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HOUSE OF REPRESENTATIVES

HEALTH INSURANCE AMENDMENT BILL (NO. 2) 1996

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Health and Family Services, the Hon. Dr Michael Wooldridge, MP)

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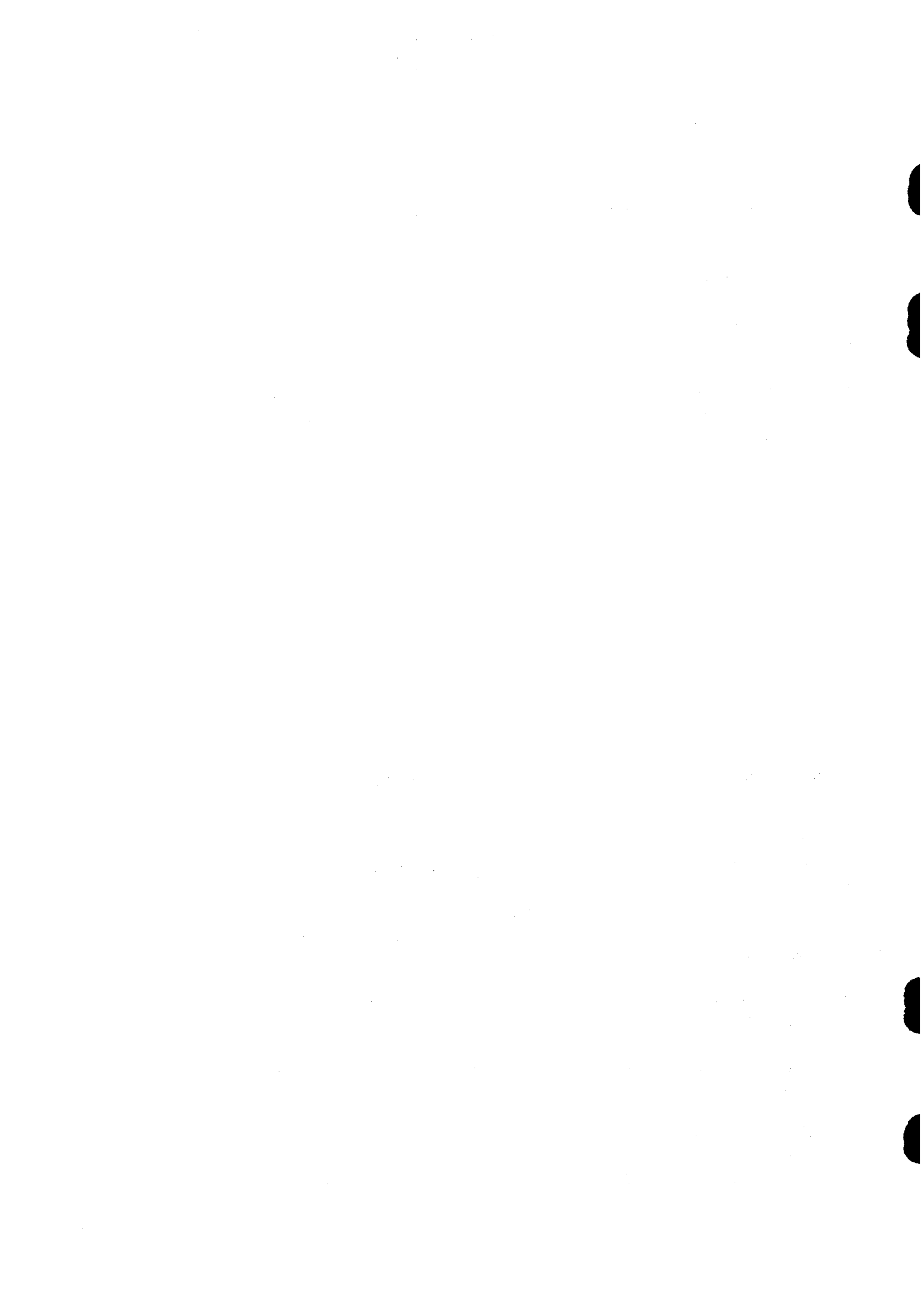

HEALTH INSURANCE AMENDMENT BILL (No 2) 1996

GENERAL OUTLINE AND FINANCIAL IMPACT

1. Medical practitioners recognised for Medicare purposes

These amendments set minimum proficiency requirements which new medical practitioners must meet before the services they provide attract Medicare benefits.

