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HOME AND COMMUNITY CARE BILL 1985

Date introduced: 9 October 1985
House: House of Representatives
Presented by: Hon. Brian Howe, M.P., Minister for Social Security and Minister Representing the Minister for Community Services

DIGEST OF BILL

Purpose

To provide a legislative basis for an agreement that may be entered into between the States and Commonwealth to provide a comprehensive care programme for the aged and disabled.

Background

The 1945 referendum gave the Commonwealth power to legislate for health benefits, including nursing home benefits, but did not authorise all legislation regarding health and welfare matters. Traditionally, the Commonwealth has made assistance available through section 96 of the Constitution which authorises the granting of financial assistance to the States. As a result, the Commonwealth has provided financial assistance while the States have been responsible for the control, supervision, regulation and licensing of home and community care facilities and services.

Commonwealth legislative action in this area has generally been concerned with the establishment and running of institutional care. One of the first initiatives was the passage of the Aged Persons Home Act 1954. Under this Act assistance was provided on a dollar for dollar basis to religious and charitable organisations for the capital costs of building homes for the aged. The Act aimed to provide assistance to those without family ties rather than to encourage people into institutions. The next initiative was the Home Nursing Subsidy Scheme which commenced operating in 1957 under the Home Nursing Subsidy Act 1956. The scheme provided assistance to home nursing organisations to care
for people in their own homes. However, the scheme was not intended to be a long term alternative to institutional care. The House of Representatives Standing Committee on Expenditure has stated: "The subsidy arose mainly because of the shortage of hospital beds and the consequent need for adequate, properly equipped home nursing".[1]

The concentration on institutional care became clear in the 1960s and 1970s. A nursing home benefit, based on bed occupancy, was introduced in 1963. It 'encouraged a belief among certain investors that nursing homes were low risk, high profit financial ventures'.[2] Indeed, the number of nursing home beds grew by 48 per cent in the following 5 years with most of the growth in private, profit making institutions. Further assistance to nursing homes was made available in 1966 when the capital cost subsidies available under the Aged Persons Homes Act 1954 was extended to nursing homes, provided that they made a certain number of residential beds available.

The method of financing nursing homes proved to be a disincentive to the expansion of home and community based nursing care. Whereas the Commonwealth funded nursing homes, other than State nursing homes, the States were required to provide home nursing services. As a result, there was an incentive for the States to authorise new private nursing homes which would be paid for by the Commonwealth, rather than provide home care at their own cost. For example, in 1979-80 the States spent $35 million on institutional care while the Commonwealth outlayed $314 million in the same period for the same purpose.[3]

A number of Acts were passed in 1969 dealing with the care of the aged and frail. One of these Acts, the States Grants (Nursing Homes) Act, continued the incentive towards institutional care by providing the States with a dollar for dollar subsidy for State nursing homes. However, two other Acts provided assistance for home care. Under the States Grants (Home Care) Act, the Commonwealth provides a dollar for dollar subsidy for the provision of homekeeping or other in-home domestic assistance to aged persons. The Act also established Senior Citizen Centres which were intended to co-ordinate, and in some cases provide, support services. However, the requirement that services be provided in-home meant that a large range of services, such as shopping and the transport of the aged, were ineligible for assistance. The other Act, the States Grants (Paramedical Services) Act, provided assistance to the States for services such as chiropody, physiotherapy and
speech therapy to aged persons in their homes. In both of the home care Acts, the States are required to contribute a proportion of the expenditure on home care. Consequently, the incentive remains for the States to rely on Commonwealth funded nursing homes. Further assistance for home care came with the passage of the Delivered Meals Subsidy Act in 1970. The Act provided assistance towards the provision of meals to the aged or invalids in their homes. However, the subsidy covers only the cost of the meal, and other associated costs, such as transport, are excluded.

