Health Insurance Amendment (Extended Medicare Safety Net) Bill 2012

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Health Insurance Amendment (Extended Medicare Safety Net) Bill 2012

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Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill's home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose
The Health Insurance Amendment (Extended Medicare Safety Net) Bill 2012 (the Bill) proposes amendments to the Health Insurance Act 1973 (HIA) that would apply the Extended Medicare Safety Net (EMSN) benefit caps to instances where two or more Medicare services are performed on the same patient on the same occasion, and which are deemed to be 'one professional service'. The Bill also proposes amendments to remove the requirement that families confirm in writing to Medicare their family composition for the purposes of the EMSN. Instead, families would be able to notify Medicare in a manner approved by the Chief Executive of Medicare Australia.

Background
In the Australian health care system, Medicare subsidises a wide range of professional medical services for eligible patients. Services which attract a Medicare benefit (or rebate) are specified in the General Medical Services Table (GMST), which also specifies the schedule fee for that service. In 2011–12, expenditure on Medicare benefits totalled just over $17.6 billion, making it the fourth most expensive Commonwealth government program.¹

Since 1984, families and individuals have been reimbursed for some out of pocket costs through the Medicare safety net.² This safety net was supplemented by the Extended Medicare Safety Net

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2. Out of pocket costs for the purposes of the original safety net are defined as the gap between the Medicare fee and the Medicare rebate.

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(EMSN) which was introduced in 2004. Once an annual threshold of expenditure was reached the original safety net reimbursed patients 100 per cent of the Medicare fee for any further Medicare services. Since 2004, the EMSN has provided additional reimbursement to patients on top of the Medicare rebate and the original safety net, again once a patient’s out-of-pocket expenditure exceeds an annual threshold. Once the EMSN threshold amount is reached the individual or family is reimbursed 80 per cent of the total fee of any further out-of-hospital Medicare services they subsequently claim.

### Capping arrangements

Since January 2010, certain out-of-hospital Medicare services deemed to have excessive fees have been subject to an EMSN cap. This cap limits the maximum amount of reimbursement (benefit) for that particular service. Services that have caps include obstetrics, assisted reproductive technology or IVF services, cataract and varicose vein procedures, hair transplantation and midwifery services. These caps were applied following significant growth in EMSN expenditure, which prompted the Government to commission a review of the EMSN. The independent review, conducted by the Centre for Health Economics Research and Evaluation (CHERE) found that the EMSN had led to inflation of doctor's fees in some areas, benefitting doctors' incomes more than it had reduced costs to patients, and contributing to unsustainable growth in EMSN expenditure. The review also found that 55 per cent of EMSN benefits to patients had flowed to the most socioeconomically advantaged areas, while the least advantaged had received less than 3.5 per cent of total EMSN benefits.

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5. Unlike the original safety net, the EMSN defines out of pocket costs as the difference between the Medicare benefit and the doctor’s fee. The fee charged by the doctor can be higher than the Medicare fee, arguably making the EMSN a more 'generous' safety net.

6. Department of Human Services, op. cit. In 2012, the annual threshold amounts for the EMSN are: $1198 for non-concessional Medicare card holders; $598.80 for concessional card holders and those eligible for Family Tax Benefit part A (FTB-A).


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Prior to the capping arrangements, government expenditure on the EMSN had been growing at more than 20 per cent, per year. Since the caps were introduced, expenditure on the EMSN fell from $538.6 million in 2009 to $311.8 million in 2010.9

A subsequent review of these capping arrangements also conducted by CHERE found evidence of some decline in fees charged by doctors, most notably for the capped items. However, out of pocket costs faced by patients have also increased for most capped services.10

**Main issues and relevant provisions**

**Treatment of two or more Medicare services**

Occasionally a patient will undergo more than one Medicare procedure at the same time. For example, multiple skin excisions can be performed on different parts of the body under the one anaesthetic. These situations, for billing purposes, are dealt with under the Multiple Operations Rule. When two or more operations are performed on the one occasion, the Medicare fee for the second and any subsequent procedures performed at the same time is proportionally reduced. Such multiple operations are treated as ‘one professional service’, rather than a collection of individual Medicare services for which claims otherwise would be made separately.11

However under the HIA, the EMSN caps apply only to individual Medicare services. Caps do not apply where multiple services have been performed and billed as one professional service, as under the Multiple Operations Rule. Consequently, when a doctor currently performs multiple procedures on the one occasion, and bills it according to the Multiple Operations Rule, EMSN caps do not apply even if the individual services are subject to an EMSN cap.

