

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 11 April 1991

(Minister for Community Services and Health)

A BILL

FOR

An Act to amend certain provisions of the *Health Insurance Act 1973* relating to pathology services, and for related purposes

The Parliament of Australia enacts:

Short title etc.

1. (1) This Act may be cited as the *Health Insurance (Pathology Services) Amendment Act 1991*.

5 (2) In this Act, “**Principal Act**” means the *Health Insurance Act 1973*¹.

Commencement

2. (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

(2) Each of the provisions of subsections 4 (1) and 5 (1) is taken to have commenced on the day, or at the time, shown by the note in italics at the foot of that provision. 5

Interpretation

3. Unless the contrary intention appears, a word or expression:

(a) defined in the Principal Act for the purposes of that Act; and

(b) used in this Act; 10

has in this Act the same meaning as it has in the Principal Act.

Schedule 1

4. (1) Schedule 1 to the Principal Act is amended:

(a) by inserting in each of items 1345 and 1346 in the table of medical services “(other than a microbiological or tissue antigen or antibody)” after “substance”; 15

Commencement: 1 January 1980.

(b) by adding at the end of the rules for the interpretation of the table of medical services the following rules:

“A.1. If a particular service falls within both: 20

(a) the description of service in an item that describes the service in general terms; and

(b) the description of service in an item that describes the service in specific terms;

only the item that describes the service in specific terms is taken to relate to the service. 25

“A.2. If:

(a) a particular service falls within the description of service in 2 or more items; and

(b) rule A.1 does not apply; 30

the item that specifies the lower or lowest fee is taken to be the item that relates to the service.”;

Commencement: 1 January 1980.

(c) by inserting each of the following items in its appropriate numerical position in the table of medical services: 35

2294(3)	Enzyme-linked immunosorbent assay (ELISA)—one test (SP)	15.40	15.40	15.40	15.40	15.40	15.40
2294(4)	Each test referred to in the above item in excess of one (SP)	8.20	8.20	8.20	8.20	8.20	8.20

2295(3)	Enzyme-linked immunosorbent assay (ELISA)—one test (OP)	11.55	11.55	11.55	11.55	11.55	11.55
2295(4)	Each test referred to in the above item in excess of one (OP)	6.15	6.15	6.15	6.15	6.15	6.15

Commencement: 1 March 1984.

(d) by omitting from the table of medical services items 2294 (3), 2294 (4), 2295 (3) and 2295 (4) and substituting the following items:

2294 (3)	Enzyme-linked immunosorbent assay (ELISA)—one test (SP)	16.60	16.60	16.60	16.60	16.60	16.60
2294 (4)	Each test referred to in the above item in excess of one (SP)	8.80	8.80	8.80	8.80	8.80	8.80
2295 (3)	Enzyme-linked immunosorbent assay (ELISA)—one test (OP)	12.45	12.45	12.45	12.45	12.45	12.45
2295 (4)	Each test referred to in the above item in excess of one (OP)	6.60	6.60	6.60	6.60	6.60	6.60

5 *Commencement: 15 June 1984.*

(e) by inserting each of the following items in its appropriate numerical position in the table of medical services:

2294 (3)	Enzyme-linked immunosorbent assay (ELISA)—one test (SP)	17.20	17.20	17.20	17.20	17.20	17.20
2294 (4)	Each test referred to in the above item in excess of one (SP)	9.20	9.20	9.20	9.20	9.20	9.20
2295 (3)	Enzyme-linked immunosorbent assay (ELISA)—one test (OP)	12.90	12.90	12.90	12.90	12.90	12.90
2295 (4)	Each test referred to in the above item in excess of one (OP)	6.90	6.90	6.90	6.90	6.90	6.90

Commencement: Immediately after the commencement of Statutory Rules 1985 No. 149 on 1 July 1985.