A major attempt to make home care a viable alternative to institutional care occurred in 1972 when the National Health Act 1953 was amended. The amendments placed controls on admissions to, and the growth of, nursing homes. As well, a Domiciliary Nursing Care Benefit (DNCB) was introduced for people providing care to a relative over 65 years whose condition would otherwise warrant admission to a nursing home. When introduced, the DNCB benefit was $14 per week or 40 per cent of the Commonwealth nursing home benefit in NSW. However, the DNCB has lost this relativity and now stands at $21 per week or 9 per cent of the current Commonwealth nursing home benefit in NSW.

Developments in recent years have mainly centred on the Acts described above which have had minor amendments to alter the rate of assistance or the eligibility criteria. As a result, institutional care in nursing homes has remained the major form of care for the aged and infirm and consumes the majority of Commonwealth funds spent on this area. For example, in 1984-85 payments to nursing homes totalled $940.6 million while grants under the States Grants (Home Care) Act 1969 totalled $42.7 million and the DNCB scheme cost $26.4 million.[4] Against this background, the Commonwealth announced, in 1984, that a Home and Community Care (HACC) Program would be introduced. HACC will be based on a Commonwealth/State agreement to provide assistance to State and local governments and community organisations for home care and assistance.

It should also be noted that the Social Security and Repatriation (Budget Measures) Amendment Bill 1985, which is currently before Parliament, proposes the establishment of a carer's pension. The pension will be available to those providing constant care on a long-term basis to a severely handicapped aged or invalid pensioner spouse or close relative.
Outline

The Bill will authorise payments to the States and the Northern Territory where there is an agreement with the Commonwealth which is substantially in accordance with the agreement incorporated in the Schedule to the Bill.

Main Provisions

For a detailed analysis of the clauses of the Bill refer to the Explanatory Memorandum.

Payments to the States are authorised by sub-clause 3(1).

State is defined to include the Northern Territory by sub-clause 3(4).

The major elements of the agreement incorporated as a Schedule to the Bill are:

- the purpose of the agreement is to provide a comprehensive range of home and community care services for the frail or at risk aged persons and younger disabled persons which will maintain those people in their own homes (Recital C of the Schedule);

- the agreements will operate from 1 July 1985 (clause 1). They are reviewable at any time after the first 2 years. If there is no agreement as to the terms for future agreements, the agreement will cease at the end of a further 2 years (clause 31);

- the goals and purpose of the HACC program are further elaborated in clauses 5 and 6;

- the range of services to be covered by the agreement are listed in clause 7 and include the provision of home help or personal care; home maintenance or modification; transport and community nursing. As well, former Commonwealth funded projects are included in the program (clause 8);
the provisions for financing the program are contained in Part V of the agreement which comprises clauses 12 to 19. The Commonwealth will provide the following funds for the first two years of the program:

- base funding comprising the 1984/85 expenditure on programs which will be incorporated in HACC indexed in accordance with clause 17 and, for 1985-86 only, the unexpended balance of $10 million allocated to the program in 1984-85. As none of this money was used in 1984-85, the full $10 million will be available in 1985-86 (clause 13);

- additional funding on a $3 for $1 basis of eligible State expenditure in 1985-86 and, for 1986-87, generally on a $2 for $1 basis. Additional funding will be limited to the amount set out in the Schedule to the agreement (clause 16);

funding for the third and fourth years is dealt with in clause 18. For the third year there will be an increase of up to 20 per cent on the preceding year's funding and for the fourth year there will be a 20% increase on the preceding year unless the Commonwealth and States agree on another figure. These increases in funding assume that HACC will continue past its first review which is to be conducted after 2 years of operation. If agreement is not reached at such a review, the scheme will continue for a further 2 years and the States and Commonwealth will be required to maintain their expenditure in indexed terms (clauses 18 and 31).

Remarks

At the time of the introduction of this Bill, South Australia, Western Australia, Tasmania and the Northern Territory had signed HACC agreements.
For further information, if required, contact the Education and Welfare Group.

Bills Digest Service
LEGISLATIVE RESEARCH SERVICE

25 October 1985

References

1. "In a Home or at Home: Accommodation and Home Care for the Aged". House of Representatives Standing Committee on Expenditure Report, October 1982, p.12.
2. ibid, p.13.
3. ibid, p.52.
4. 1985-86 Budget Paper No. 6, pp.38 and 40.

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