Existing section 10ACA outlines how the extended safety net for families operates, whilst section 10ADA outlines how the extended safety net for individuals operates. The Bill inserts **proposed subsections, 10ACA(7A) and 10ADA(8A)** into the HIA so that two or more original services are to be treated as one ‘**deemed service**’ to which the EMSN caps will apply where the individual services themselves are subject to the caps. The cap for the deemed service will be calculated as the sum of the caps that would otherwise apply if each Medicare service was billed individually.

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9. Ibid.

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The Minister’s second reading speech clarifies that it is the Government’s intention to apply the EMSN caps to a further 39 Medicare services from 1 November 2012. Most of these services would fall under the Multiple Operations Rule and be seen as ‘one professional service’.  

**Notification of family composition**

In order to be eligible for EMSN benefits or for the original Medicare safety net, individuals and families need to be known to Medicare Australia (MA) which administers the two safety nets. Individuals do not need to register for these safety nets, as information on their medical expenses is automatically recorded each time they use their Medicare card. However, families do need to register for safety nets so that MA can identify individual members and link their combined medical expenses together in order to determine when they have reached any of the safety net expenditure thresholds.

Currently, section 10AE of the HIA requires families to notify MA in writing of the composition of their family group or when there are any changes to the composition. This can be done electronically on the MA website, or by completing a form (downloadable or available from an MA office) and sending it to MA. If the family composition changes MA must be notified in writing of those changes. When a family is about to reach their EMSN threshold MA writes to the family requesting confirmation in writing of their family composition. No EMSN benefits are payable until MA receives the requested confirmation from the family in writing. This potentially can lead to delays in the family receiving benefits if they do not reply promptly in writing.

The Bill amends subsection 10AE(1) by replacing the requirement that a notification be ‘in writing’ with a requirement that it be in a manner ‘approved by the Chief Executive’ of MA. This will allow greater flexibility for families when it comes to notification or confirmation of family composition.

**Basis of policy commitment**

The 2012–13 Federal Budget included an announcement that the Government would seek to realise $96.5 million in savings by better targeting of the EMSN caps, including extending capping to more procedures. The Explanatory Memorandum notes that the Bill supports this savings measure.

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Committee consideration

The Bill was considered by the Senate Selection of Bills Committee on 27 June 2012. The Committee resolved not to refer the Bill to any committee for inquiry and report.\(^{14}\)

Financial implications

The Explanatory Memorandum claims savings of $79.6 million\(^{15}\) from the implementation of the proposed provisions extending the capping arrangements, although it does not state over what time period these savings are to be realised. The Budget forecast savings of $96.5 million over four years by improving targeting of the EMSN caps. This Bill therefore represents a major component of these forecast savings. There are no financial implications for the proposed provisions around the notification of changes of family composition to MA.

Statement of Compatibility with Human Rights

The Explanatory Memorandum states the Bill is compatible with relevant human rights instruments.\(^{16}\)

Concluding comments

The Bill amends the HIA to extend the EMSN benefit caps to instances when multiple Medicare services are performed and billed as one professional service, where EMSN caps already apply to the individual services. These amendments would treat multiple Medicare services that are currently treated as one occasion of service for billing purposes and therefore not subject to the capping arrangements, as a 'deemed service' to which EMSN caps can apply.

Extending capping of EMSN benefits for these services will support the Government's budgetary aim of realising savings because it should slow growth in EMSN expenditure. A review of the EMSN capping arrangements found that where caps were introduced on certain Medicare services, fees charged by doctors often fell, resulting in lower costs to government. However, out of pocket costs


\(^{16}\) Ibid., pp. 3–5.

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for patients rose in some instances. Australian patients already face high out of pocket costs by OECD standards, despite the subsidies they are eligible for through Medicare.17

It would therefore be prudent, if the Bill is passed, to continue to monitor and report on the impact of the expanded EMSN caps on doctor’s fees as well as on patient costs.

The Bill also proposes an amendment to the HIA which would mean that families would no longer be required to notify or confirm in writing to MA, the composition of their family group in order to be registered for the EMSN or the original safety net. Instead, notification or confirmation could be done in another manner provided it is approved by MA, for example, in person or over the phone. The result will make it easier for families to notify MA of family composition and minimise potential delays in receiving EMSN benefits.


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