Because of the close relationship between these changes and the vocational registration arrangements the opportunity has also been taken to make a number of minor amendments to improve the administrative efficiency of the current arrangements in relation to the operation of the Vocational Register for general practitioners.

Date of effect: Royal Assent or 1 November 1996

Proposal announced: Budget speech

Financial impact: The proposed amendments in relation to proficiency requirements for all new medical practitioners, including overseas trained doctors, will result in savings estimated at $23.86m in 1996/97; $100.12m in 1997/98; $171.74m in 1998/99 and $241.67m in 1999/2000.

2. Level of Medicare Benefit

These amendments introduce a number of separate changes dealing with multiple services rules, the greatest permissible gap and payments for services of unusual length or complexity.

The multiple services rules allow for fees to be reduced for later services when multiple services are provided to a patient. The measures are part of a package to strengthen the incentives in Medicare benefit arrangements to promote appropriate, quality and cost effective diagnostic imaging practice. As the same multiple services rules concept already applies to pathology services it is also introduced for general medical services to ensure uniformity across all services.

The maximum gap between the Medicare Benefits Schedule fee listed for any out of hospital service and the Medicare benefit payable for that service is to increase to $50.

The ability to seek an increase in fees for services claimed to be of unusual length or complexity is to be removed.

Date of effect: Royal Assent or 1 November 1996 for the multiple services rules and increase in the greatest permissible gap. On proclamation (or 6 months after the date of Royal Assent) for the removal of increased benefits for services of unusual length or complexity.

Proposal announced: Budget speech

Financial impact: The implementation of the proposed regulations relating to multiple services rules for diagnostic imaging services would result in Budget savings estimated at $69.7 million over the period from 1 November 1996 to 30 June 2000 ($9.7 million in 1996-97).

Development costs and ongoing administrative costs in 1996-97 are estimated by the Health Insurance Commission at $0.8 million.

The savings to be achieved through the increase in the greatest permissible gap are expected to be $8.6m in 1996-97, $15.7m in 1997-98, $16.5m in 1998-99 and $17.1m in 1999-00.

The savings to be achieved through the removal of increased benefits for services of unusual length or complexity are expected to be $2.4m in 1996-97, $4.4m in 1997-98, $4.7m in 1998-99 and $5.1m in 1999-00.

3. Temporary Resident Doctors

These changes require that temporary resident doctors meet proficiency requirements equivalent to those for Australian trained doctors before the services they provide attract Medicare benefits.

Date of effect: 1 November 1997

Proposal announced: Budget speech

Financial impact: Savings for measures in Schedules 1 and 3 together accrue from a reduction in the overall number of doctors providing services under Medicare - $23.86m in 1996/97; $100.12m in 1997/98; $171.74m in 1998/99 and $241.67m in 1999/2000.

Schedule 1

Medical Practitioners Recognised for Medicare Purposes

Overview

1.1.1 The main effect of **Schedule 1** is to introduce a new section 19AA which defines the classes of medical practitioners whose services attract Medicare benefits.

1.1.2 All new medical practitioners, including doctors who have not yet completed their intern training, will need to meet certain proficiency standards before being able to provide services which attract Medicare benefits. Provision will however, continue to be made to recognise certain situations where medical practitioners may not meet these standards but nevertheless require access to Medicare benefits. The main groups falling into this category are medical practitioners in post graduate training programs where access to Medicare benefits is required as a part of their training. Such recognition is to be specified by either Ministerial approval or inclusion in regulations made under the relevant section of the Act.

1.1.3 General practitioners will be formally recognised under the Act. This is achieved through a definition of "general practitioner" and the issuing of determinations in respect of recognised Fellows of the Royal Australian College of General Practitioners.

1.1.4 In addition to the existing Vocational Registration for General Practitioners a new register of Approved Placements has been established to monitor access to Medicare.