(f) by omitting from the table of medical services items 2294 (3), 2294 (4), 2295 (3) and 2295 (4) and substituting the following items:

2294 (3)	Enzyme-linked immunosorbent assay (ELISA) for a microbiological or tissue antigen or antibody where that antigen or antibody is not specified elsewhere in the Schedule— one test (SP)	17.20	17.20	17.20	17.20	17.20	17.20
2294 (4)	Each test referred to in the above item in excess of one (SP)	9.20	9.20	9.20	9.20	9.20	9.20
2295 (3)	Enzyme-linked immunosorbent assay (ELISA) for a microbiological or tissue antigen or antibody where that antigen or antibody is not specified elsewhere in the Schedule— one test (OP)	12.90	12.90	12.90	12.90	12.90	12.90
2295 (4)	Each test referred to in the above item in excess of one (OP)	6.90	6.90	6.90	6.90	6.90	6.90

Commencement: 14 March 1986.

(2) Similar amendments to the amendments made by paragraph 5
(1) (a) are taken to have been made to each table of medical services that:

(a) was prescribed for the purposes of subsection 4 (2) of the Principal Act; and

(b) had effect (under subsection 4 (3) of that Act) as if it had been 10
set out in Schedule 1 to that Act;

after 1 January 1980 and before 1 August 1986.

(3) The rules added to the table of medical services in Schedule 1 to the Principal Act are taken to have been added to each table of 15
medical services that:

(a) was prescribed for the purposes of subsection 4 (2) of that Act; and

(b) had effect (under subsection 4 (3) of that Act) as if it had been 20
set out in that Schedule;

after 1 January 1980 and before 1 August 1986.

(4) If:

(a) after an item was inserted in the table of medical services in Schedule 1 to the Principal Act by a paragraph of subsection (1); and

5 (b) before that item was omitted by another paragraph of that subsection;

another table of medical services was prescribed for the purposes of subsection 4 (2) of that Act and had effect (under subsection 4 (3) of that Act) as if it had been set out in that Schedule in the place of the
10 first-mentioned table, that other table is taken to have had effect as if that item had been inserted in it.

Schedule 1A

5. (1) Schedule 1A to the Principal Act is amended:

15 (a) by inserting in each of items 1345 and 1346 in the pathology services table “(other than a microbiological or tissue antigen or antibody)” after “substance”;

Commencement: Immediately after the commencement of section 52 of the Health Legislation Amendment Act 1986 on 1 August 1986.

20 (b) by adding at the end of the rules for interpretation of the pathology services table the following rules:

“A.1. If a particular service falls within both:

(a) the description of service in an item that describes the service in general terms; and

25 (b) the description of service in an item that describes the service in specific terms;

only the item that describes the service in specific terms is taken to relate to the service.

“A.2. If:

30 (a) a particular service falls within the description of service in 2 or more items; and

(b) rule A.1 does not apply;

the item that specifies the lower or lowest fee is taken to be the item that relates to the service.”;

35 *Commencement: Immediately after the commencement of section 52 of the Health Legislation Amendment Act 1986 on 1 August 1986.*

(c) by inserting each of the following items in its appropriate numerical position in the pathology services table:

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2294 (3)	Enzyme-linked immunosorbent assay (ELISA) for a microbiological or tissue antigen or antibody where that antigen or antibody is not specified elsewhere in the Schedule— one test (SP)	17.20	17.20	17.20	17.20	17.20	17.20
2294 (4)	Each test referred to in the above item in excess of one (SP)	9.20	9.20	9.20	9.20	9.20	9.20
2295 (3)	Enzyme-linked immunosorbent assay (ELISA) for a microbiological or tissue antigen or antibody where that antigen or antibody is not specified elsewhere in the Schedule— one test (OP)	12.90	12.90	12.90	12.90	12.90	12.90
2295 (4)	Each test referred to in the above item in excess of one (OP)	6.90	6.90	6.90	6.90	6.90	6.90

Commencement: Immediately after the commencement of section 52 of the Health Legislation Amendment Act 1986 on 1 August 1986.

(2) Similar amendments to the amendments made by paragraph (1)(a) are taken to have been made to each pathology services table that:

(a) was prescribed for the purposes of subsection 4A (2) of the Principal Act; and

(b) had effect (under subsection 4A (3) of that Act) as if it had been set out in Schedule 1A to that Act;

after 1 August 1986 and before 1 August 1989.

