Community Service and Health Legislation Amendment Bill (No. 2) 1988

Date Introduced: 10 November 1988  
House: House of Representatives  
Presented by: Hon. Neal Blewett, M.P., Minister for Community Services and Health

Digest of Bill

Purpose
To allow nursing homes to charge fees higher than the Commonwealth imposed standard fee; to ensure that health benefit funds pay health benefits to long-stay nursing home patients; and to recover money paid to First Home Owners Scheme (FHOS) applicants where the home is an investment. The Bill will also remove Medicare benefits in respect of services provided to most non-permanent residents and services provided overseas.

Background
The FHOS was introduced on 1 October 1983 to help people with low incomes purchase their first home. In 1987-88 the average level of assistance granted to 51,745 applicants, was $3939. The average price of houses purchased with FHOS assistance was $59,000, and 82% of applicants purchased established homes. In the 1988 May Economic Statement (the May Statement), the Government announced changes to the FHOS to apply from 26 May 1988. Single applicants and joint applicants with no children will no longer have a choice of either taking assistance in the form of a lump sum or a monthly grant. The monthly grants will be the only option available. This is expected to reduce outlays by $37 million in 1988-89 and $43 million in 1989-90. In 1988-89, $178 million will be provided for the FHOS. This is a reduction of $44.2 million or 19.9% on 1987-88 outlays.1

Under the Health Insurance Act 1973, Medicare pays rebates to Australian residents for certain overseas medical expenses. In the 1988-89 Budget, it was announced that from 1 January 1989 Medicare benefits will not be available in respect of services provided overseas. This is estimated to reduce Medicare outlays by $5 million in 1988-89 and $6 million in a full year.2 Where Australia has reciprocal health agreements with other countries, Australian residents will have access to both medical and hospital treatment on the same basis as the residents of the foreign country. Medicare benefits are currently available to a wide range of people who are not permanent Australian residents, such as those on temporary entry permits. This Bill will restrict the availability of benefits to a reduced range of Australian residents and New Zealanders.
On the 9 November 1988, the Minister for Community Services and Health announced that the Government would legislate to ensure that private health funds maintain health insurance cover to long-term nursing home patients. The Minister announced that the legislation was necessary because two private Victorian health funds, the Australian Natives’ Association and the Health Benefits Association, had indicated that they may deny benefits to long-term nursing home patients in some rural and bush hospitals.  

On 1 July 1987 the Government introduced new funding arrangements for nursing homes. The new arrangements involve a phased introduction of a standard daily resident fee and standard Commonwealth benefits. The first stage, introduced on 1 July 1987, established a national standard daily resident fee. The second stage, introduced on 1 July 1988, involves a two year phasing in of standard nursing and personal care (NPC) funding levels. Nursing home residents admitted to a nursing home after 1 July 1988 will have their care requirements classified into one of five resident arrangements which will determine the NPC funding to be allocated. Additional outlays totalling $131.6 million will be provided over the next three years for NCP funding.  

Main Provisions

Amendments to the *First Home Owners Act* 1983  

Where a person has not lived, and in the Secretary's opinion has no intention of living, in a home for which FHOS assistance was granted, the Secretary must direct that the person is not eligible for FHOS assistance. Where the Secretary issues a directive the assistance which has been paid becomes recoverable (clauses 4 and 5).  

Amendment to the *Health Insurance Act* 1973  

Clause 7 will insert new definitions of ‘Australian resident’, ‘hospital treatment’, and ‘nursing – home type patient’ in the Act. An ‘Australian resident’ will be defined as a person who is legally entitled to live in Australia (other than on a temporary entry permit). The definition will include a New Zealand citizen in Australia. The effect of the amendment is to ensure that Medicare benefits will not be available to people on whom eligibility was not intended to be conferred, e.g. temporary residents and illegal immigrants. The proposed definitions of ‘hospital treatment’ and ‘nursing – home type patient’ will ensure that health benefits organizations provide health benefits to long-term nursing home patients. In addition, a ‘nursing – home type patient’ will include any person included in a class of persons that the Minister has declared to be a class of ‘nursing – home type patient’.  

Clause 13 will repeal section 21 of the Act, which provides for the payment of Medicare benefits in respect of overseas medical services incurred overseas. This amendment will operate from 1 January 1989 (clause 2). Section 21 will continue to apply to overseas medical expenses incurred by Australians before 1 January 1989.
Amendments to the *National Health Act* 1953

Clauses 20 – 39 will insert into the Act an exempt nursing homes system, under which certain private nursing homes will be permitted to charge fees higher than the Commonwealth imposed standard fee. In addition, the amendments will introduce lodgement and processing charges for the review of nursing home fee determinations.

The Minister may specify the number of nursing home beds that will have exempt bed status within a State, Territory, or region (clause 23).

Clause 24 will insert a new section 39AB into the Act, which sets out the way in which nursing home beds may be granted exempt bed status. The proprietor of an approved nursing home may apply to the Minister for exempt bed status for beds in their nursing home. The proprietor’s application is to include information on the proposed level of the additional fee to be charged, and the proportion of the additional exempt bed fee that the proprietor proposes should be taken into account in reduction of the Commonwealth benefit payable in respect of each bed. The Minister is to establish principles to evaluate applications for exempt bed status. The principles are to include whether the granting of an application would unreasonably reduce access to nursing home care for financially disadvantaged people. The Minister may grant, for a specified period, exempt bed status to beds in a nursing home.

The proprietor of an exempt nursing home may vary the additional fee once every twelve months, subject to approval by the Secretary. The Secretary will approve a fee variation only if it is in accordance with principles established by the Minister (clause 27).

Existing patients of a nursing home containing exempt beds, or if incompetent their representative, will be given six months in which to decide whether they wish to be exempt residents and pay the additional fee. If an election is not made for a period of two years after the nursing home is granted exempt status, the resident will be charged only the amount payable had the nursing home not been granted exempt status. On expiry of this period the resident will be treated as having made an election (clause 28).

Clause 29 will insert new sections 40AE – 40AEH into the Act, which will provide for payment of a $500, or such other amount as the Minister determines, lodgement fee for appeals against nursing home fee determinations of the Secretary, and a Nursing Homes Fee Review Committee of Inquiry (the Committee) processing fee of up to $1000 per day. The lodgement fee will be refunded where a request is withdrawn within a prescribed period, or where the Secretary’s decision is varied by the Minister in favour of the applicant. The Committee processing fee also will be refunded where a request for review is wholly or substantially successful.
Clause 33 provides that the Minister may, at any time, review and revoke the exempt bed status of a nursing home. The grounds for review or revocation include that the proprietor of a nursing home has charged a patient a fee in excess of the maximum fee permitted under the proposed exempt bed system, and, where an election was made by a patient under clause 28, that there was duress or a threat of detriment or disadvantage. The Minister, on those grounds, may also suspend or revoke the Commonwealth’s approval of the nursing home as an ‘approved nursing home’.

Amendments of Community Services and Health Legislation Amendment Act 1988

Clause 42 will insert a new section 49AA into the Act which will provide that the Governor-General may make regulations for the formulation, implementation and regulation of a scheme providing for respite care in nursing homes. This amendment will operate from 24 June 1988 (clause 2).

References

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

12 December 1988

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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