Date Introduced: 6 September 1983
House: House of Representatives

Short Digest of Bill

Purpose

To amend the Health Insurance Commission Act 1973, the Health Insurance Act 1973 and the National Health Act 1953 to enable the introduction of the universal health insurance scheme, Medicare.

Background

The Health Legislation Amendment Bill 1983 is one of a package of four Bills (the others being Medicare Levy Bill 1983; Income Tax Laws Amendment Bill 1983; and States (Tax Sharing and Health Grants) Amendment Bill (No.2) 1983) which the Government has introduced to enable Medicare, to begin operations on 1 February 1984.

Medicare is the latest attempt by the Australian Labor Party to implement its policy in support of an universal health insurance scheme. It contains a similar philosophy to that of the original Medibank scheme of 1975.

This legislation, the Health Legislation Amendment Bill 1983 aims to amend three Bills to provide for, inter alia;

1. Health Insurance Act 1973

   (a) the introduction of the health insurance scheme to be known as Medicare;

   (b) the Commonwealth to have, with some minor exceptions, the exclusive right to operate medical insurance schemes and the existing private insurers to cease to operate in this area;

   (c) a standard and universal level of medical benefits;
(d) arrangements between the Commonwealth and the States (including the Northern Territory) relating to the provision of hospital services and community health services by that State and the Northern Territory after 1 February 1984 to eligible persons;

(e) direct billing of the Commonwealth by practitioners where the practitioner agrees to accept the medicare benefit of 85 per cent of the schedule fee as payment in full for the service;

(f) categorisation of private hospitals according to type of services and facilities provided, with payment of Commonwealth bed day subsidy and basic hospital insurance benefits based on such categorisation;

(g) the right of private practitioners to claim medicare benefits for diagnostic or other services provided in recognised hospitals pursuant to a contract between the practitioner and the hospital where the contract is in a form approved by the Minister;

(h) an offence where the admission of a patient to a hospital results in an improper financial gain to the doctor or hospital;

(i) new arrangements relating to long stay nursing home type patients.

2. National Health Act 1963

(a) registered private health insurance organisations to maintain certain operations in relation to hospital benefits, (particularly for the patient who elects to have a doctor in private practice);

(b) the winding up of existing health insurance organisations which do not seek re-registration after 1 February 1984 and for the distribution to contributors of any surplus funds;

(c) the re-registration of existing health insurance organisations which desire to operate amalgamated health benefits funds after 1 February 1984;
(d) registered health organisations to vary by their own decision:

(i) contribution rates; and

(ii) conditions for the provision of benefits other than those related to the basic table;

(e) the maintenance by registered organisations of a 2 months minimum level of reserves;

(f) registered organisations to be permitted to diversify their operations outside the traditional range of health insurance activity;

(g) health funds to merge, subject to Ministerial approval;

(h) changes to the legal and administrative arrangements relating to the operation of the Hospital Benefits Reinsurance Trust fund.

3. Health Insurance Commission Act 1973

(a) the Health Insurance Commission to plan, implement and administer the Medicare scheme in relation to Medicare benefits;

(b) the separation of the Medicare and Medibank Private functions of the Commission;

(c) the Commonwealth to use the name Medicare and an associated logo in relation to the health insurance scheme.

Main Provisions

Part II Amendments of the Health Insurance Act 1973

Clause 7 of the Bill amends s.7 of the Principal Act which deals with eligibility to carry a Health Care Card. Under existing arrangements refugees and recent immigrants are eligible for the health care card benefits. With the introduction of Medicare these people will be eligible to the same benefits as other citizens.

A new s.6 is inserted by clause 8. It provides for the Minister for Health to declare whether a visitor or class of visitor to Australia is eligible or ineligible for medicare hospital and medical benefits.
S.10 of the Principal Act is amended by clause 12 to include definitions of medicare benefits:

- 85 per cent of the schedule fee in the table in the State where the professional service is rendered;

- if there is more than $10 difference between the medicare benefit and the fee charged the Medicare benefit is adjusted so that the patient contribution does not exceed $10.

In s.14 of the Principal Act there were provisions to ensure that medical benefits did not exceed medical expenses incurred. Clause 15 seeks to substitute references to Medicare benefits in place of Commonwealth medical benefits.

