HEALTH LEGISLATION AMENDMENT BILL 1984

Date Introduced: 13 September 1984
House: House of Representatives
Presented by: Hon. Neal Blewett, M.P., Minister for Health

Short Digest of Bill

Purpose

To amend the Epidemiological Studies (Confidentiality) Act 1981, the Health Insurance Act 1973, the National Health Act 1953 and the Tuberculosis Act 1948.

Background

This legislation, the Health Legislation Amendment Bill 1984, seeks to amend the four Acts to provide for, inter alia:

1. **Epidemiological Studies (Confidentiality) Act 1981**
   - to ensure confidentiality in relation to information regarding the affairs of deceased persons, as well as the living.

2. **The Health Insurance Act 1973**
   - to put beyond doubt the fact that the term 'in-patient' as used in the definition of 'basic private table' in sub-section 4(1) of the National Health Act 1953 includes patients in recognised or public hospitals as well as private hospitals.
   - to authorise the payment of medicare benefits in respect of services which are not specifically listed in the Medical Benefits Schedule.

3. **The National Health Act 1953**
   - to make provisions to enable patients in approved nursing homes to make agreements with proprietors to be absent from a nursing home, without forfeiting any rights.
in such situations, the vacated beds may be used by approved short-term respite care patients.

while the patient is absent by agreement Commonwealth Nursing Home Benefits will continue to be paid for up to a maximum of 28 days.

4. The Tuberculosis Act 1948

- to provide for the phasing out of the tuberculosis allowance.

Main Provisions

Epidemiological Studies (Confidentiality) Act 1981

Clause 4 amends section 3 of the Principal Act to ensure that it also covers the affairs of a deceased person.

Health Insurance Act 1973

Clause 7(b) seeks to substitute a new definition of 'in-patient' as used in the definition of 'basic private table' contained in sub-section 4(1), to ensure that it applies to patients occupying beds in recognised public hospitals as well as private hospitals.

Clause 8 amends section 3B of the Principal Act. Section 3B certificates are issued by doctors and state that a particular long-stay hospital in-patient is in need of acute care for a certain period of time. Acceptance of this certificate entitles the long-stay patient to the full level of hospital fund benefits, and therefore exempts them from having to make a patient contribution. The amendment from clause 8 allows the section 3B certificate to be issued 14 days (presently 7 days) before it would come into effect. This allows more time if the 3B certificate is referred for review by an Acute Care Advisory Committee. This Committee may revoke or vary the certificate.

Clause 9 inserts a new section 3C to empower the Minister to determine that a specified health service not listed in the medical benefits schedule shall be treated as though it were listed. In such a determination the Minister may nominate a fee so that Medicare benefits can be calculated.

New sub-section 3C(4) means that such determinations shall be laid before the Senate and House of
Representatives where they will be subject to possible disallowance.

New sub-section 3C(8) defines health service as medical, surgical, obstetric, dental or optometrical and any other service that relates to health but does not include supply of prostheses except when supplied in relation to a professional service.

National Health Act 1953

Clause 12 amends section 4 of the Principal Act to enable qualified or Repatriation nursing home patients or their agents to enter into agreements with the proprietors of the nursing home to enable them to temporarily vacate their beds for agreed periods while retaining their right to reclaim the bed at the end of the agreed period.

New sub-sections 4AA(2), 4AA(3) and 4AA(4) deal with the form of agreement to be used between patient and proprietor. New sub-section 4AA(5) outlines the types of issues covered by the agreement e.g. notice to be given to proprietor by patient or his agent; the patient to be able to occupy bed vacated immediately before absence; bed retention fees (not applicable in Government nursing home); deduction of Commonwealth nursing home benefits from bed retention fees.

New sub-section 4AA(6) allows for 28 days of absence during a year.

New sub-section 4AA(9) provides that for the purposes of sections 47, 48, 49, 59 and 60A the qualified nursing home patient will attract Commonwealth nursing home benefits and, where applicable, Commonwealth extensive care benefits, for each recognised day of absence. This will operate for up to 28 days or the first 28 days of a longer period.

Clause 13 inserts new para. 9A(1)(aa) into the Principal Act and will therefore enable the Minister to arrange for the repair and maintenance of, and supply of parts (including batteries) for hearing aids which have been acquired through the provisions of section 9A.

Clause 14 introduces a new section 9C to empower the Minister to make arrangements with States, Territories and bodies corporate to supply a range of medical and surgical goods, as well as to arrange modifications to buildings, vehicles or equipment for sick or disabled people. The funding will come from the Commonwealth but the States, Territories and bodies corporate, who will be
accountable, will administer the scheme. The Commonwealth will meet administrative costs up to an agreed level (new para. 9C(2)(a)).

Clause 15 introduces additional conditions which a nursing home must meet to qualify for nursing home benefits. Those new conditions, in sub-section 40A(6), are:
Condition (ba) requires proprietor to comply with agreement made with patient about approved temporary absences;
Condition (bb) while the patient is absent under conditions of the agreement the proprietor must not (i) allow the bed to be occupied by anyone other than a short-term respite care patient, (ii) charge the short-term respite care patient a fee in excess of that calculated with the formula described in the new para. 40A(bb)(ii) of the Principal Act. New Condition (cc) obliges the proprietor to supply the agreement to a departmental officer when it is requested in writing by the Minister for Health.

Clause 15(e) introduces a new sub-section 40A(10) to cover the situation where a short-term respite care patient is admitted to an approved nursing home prior to the Minister's approval. If it would not have been practical to seek prior approval, and such approval would have been granted if it had, the Minister will approve the admission. If the Minister is not satisfied he may refuse approval.

Clause 16(a) inserts new sub-section (5A), which contains provisions such that a person occupying a bed as a short-term respite care patient at the time the approved occupant who is absent dies, shall be considered to have been admitted to the home as a qualified nursing home patient.

Clause 17 adds a new section 40ABA after existing section 40AB to cover the admission of short-term respite care patients.

New sub-section 40ABA(1) enables a person or that person's agent to apply for admission to an approved nursing home as a short-term respite care patient.

New sub-section 40ABA(2) provides that an application shall include a doctor's certificate stating that the person concerned has, by reason of infirmity, illness, disease, incapacity or disability, a need for nursing home care.

New sub-section 40ABA(7) requires the Minister, if he refuses the application for any reason as outlined in the legislation, to notify the applicant in writing.
Clause 18 amends section 40AD by inserting a new sub-section 40AD(1AA). This provides that for each day that a qualified nursing home patient or Repatriation nursing home patient is absent by agreement with the proprietor, the bed is deemed to be occupied, for purposes of payment of Commonwealth Nursing Home Benefits.

Clauses 19, 20, and 21 are consequential amendments.

Clauses 22, 23 and 24 refer to the Health Benefits Reinsurance Trust Fund. Clause 23 amends section 73BC and makes the new Fund a trust account for the purposes of section 62A of the Audit Act.

Clause 26 amends section 105AAB to confer rights upon people whose applications for admission to approved nursing homes as short-term respite care patients are refused. Firstly they will be able to apply for reconsideration by the Minister and subsequently, by the Administrative Appeals Tribunal.

**Tuberculosis Act 1948**

Clauses 27 and 28 provide for the phasing out of the Tuberculosis Allowances. New sub-section 9(4) of the Principal Act provides that no new application for a Tuberculosis Allowance will be granted where the application is lodged after 1 November 1984. New sub-section 9(5) makes similar provisions for dependents of applicants. Current beneficiaries will not be affected.

For further information, if required, contact:

28 September 1984

Education and Welfare Group

LEGISLATIVE RESEARCH SERVICE