Purpose of the amendments

1.2.1 The purpose of the amendments is to require new medical practitioners to complete a recognised post graduate training program, (or be in an approved program and need to attract benefits for their services as part of the program), and remain in an appropriate professional framework, in order to provide services which attract Medicare benefits.

1.2.2 The existing legislation provides for the Vocational Registration of medical practitioners working in general practice. With the end of the 'grand parenting' period for entry to the Register, from 1989 to 31 December 1994, it is necessary to update arrangements to reflect changed administrative functions. It has also become apparent from the consideration of recent court cases that clarification of the Vocational Registration requirements is required. Provision will therefore be made for the requirements associated with Vocational Registration to be included in regulations made rather than being left to publication by the Royal Australian College of General Practitioners.

Background to the legislation

1.3.1 The Health Insurance Act enables Medicare benefits to be paid for services that are clinically relevant (sections 3(1) and 10).

1.3.2 Currently Australian medical schools produce undifferentiated graduates. The majority of graduates complete some form of postgraduate training through one of the recognised professional medical colleges before entering unsupervised practice. Without specific post graduate training relevant to a particular field of medicine, the possibility of providing services that are inappropriate is considerably increased.

1.3.3 Given the dynamic nature of medical practice, the quality of care is likely to deteriorate unless practitioners are also working in an appropriate professional framework that provides an opportunity for ongoing education and training.

1.3.4 There is currently an oversupply of medical practitioners providing services through Medicare particularly services provided by non specialists in metropolitan areas. This oversupply places pressure on Medicare outlays as there is now a well established relationship between the number of medical practitioners and the number of services provided in an area.

1.3.5 The amendments require that new doctors entering general practice be appropriately trained and working in a recognised professional framework. The measures will enable growth in the medical workforce to be kept in line with population needs.

Date of effect

1.4 The amendments take effect on Royal Assent or from 1 November 1996.

Explanation of the proposed amendments

Definition of General Practitioner

Item 1 - Subsection 3(1) is amended to include a definition of "general practitioner" in the Act.

Working on Behalf of Another Medical Practitioner Precluded

Item 2 - Subsection 3(17) prevents a medical practitioner who does not meet the conditions for access to Medicare benefits from circumventing the intent of the legislation by providing services on behalf of another Medicare recognised medical practitioner. **Paragraph 3(17)(b)** is introduced to put it beyond doubt that the regulations can specify services which cannot be provided by a person on behalf of a medical practitioner.

Recognised Fellows of the Royal Australian College of General Practitioners

Item 3 - New section 3EA - provides for determinations to be issued in respect of Fellows of the Royal Australian College of General Practitioners who meet criteria as set out in the regulations. Professional services provided by Fellows recognised under this Section will be eligible for Medicare benefits.

Revocation of Determinations

Item 3 - New section 3EB - provides for the revocation of determinations issued under 3EA. A determination in respect of a medical practitioner must be revoked when the RACGP gives notice that the medical practitioner has ceased to comply with the requirements specified in the regulations.

Vocationally Registered General Practitioners

Item 4 - Subsection 3F(6) is recast to allow bodies, including the RACGP, to certify that the name of a medical practitioner be added to the Vocational Register of General Practitioners. The detailed requirements for inclusion on the Register are to be specified in the regulations. The Health Insurance Commission ("HIC") must place a practitioner's name on the register when it has received both an application by a practitioner and a notice from the body certifying that a practitioner has met the requirements in the regulations.

Removal From the Vocational Register

Item 5 - In **paragraph 3G(1)(a)** the addition of the word 'or' clarifies that either (a) or (b) or (c) applies.

Item 6 - Paragraph 3G(1)(b) mirrors the changes to **subsection 3F(6)** by enabling bodies, including the RACGP, to give notice that a medical practitioner should be removed from the Vocational Register of General Practitioners.

Item 7 - Subsection 3G(2) is recast to allow advanced notice to be given to the practitioner that their name is to be removed from the Register and clarifies that removal occurs on the basis of an application and a notice from an authorised body on which the HIC must act.

Items 8 and 9 - Subsections 3G(3) and 3G(4) are amended to require the HIC to act on the receipt of an application and a notice and to remove any discretion from the HIC.