S.17 of the Health Insurance Act 1973 identifies situations where medical benefits are not payable. Clause 18 of the Bill amends s.17. Clause 18(1)(a) adds a new subsection which provides that medicare benefits will not be paid for prescribed professional services rendered to patients of or at recognised State and Territory hospitals if the medical practitioner is exercising rights of private practice unless:

- the practitioner has entered into an agreement with a recognised hospital; and

- the practitioner is acting in accordance with that agreement.

SS.17(4) defines that agreement, as an agreement between the medical practitioner and recognised hospital made on or after 1 February 1984 under which the practitioner has a right to render professional services on his own behalf in respect of patients of or at recognised hospitals.

Clauses 19, 20, 21, 22 and 23 are consequential amendments.

Clause 24(a) provides for the Health Insurance Commission to pay benefits on behalf of the Commonwealth.

A new subsection, added by clause 24(b), provides for the situation where a person has incurred, but not paid, a medical expense. That person can request the cheque be made out to the person who provided the service.

Clause 25 replaced s.20A of the Principal Act. The new s.20A(1) allows an eligible person who has received
medical treatment to enter into an agreement with the practitioner who rendered the services, under which:

- the eligible person assigns his right to payment of the medical benefit to the practitioner; and

- the practitioner accepts the assignment as full payment of the medical expenses incurred by the person who signed the agreement.

SS.20A(2) deals with same provisions in respect to pathology services.

Clause 28 makes consequential amendments to s.21 to provide for payment of medicare benefits to Australian residents for medical expenses incurred outside Australia. The Commonwealth will continue the practice of not paying hospital benefits for hospital treatment incurred outside Australia.

Clause 29 repeals s.23 under which the Minister requested practitioners to bulk bill for pensioners and their dependants. Under Medicare, pensioners and dependants will be eligible for the same benefits as other citizens.

Clause 31 inserts a new s.23F which empowers the Commonwealth to enter into agreements with a State or the Northern Territory for the provision of services to eligible persons on or after 1 February 1984.

Clause 31 provides for a new s.23H(1) in the Principal Act. It will allow to Minister to formulate general principles in relation to approvals in principle and final approval of proposals concerning private hospitals - such as new premises or extra beds.

Clause 32 provides a detailed outline of the procedures involved in granting of either approval in principle or final approval to private hospitals.

Clause 35 repeals s.27 and inserts new provisions to enable authorised officers to inspect the premises of an approved private hospital or the premises for which an application has been made. The Minister would also be able to authorise inspection of books, documents or other records on the premises relating to the operation of premises as a private hospital.

Clause 37 repeals s.29. New ss.29(1) and (2) name the situations in which the Minister may revoke or suspend the approval of premises as a private hospital.
Clause 38 repeals section 30 of the Principal Act which authorises the Commonwealth to enter into agreements with a State for and in relation to the provision of hospital services to eligible persons. Sub-clause 38(2) would provide that the only remaining agreements under this section (that is, between South Australia and Tasmania and the Commonwealth respectively) cease to have effect on 1 February 1984 except in so far as the agreements related to hospital services provided before that date.

Clause 39 empowers the Minister, through gazettal, to specify categories of private hospitals and to specify the daily bed payments to be made to the proprietor for each day that the bed in that category was occupied.

Clause 40 sets out the conditions surrounding the payment of daily bed payments to private hospitals. The conditions include; a daily payment will be made for each day on which an eligible person is an inpatient for more than 12 hours; the daily bed payment must not exceed the average cost to the proprietor of maintaining that bed.

Clause 43 provides for the Minister to call for information from private hospital proprietors in relation to claims for daily bed payments.

Clause 45 inserts new s.38 and 38A into the Principal Act to enable private hospital proprietors to seek reconsideration of certain Ministerial decisions. Proprietors are also given access to appeal to the Administrative Appeals Tribunal when dissatisfied with the Ministers reconsidered decision.

Clause 57 inserts a new s.126 which gives the Commonwealth, with minor exceptions, an exclusive right to operate medical insurance schemes. The exceptions are diplomats, short term visitors to Australia and Australians travelling overseas.

