Community Services and Health Legislation Amendment Bill 1989

Date Introduced: 10 May 1989  
House: House of Representatives  
Presented by: Hon. Neal Blewett, M.P., Minister for Community Services and Health

Digest of Bill

Purpose
The main amendments will introduce a vocational register for general practitioners; introduce a new pathology services table and alter the way in which the table can be changed; alter the reinsurance arrangements for private health funds; establish a Private Health Insurance Administration Council; and alter the rules concerning applications for the classification of nursing home patients in certain circumstances.

Background
The introduction of the vocational register arose from a general dissatisfaction with the current time-based rebates available under Medicare. Both the Australian Medical Association (AMA) and the Royal Australian College of General Practitioners (RACGP) were in favour of a new content-based rebate structure. (Both of these bodies represent general practitioners and the AMA also represents specialists. The AMA has traditionally been the body that has dealt with matters such as fees and the level of the Medicare rebate.) In November 1988, the government offered to negotiate with the bodies over the introduction of a new rebate scheme, but also rejected their proposal on the grounds that there was no identifiable guarantee that medical services would improve. The AMA continued to advise members to charge according to their proposal and the Minister refused to negotiate with the body until it advised members to charge according to the current scheme. The RACGP agreed to defer the introduction of the new scheme while negotiations were in progress, and a working party with representatives from that body and the government was established to review content-based benefits, the development of quality control procedures and the introduction of incentives to encourage quality care and continuing medical education. The working party released its recommendations in March 1989. The recommendations are based on the introduction of a vocational register for those with relevant experience who have satisfied the RACGP that they have sufficient training. Those registered will be able to use a new charging scheme which will be based on the service provided. The working party estimated that approximately 90% of current full-time general practitioners would be eligible for registration.
The decision to legislate to introduce a new pathology services table follows two recent events that have affected the operation of the Pathology Services Advisory Committee. This Committee, was established to determine, amongst other matters, how a matter should be listed in the table which specifies the service and the fee payable in relation to that service. The Committee contains representatives of the AMA and the Royal College of Pathologists of Australasia (RCPA). In late 1988, the RCPA withdrew from the Committee and a later Federal Court decision ruled that the table that operated from 1 November 1988 was illegal as the Committee had not followed the appropriate steps when reaching the decision. As the same steps were followed when preparing the previous table, it is almost certain that it too would be declared invalid, and the table that would operate would be that prepared before the Committee was established (i.e. the 1986 table). As there are no RCPA representatives on the Committee, it is impossible for it to determine a new table. To overcome these problems, it is proposed to introduce a new table by legislation and to allow the table to be changed by regulations. It is estimated that the new table will result in savings of $45 million per year.

Health insurance may be offered for treatment in private hospitals or as a private patient in public hospitals. There is a pooling reinsurance scheme that aims to even out the liabilities so that companies that have a larger percentage of usually higher claimants (e.g. the old and chronically ill) will not be at a disadvantage compared to those funds that service mainly the lower claimants (e.g. the young). Part of the rationale behind the scheme is to ensure that the higher claimants can maintain health insurance at a reasonable cost. (If there was no cross subsidy between funds, the higher claimants could be expected to face much higher costs based on the likelihood of claims.) The Commonwealth also contributes to the reinsurance fund, although the level of assistance has fallen dramatically in recent years (e.g. from $100 in each of 1982 and 1983 to $1 million in 1989). The Minister announced in March 1989 that the scheme would be altered to ensure protection for the aged population and that the Commonwealth would make a one-off contribution of $20 million to the fund. (For further information on this topic, refer to the background paper prepared by the Education and Welfare Group of the Research Service.)

The changes relating to nursing homes will allow another person to be substituted for the proprietor of the home for applications regarding the classification of patients where the proprietor has made a number of applications that have been revised downwards in the past. The level of assistance depends on the classification of the patient. The other main amendment will remove homes for the disabled from funding under the Nursing Homes Assistance Act 1974. The homes will be funded under the Disability Services Act 1986.

Main Provisions

Health Insurance Act 1973
Clause 10 will insert new sections into this Act that will deal with the vocational register. A practitioner is to be vocationally registered if the
general manager of the Health Insurance Commission is satisfied that the RACGP has certified that the practitioner's practice is predominantly general practice and that the applicant has the training and experience appropriate to be registered. Applicants are also to be registered where they have satisfied the conditions contained in the regulations. The names and practising addresses of registered practitioners is to be available to the public on request (proposed section 3F).

Removal from the register is dealt with in proposed section 3G. A practitioner may be removed on the request of that person; if it is required by the regulations; or where the RACGP notifies the Commission that the person no longer satisfies proposed section 3F or has failed to meet the RACGP minimum continuing education requirements.