Register of Approved Placements

Item 10 - New section 3GA provides for the registration of medical practitioners while they are providing services in an approved program. For example, specialist and general practitioner trainees will in future be required to be registered whilst undertaking their post graduate training before they can provide services which attract Medicare benefits.

Removal from the Register of Approved Placements

Item 10 - New section 3GB provides for the removal of persons from the Register established under section 3GA. A medical practitioner must be removed from the register when a body gives notice that the medical practitioner has ceased to comply with the requirements specified in the regulations. The body providing this notice must be the same body as that which gave the original notice for inclusion under section 3GA.

References to the RACGP May be Varied

Items 11 and 12 - Subsections 3H(1) and 3H(2) extend the existing provision under Section 3H concerning references to the RACGP, to also apply to the new sections of the Act where relevant. This provision addresses the possibility of a name change on the part of the RACGP.

Certain Persons Not Medical Practitioners

Item 13 - Under new subsection 3J(4A) any rights granted to an individual to work in a way that attracts Medicare benefits as a result of a Ministerial determination under this section, expire when the individual no longer has a legal right to remain in Australia.

Medicare Benefits Not Payable in Respect of Services Rendered by Certain Medical Practitioners

Item 14 - New section 19AA preserves the rights of existing medical practitioners currently eligible to provide services which attract Medicare benefits, but requires that all new medical practitioners after 31 October 1996, seeking to provide services for which Medicare benefits are payable must either:

- meet the criteria for postgraduate qualifications and experience - 19AA(1)(b)(i),(ii) and (iii) and 19AA(2)(b)(i),(ii) and (iii); or
- be in an approved placement under section 3GA - 19AA(1)(b)(iv) and 19AA(2)(b)(iv); or
- be the subject of a Ministerial determination under section 3J - 19AA(1)(b)(v) and (19AA(2)(b)(v).

Item 14 - Subsection 19AA(1) deals with services rendered by a medical practitioner whilst **subsection 19AA(2)** makes it clear that these requirements equally apply to services rendered for and on behalf of a medical practitioner. Combined with the effect of subsection 3(17) this provision is intended to prevent individuals who do not meet the requirements in their own right, from providing services or having others provide services for or on their behalf which attract Medicare benefits.

Item 14 - Paragraph 19AA(3)(a) makes it clear that practitioners included on the approved register are to be prevented from providing services which attract Medicare benefits whilst working outside of their approved placements.

Item 14 - Paragraph 19AA(3)(b) provides for circumstances to be specified in regulations in which Medicare benefits may be paid even though the service was provided outside of the approved placement. For example where a practitioner overstays his or her placement by a short period the regulations could allow for Medicare benefits to continue to be paid.

Item 14 - Paragraph 19AA(4)(a) provides that medical practitioners who have not completed an intern year or its equivalent, as required by a State Medical Registration Board, before 1 November 1996 are to be treated as medical practitioners who first became registered on 1 November 1996. In order for the services provided by these practitioners to attract Medicare benefits they will need to meet the requirements of section 19AA.

Although the terminology used to describe interns in each of the State Medical Registration legislation varies, the intent of this paragraph is that all 1996 and future interns should be treated as practitioners who are first registered on 1 November 1996. For example interns in Western Australia are described under the Western Australian legislation as being in a position of medical officer in a recognised institution or hospital. These interns are to be subject to the same requirement as other interns whether registered as interns or not. Similarly it is intended that all interns should be included in this provision whether actually resident in a hospital or other institution or not.

Furthermore it is intended that this provision include those medical practitioners who are required by a State Medical Registration Board to undertake a period of work in a hospital as part of the process involved in the recognition of their overseas training and who, on 1 November 1996, have not completed that period.

Item 14 - Paragraph 19AA(4)(b) provides that medical practitioners who are registered through a State Medical Board but not resident in Australia, (with the exception of doctors with a legal right to be here but temporarily overseas) are to be treated as medical practitioners who first became registered on 1 November 1996. In order for the services provided by these practitioners to attract Medicare benefits they will need to meet the requirements of section 19AA. The intention of this provision is to put a large number of overseas trained doctors who do not reside in Australia on the same footing as interns.