(3) The rules added by paragraph (1) (b) to the pathology services table in Schedule 1A of the Principal Act are taken to have been added:

(a) to each pathology services table that:

(i) was prescribed for the purposes of subsection 4A (2) of the Principal Act; and

(ii) had effect (under subsection 4A (3) of that Act) as if it had been set out in that Schedule;

after 1 August 1986 and before the commencement of this subsection; and

(b) to the pathology services table that was substituted for the table then in that Schedule by the *Community Services and Health Legislation Amendment Act 1989*.

(4) The items inserted by paragraph (1) (c) in the pathology services table in Schedule 1A of the Principal Act are taken to have been inserted in each pathology services table that:

(a) was prescribed for the purposes of subsection 4A (2) of the Principal Act; and

(b) had effect (under subsection 4A (3) of that Act) as if it had been set out in that Schedule;

after 1 August 1986 and before 1 August 1989.

Transitional

6. (1) Where:

(a) before the commencement of this section, a person made a claim for payment of a benefit in respect of a service by reference to an item that, because of the retrospective operation of a provision of section 4 or 5, did not relate to the service; and

(b) the person has been paid in respect of the service a benefit calculated by reference to the fees specified in that item;

the person is taken to have been entitled to receive in respect of the service the amount of benefit that was paid.

(2) Where:

(a) before the commencement of this section, a person made a claim for payment of a benefit in respect of a service by reference to an item that, because of the retrospective operation of a provision of section 4 or 5, related to the service; and

(b) the person has been paid in respect of the service a benefit calculated by reference to the fees specified in another item;

the person is taken to be entitled to receive in respect of the service the higher of:

(c) the amount of the benefit payable in respect of the service; and

(d) the amount of benefit that was paid.

(3) Where:

(a) before the commencement of this section, a person made a claim for payment of a benefit in respect of a service by reference to an item that, because of the retrospective operation of a provision of section 4 or 5, did not relate to the service; and

(b) the person has been paid in respect of the service a benefit calculated by reference to the fees specified in the item that, because of the retrospective operation of a provision of section 4 or 5, related to the service;

the person is taken to have been entitled to receive in respect of the service the amount of benefit that was paid.

(4) Where:

(a) before the commencement of this section, a person made a claim for payment of a benefit in respect of a service by reference to an item that, because of the retrospective operation of a provision of section 4 or 5, did not relate to the service; and 5

(b) subsection (3) does not apply to the person; and

(c) the person has been paid in respect of the service a benefit calculated by reference to the fees specified in another item; 10

the person is taken to be entitled to receive the higher of:

(d) the amount of the benefit payable in respect of the service; and

(e) the amount of benefit that was paid.

(5) If, apart from this subsection, an amount to which a person is taken to be, or to have been, entitled under this section, would not be an amount payable by the Commonwealth under Part II of the Principal Act, that amount is taken, for the purposes of section 125 of that Act, to be an amount payable by the Commonwealth under that Part. 15

Saving

7. This Act does not affect the liability of any person to pay or repay an amount to the Commonwealth under Part V of the Principal Act. 20

NOTE

1. No. 42, 1974, as amended. For previous amendments, see No. 58, 1975; Nos. 59, 91, 101, 109 and 157, 1976; No. 75, 1977; Nos. 36, 89 and 133, 1978; Nos. 53 and 123, 1979; No. 132, 1980; Nos. 118 and 176, 1981; Nos. 49, 80 and 112, 1982; Nos. 54 and 139, 1983; Nos. 15, 46, 63, 120, 135 and 165, 1984; Nos. 24, 65, 70, 95 and 167, 1985; Nos. 28, 75 and 94, 1986; Nos. 44, 131, 132 and 141, 1987; Nos. 85, 87, 99 and 155, 1988; Nos. 59, 84, 95 and 164, 1989; Nos. 3, 106 and 141, 1990; and No. 6, 1991.