Clause 58 amends s.129AA to create two new offences:

SS.129AA(1A) is concerned with medical practitioners who seek or receive payment etc from the proprietors of private hospitals in return for an agreement to enable a person to be admitted as an in-patient in the hospital and be eligible to attract daily bed payments;
New ss.129AA(1B) makes it an offence for the proprietor of a private hospital to attempt to influence a practitioner to admit his patients to the hospital owned by the proprietor.

Clause 64 provides for the insertion of a new schedule at the end of the Health Insurance Act 1973. That schedule contains guidelines for the agreements between the Commonwealth and the Northern Territory and the States as referred to in the discussion of clause 31. The agreement is to:

(1) relate to a specified period but may provide for an extension of this period;

(2) list the hospitals in the State that are to be recognised hospitals;

(3) provide for payments by the Commonwealth to the State for the purposes of reimbursing the States for losses incurred from the removal of all in-patient and out-patient fees for people who elect to be treated without charge as public patients in recognised hospitals, for losses incurred from a reduction in fees for private patients in recognised hospital services;

(4) enable the Commonwealth to vary the amount of its payments to take account of movements in costs of hospital and health services;

(5) provide for the State to ensure that care and treatment will be available to all eligible persons without charge as public patients in recognised hospitals;

(6) to specify certain charges to apply in recognised hospitals;

(7) to provide that States make daily bed payments to private hospitals;

(8) provide for the creation of a consultative body to consider matters relating to the agreement.

Amendments to Health Insurance Commission Act 1973

Clause 67 defines the functions of the Health Insurance Commission with reference to Medicare. This is in relation to the planning and establishment by the HIC of the
organisation required to administer a health insurance scheme to provide benefits in respect of medical, optometrical, dental and pathology services to all Australian residents within the meaning of the Health Insurance Act 1973.

Clause 80 amends s.34A of the Principal Act so that only the HIC's Medibank Private operations must be pursued with a policy directed towards securing revenue sufficient to meet the expenditure related to its functions.

Clause 83(1) omits ss.36(6) and replaces it with provisions which allow the Health Insurance Commission to invest money it has accrued from its Medicare operations but which is not immediately required, in an approved bank, government securities or in a manner approved by the Treasurer. Income from these investments shall be paid to the Commonwealth.

Amendments to the National Health Act 1953

Clause 101 inserts new s.73BAA, 73BAB and 73BAC into the Principal Act.

SS.73BAA(1) and (2) provide that a registered health benefits organisation shall not conduct any business other than business as a registered organisation. If it is a friendly society the money from its health benefits fund shall not be used for other purposes.

SS.73BAB(1) provides that a registered health benefits organisation must hold, at all times, certain assets above a specified level.

SS.73BAB(3) defines that minimum reserve level as 2 months of break-even contribution income.

Clause 102 amends s.73BB of the Principal Act by repealing ss.(1), (3), (4), (5), (6) and (9) and inserting new ss.(1), (3) and (4).

Under new ss.73BB(1) it is a condition of registration as a health benefits organisation that it establishes and maintains a reinsurance account.

S.73BEA of the National Health Act is to be repealed as a result of negotiations between the Minister for Health and the health insurance industry. Clause 106 repeals this section which empowers the Minister for Health to give a direction that an organisation, other than a friendly society, not conduct business other than business
as a registered organisation and to give directions concerning management practices.

Under the current provisions of s.82(R) the Minister can investigate the affairs of a fund only when it appears the fund is about to become insolvent or where there is non-compliance with a provision of the Act or a direction etc. Clause 123 inserts a new paragraph (aa) to s.82R, to enable the Minister to appoint an inspector to investigate a fund's affairs where it appears that the affairs of the organisation are not being conducted in the best interest of its contributions.

Clause 128 contains provisions to facilitate the easier merger of health benefits funds. The Minister must approve applications for merger and may refuse to do so unless alterations are made which he thinks desirable.

Clause 131 repeals the schedule to the Principal Act and inserts a new one, "Conditions for Registration of an Organisation". Paragraph K of Schedule 3 enables health benefits organisations to impose waiting times on contributors; not exceeding 9 months for obstetric conditions and 24 months for pre-existing ailments (of a kind specified by the Minister).

For further information, if required, contact:

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