Offence in relation to a medical practitioner rendering a service covered by section 19AA

Item 15 - Under new section 19CC medical practitioners, or persons acting on their behalf, whose services which do not attract Medicare benefits by virtue of new section 19AA are required to take steps to inform a patient before treatment that the service will not attract a benefit. This is the same penalty applying in respect of disqualified medical practitioners. Although the penalty under this provision is only 1 penalty unit per item of service involved, the cumulative effect of this penalty being applied to multiple services is considered to be an adequate deterrent.

Officers to Observe Secrecy

Item 16 - New subsection 130(5C) permits authorised officers of the HIC to provide the RACGP, or a body specified under the regulations, with information relevant to determining eligibility for inclusion or removal from the Vocational Register. This information is necessary to allow the RACGP and other authorised bodies to monitor continuing compliance with professional standards as set out in the regulations and to be in a position to act and remove a practitioner if they do not meet those standards.

Schedule 2

The Level of Medicare Benefit

Overview

2.1 **Schedule 2** introduces a number of separate changes dealing with multiple service rules, the greatest permissible gap and increased fees for services of unusual length or complexity.

Multiple Services Rules for General Medical Services and Diagnostic Imaging Services

Purpose of amendments

2.2.1 To put beyond doubt the legislative basis for regulations that may be made to introduce multiple services rules for general medical services and diagnostic imaging services.

2.2.2 The amendments provide for regulations to be made to reduce the fees applicable to a diagnostic imaging service where that service and another service is rendered to a patient. The regulations implement the decision taken in the 1996-97 Budget to introduce multiple services rules for diagnostic imaging services.

2.2.3 Multiple services rules recognise that there is an over-remuneration in the components of fees when more than one service is rendered to a patient.

2.2.4 The amendment proposed for general medical services is to provide uniformity across the pathology, diagnostic imaging and general medical services tables in the regulations and to allow for the implementation of multiple services rules in the future. It is not proposed to make regulations for multiple services rules for general medical services at this time.

Background to the legislation

2.2.5 The Act already provides the basis for multiple operations rule, multiple anaesthetics rule and multiple services rules for pathology services and these have been in existence for many years. It has been recognised that the same over-remuneration applies to diagnostic imaging services where more than one service is provided at the one time.

Date of effect

2.2.6 Royal Assent or 1 November 1996.

Explanation of the proposed amendments

Item 1 - New section 4AAA allows for a regulation making power for multiple services rules where the fee for a general medical service may be reduced where that service and one or more other services are provided to the patient.

Item 2 - New section 4AB allows for a regulation making power for multiple services rules where the fee for a diagnostic imaging service may be reduced where that service and one or more other services are provided to the patient.

Greatest Permissible Gap

Purpose of amendments

2.3.1 In order to reduce Medicare expenditure the amount in the definition of "greatest permissible gap" in subsection 10(5) is increased from $29.30 to $50.00.

Background to the legislation

2.3.2 The legislation sets the maximum gap (known as the greatest permissible gap) between the Medicare Benefits Schedule fee listed for any out of hospital service and the Medicare benefit payable for that service. The current greatest permissible gap is $29.30, being an amount arrived at by the yearly indexation, in accordance with section 10A, of the amount specified in subsection 10(5) of $26.80. If the amendment to the Act was not made, the greatest permissible gap that would apply from 1 November 1996 would be $30.20.

Date of effect

2.3.3 Royal Assent or 1 November 1996.

Explanation of the proposed amendments

Items 3 and 4 - Subsection 10(5) is amended by removing $26.80 and inserting $50.00. In addition, the definition of "patient" for the purpose of section 10, contained at the end of the section, is repealed because the word "patient" is not now used in the section 10.

Item 8 - is a savings provision and provides for the greatest permissible gap of $29.30 to continue to apply to services rendered before this amendment commences.

Services of Unusual Length or Complexity

Purpose of amendments

2.4.1 To remove the ability to seek an increase in Medicare benefits for services claimed to be of unusual length or complexity.

2.4.2 To fully apply the principle that Medicare fees for a service are regarded as being reasonable on average having regard to usual and reasonable variations in the time involved in performing the service on different occasions and to reasonable ranges of complexity and technical difficulty.

2.4.3 There will no longer be a power to increase fees for a particular service beyond the scheduled Medicare fee. This will prevent the creation of items attracting Medicare benefits without Ministerial approval or parliamentary scrutiny.

