section 17(4)) with a recognized hospital, and unless the practitioner was acting in accordance with the approved agreement. The effect of a declaration under proposed sub-section 17(1A) would therefore be that Medicare benefits would become payable for services rendered by a practitioner who had not entered into an approved agreement in a State or Territory to which the declaration applied.

Sub-clause 3(1) would also provide, in paragraph (b), for the addition of sub-sections (5), (6), (7) and (8) to section 17 of the Principal Act. Those sub-sections would provide as follows:

New sub-section 17(5) would provide that sections 48, 49, 49A and 50 of the Acts Interpretation Act 1901 shall apply in relation to guidelines formulated by the Minister under sub-section (4) as if those guidelines were regulations made under an Act. The effect of this provision is that guidelines formulated by the Minister must be notified in the Gazette, laid before each House of Parliament and may be disallowed.

New sub-section 17(6) and (7) would make formal provision relating to the manner of notification and publication of the guidelines.

New sub-section 17(8) would provide that section 5 of the Evidence Act 1905 applies to guidelines formulated by the Minister under sub-section (4) in the same way as that section applies to an order made by the Minister. Section 5 of the Evidence Act 1905 deals with the proof of such orders in Court.

Sub-clause 3(2) would provide that the requirement that guidelines formulated under section 17 of the Principal Act be notified in the Commonwealth of Australia Gazette shall, in respect of the guidelines already so formulated, be taken to have been complied with. This sub-clause also would provide that the requirement to lay such guidelines before each House of Parliament shall, in respect of the existing guidelines, be taken to have been complied with if they are so laid within 15 sitting days of each House after the date of commencement of these provisions (Guidelines were published in the Gazette on 29 February 1984).