

ARTHUR ROBINSON & HENDERSON

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THE PARLIAMENT OF THE COMMONWEALTH OF
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HOUSE OF REPRESENTATIVES

Health And Other Services (Compensation)
Amendment Bill 1996

EXPLANATORY MEMORANDUM

(Circulated by authority of the Hon. M.J. Lee, MP)

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Health and Other Services (Compensation) Amendment Bill 1996

Outline

OUTLINE AND FINANCIAL IMPACT

This Bill seeks to amend the *Health and Other Services (Compensation) Act 1995* (subsequently referred to in this explanatory memorandum as the “Principal Act”) so as to streamline procedures for payment to people of compensation following judgment or settlement of a claim, while ensuring that the Commonwealth is reimbursed for injury-related medical and other care needs met by it.

The Principal Act was designed to rectify defects in pre-existing legislation which enabled double-dipping to occur. Under pre-existing arrangements, people who received compensation for an injury should have reimbursed the Commonwealth for medical and nursing home benefits received. However, review demonstrated that many people who had received compensation designed to meet the full cost of injury-related medical and other care needs did not reimburse the Commonwealth. Thus the community paid twice - once through insurance and once through Commonwealth funding. The practice of double-dipping diverted limited resources from injured people who had no alternative source of assistance apart from Commonwealth programs.

The Principal Act was introduced, as part of a legislative package, into the Parliament in late 1994, and came into effect on 1 February 1996. Its main effect was to improve systems to identify compensation claimants and recipients, and to recover benefits paid prior to an award of compensation, particularly in relation to lump sum compensation payments. The Act requires all insurers and other compensation payers to notify the Health Insurance Commission (hereinafter

referred to as the Commission) of all claims lodged for compensation. It also requires notification of various events in the claim's progress, and when the compensation case is finalised.

To ensure that appropriate amounts were repaid to the Commonwealth the Act required that payment of compensation to claimants be withheld until any debt to the Commonwealth was calculated and paid.

In the brief period the revised scheme has been in operation, there have been some reports of delays. The majority of reported delays are believed to stem from determining, from the total amount of medicare and nursing home etc. benefits, those benefits which relate to the injury for which compensation is claimed and those which do not. The Health and Other Services (Compensation) Amendment Bill 1996 is designed to rectify delays which might otherwise occur in regard to claims which have recently been resolved by settlement or judgment. This will be achieved by withholding an amount equal to the total medicare benefits paid to the claimant since the beginning of their claim until any debt owed to the Commonwealth is calculated and paid. The major framework of the legislation will remain.

It is expected that the measures in this Bill will have nil or negligible financial impact.

Clauses

SHORT TITLE

Clause 1 sets out how the Act is to be cited.

COMMENCEMENT

Clause 2 indicates that the Act commences on the day on which it receives the Royal Assent.

AMENDMENTS

Clause 3 provides that the Act specified in a Schedule to the Act are amended or repealed as set out in the schedule concerned, and that any other items in the schedules that do not amend another Act also have effect.

Schedule 1

AMENDMENTS OF THE HEALTH AND OTHER SERVICES (COMPENSATION) ACT 1995

Overview

The amendments in this Schedule introduce the concept that:

- (1) where the Health Insurance Commission receives a request for a notice specifying, in respect of a claim for compensation, eligible benefits received by a claimant during the period from when the injury is claimed to have been suffered; and
- (2) the Commission is notified at that time that judgment or settlement has occurred in respect of the claim, the Managing Director must provide, within 14 days, information that would enable the compensation amount to be paid to a compensable person less an amount equal to the total amount of medicare benefit paid to the claimant.

Explanation of items

Item 1 would insert a new paragraph in section 17.

Section 17 enables the Managing Director of the Commission to request that a compensation claimant provide a statement about certain medical treatment and nursing home care that has been provided to the claimant. The claimant must comply with the request.

The statement must identify the professional services, if any, which have been provided to the claimant in the course of treatment of the injury for which she or he is seeking compensation, and in respect of which medicare benefits have been paid. The notice may also require that the claimant's written statement must specify whether any nursing home benefit has been paid in relation to the injury. Subsection 17(2) requires that the notice issued by the Managing Director must set out

all of the services for which medicare benefits have been paid since the injury for which compensation is being sought occurred, and subsection 17(3) sets out the information which must be included in the notice. The notice must state the period within which the required information must be returned to the Commission. It must also state that an extension of that period can be sought, and that the claimant has a right of review in relation to a decision not to grant such an extension.

Subsection 17(5) enables the claimant or the notifiable person (the insurer, a representative organisation or the person against whom the claim is made) to request that such a notice be given to the claimant. Subsection 17(6) specifies the periods within which the Managing Director must comply with such a request.

Proposed new paragraph 17(6)(aa) provides that, where the claimant or the notifiable person requests a notice under subsection 17(5) and, at the same time, informs the Commission that a judgment or settlement has been made in respect of the claim, the Managing Director must comply with the request within 14 days.

Item 2 proposes to insert new section 29A in the Act. This permits the compensation payer to pay the compensable person the amount of compensation less an amount equal to the total medicare benefit paid and contained in a notice obtained under paragraph 17(6)(aa).

Item 3 seeks to substitute subsection 32(1) in the current legislation so as to provide an exception to the payment of the compensation amount constituting an offence where a paragraph 17(6)(aa) notice has been issued. The revised subsection would permit withholding of an amount equal to total medicare benefit.

Item 4 proposes to insert a new section 33A.

Where an amount has been withheld from a compensable person equal to the total amount of medicare benefit during the period from when the injury occurred for which compensation is claimed, in the vast majority of circumstances it is expected that the amount withheld will be greater than the amount to be reimbursed to the Commonwealth.

The proposed new section ensures that when the Commonwealth charge is calculated, any residual amount owing must be forwarded to the compensable person within 28 days after receiving the notice specifying any amounts payable to the Commonwealth.