Proposed section 3H will allow the Minister to determine that references to the RACGP are references to another body.

Proposed section 4A will allow the Pathology Services Table to be set and varied by regulation (clause 11). Clause 18 will insert a new Pathology Services Table into this Act.

National Health Act 1953
Proposed section 4B will allow the Minister to determine, for the purpose of benefits, that certain varieties of attention normally require treatment in a hospital but not part of an overnight stay, or that the attention normally does not require hospital treatment. However, a practitioner may certify that due to the circumstances the patient requires treatment that will require an overnight stay or that the patient requires hospital treatment. If this is done, the higher rate of benefit will be payable (clause 21).

Clause 26 will insert new provisions dealing with situations where the classification requested by the proprietor is found to be inaccurate on a substantial number of occasions. Proposed section 40AFG provides that where the classification has been reviewed and found to be overclassified on a substantial number of occasions, the Secretary may determine that the proprietor is not to apply for the classification and may nominate another person or body to be the one to make such applications. The proprietor is to be notified of such decisions.

Proposed section 40AFH provides that a proprietor so affected may request that the Minister review such a decision. The Minister may confirm, vary or overrule the original decision.

The effect of such a determination will be that the proprietor will not be able to make an application regarding classification and any such application is to be made by the nominated person or body (proposed section 40AFJ).
Registered organisations that run health benefit funds will be required to keep increased minimum reserves. Such bodies will be required to have assets sufficient to cover all liabilities, including share calls (as at present), plus at least the prescribed minimum amount (defined to be $1 million or such higher amount as set by regulation) (clause 35). Clause 36 provides that the Minister may, after consultation with the proposed Private Health Insurance Administration Council, exempt organisations from the reserve requirement.

Clause 37 will amend section 73BB of this Act which deals with cases where amounts paid out as benefits may be debited against a reinsurance account. Currently, this may occur if the number of patient days in a year exceeds 35 days. The amendment will insert a new provision which will allow all the benefits in respect of someone over the prescribed age to be debited. The prescribed age is defined to be 65 years. This will give a benefit to those funds with a higher proportion of aged clients.

Clause 45 will insert a new Part VIAA into the Act which will establish the Private Health Insurance Administration Council. The Council is to consist of a Chairperson, three members representing registered organisations and one other member. Its functions are listed in proposed section 82G and include to: administer the Health Benefits Reinsurance Trust Fund; establish uniform reporting standards; impose levies to cover administrative costs; advise the Minister on the financial affairs of registered bodies; and make recommendations concerning exemptions from the minimum reserve requirement. The Council will have power to examine records, books, etc. (proposed section 82K), and registered organisations will be required to report annually (proposed section 82L). The remainder of the Part deals with largely administrative matters, such as appointments, meetings, etc.

**Nursing Homes Assistance Act 1974**
Clause 56 provides that, after the commencement of the provision, the Minister is not to issue a certificate under sub-sections 3(2) or 3(3) (the effect of the amendment is that the Minister is not to approve, in principle, any new nursing homes under this Act).

Section 4 of this Act allows the approval of nursing homes for assistance. Clause 57 will amend this section so that homes are not to be declared to be approved homes after 30 June 1992. This will apply to existing as well as new homes, so that approval under this Act will cease after that date. Between the commencement of this Bill and that date, homes are to be approved only if they are approved already or in-principle approval has been given. As well, section 4 will be amended to require that the objectives of the Disability Services Act 1986 be followed when providing assistance under this Act.

Section 5 of this Act will be amended to require the Minister not to approve a patient for a nursing home if satisfied that, having regard to the person’s condition and the availability of alternative accommodation, a more suitable alternative exists (clause 58).
Approval for the provision of additional services will also cease from 30 June 1992 (clause 59).

Clause 60 will amend the common agreement that nursing homes must enter to be eligible for funding. The provision will insert a definition of adjusted deficit, which will be the current allowed deficit less the expenditure listed (replacement of assets or repairs that exceed $1200 and superannuation and long service leave payments in respect of employees). If the adjusted deficit exceeds the amount determined under proposed sub-section 12(4B) in a year, the difference will be deducted from the approved deficit and the new amount will be deemed to be the approved deficit for that year. Proposed sub-section 12(4B) contains the formula for determining the first amount. This is based on the approved expenditure, except that listed above, and the average bed occupancy. The effect of the amendments is to limit assistance for the ordinary running of a home to the adjusted deficit. The replacement of assets etc mentioned above are thus excluded from the calculation and may be funded separately.

The Schedule to the Bill contains the new Pathology Services table, which lists the various items and the fee payable. It is estimated that the new Table will result in annual savings of $45 million.

For further information, if required, contact the Education and Welfare Group.

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Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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