Background to the legislation

2.4.4 Medicare fees are based on the 'swings and roundabouts' principle. That is, the Schedule fee is regarded as being reasonable on average for that service having regard to usual and reasonable variations in the performance time on different occasions and to reasonable ranges of complexity and technical difficulty encountered.

2.4.5 However, sections 11 and 12 of the *Health Insurance Act 1973* provide for individual claims to be made to the Health Insurance Commission for higher Schedule fees and benefits for medical services listed in the Medicare Benefits Schedule, but considered to be of unusual length or complexity. These claims are normally referred to the Medicare Benefits Advisory Committee for a recommendation of the fee and benefit level.

2.4.6 The repeal of Sections 11 and 12 (and the associated paragraphs 67(1)(b) and (c) will ensure that all Medicare benefits are paid on the 'swings and roundabouts' principle.

Date of effect

2.4.7 On proclamation or the day 6 months after the Act receives the Royal Assent.

Explanation of the proposed amendments

Item 5 - Sections 11 and 12 are repealed. Sections 11 and 12 provide for the fees for services of unusual length or complexity to be reviewed, and consequently have a higher Medicare benefit paid.

Item 6 - Paragraphs 67(1)(a) and (aa) are amended by adding ‘and’ at the end of each paragraph. This is a minor technical clarification of the Act.

Item 7 - Paragraphs 67(1)(b) and (c) which provide the Medicare Benefits Advisory Committee with the functions of reviewing services on which a section 11 or 12 application has been received, are repealed.

Item 9 - is a savings provision and provides for sections 11 and 12 and paragraphs 67(1)(b) and (c) to continue to apply for claims lodged with the Health Insurance Commission before those provisions are repealed.

Schedule 3

Amendments relating to Temporary Resident Doctors

Overview

3.1 **Schedule 3** of the Bill amends the arrangements for recognising Temporary Resident Doctors ("TRDs") who enter Australia to provide Medicare services in areas of need, so as to bring them in line with proficiency requirements for Australian graduates and overseas trained doctors with permanent resident status.

Purpose of amendments

3.2.1 The current section 3J stops TRDs accessing Medicare unless they are granted an exemption from the Minister. TRDs will now be required to have an approved postgraduate qualifications before an exemption is granted under section 3J.

Background to legislation

3.3 The current legislation provides for overseas trained doctors in Australia on a temporary resident visa to work in a way that attracts Medicare benefits without satisfying the requirements set down by State Medical Boards and the Australian Medical Council in respect of proficiency tests and postgraduate supervised training. This has been necessary in order to ensure access for patients in hospitals and in some rural and remote areas of Australia. The proposed amendments are necessary in order to set minimum standards of competency for all medical practitioners providing services through Medicare.

Date of effect

3.4.1 The amendments take effect from 1 November 1997.

3.4.2 The date of effect of 1 November 1997 is required to provide state governments with time to adjust their recruitment strategies.

Explanation of the proposed amendments

Setting Minimum Postgraduate Qualifications

Item 1 - New paragraphs 3J(1)(c) and (d) allow the Minister to set out in regulations the qualifications necessary before an exemption will be granted and empowers the Minister to grant exemptions.

Technical Matters

Items 2, 3, 4, 5, and 6 - Subsections 3J(2) and (3); 3J(4) and (4A); 3J(5)(a) and (b) are technical matters allowing for the use of more appropriate terminology when referring to exemptions under 3J.

Qualifications Approved by the Minister

Item 7 - New subsection 3J(5A) provides for qualifications determined by the Minister under paragraph 3J(1)(c) to be disallowable by the Parliament.

Ensuring That Benefits Are Payable Where TRDs are Recognised

Item 8 - Subparagraphs 19AA(1)(b)(vi) and 19AA(2)(b) are amended to change the wording to reflect the amendment of paragraphs 3J(1)(a) and 3J(1)(b).

Transitional Arrangements For Existing TRDs

Item 9 - is a savings provisions consequential on the amendment of paragraphs 3J(1)(c) and (d) and allows for the continuation of determinations granted by the Minister prior to the amendments coming into force.

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