

1994

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**HEALTH AND OTHER SERVICES (COMPENSATION) BILL 1994**

**SUPPLEMENTARY EXPLANATORY MEMORANDUM**

**(Amendments to be moved on behalf of the Government)**

(Circulated by the authority of the Minister for Human  
Services and Health the Hon. Dr Carmen Lawrence, MP)



## HEALTH AND OTHER SERVICES (COMPENSATION) BILL 1994

### GENERAL OUTLINE

These amendments relate to the *Health and Other Services (Compensation) Bill 1994*.

The *Health and Other Services (Compensation) Bill 1994* is one of a package of related Bills designed to address the problem of double dipping in health and community services programs by compensable people. This problem was identified in a public discussion paper prepared by the Review of the Relationship between Compensation and Health and Community Services Programs.

Double dipping occurs when a person receives a compensation payment to cover medical and other care costs in relation to a compensable injury and does not reimburse the costs of services already received through programs subsidised by the Commonwealth.

The aims of the amendments are to clarify a key definition in the *Health and Other Services (Compensation) Bill 1994*, and to ensure that there is consistency between the various requirements imposed under the legislation to notify the Health Insurance Commission of personal injury compensation claims.

### FINANCIAL IMPACT STATEMENT

The annual savings arising from the package of measures to prevent double dipping in health and community services programs by compensable people are estimated to be \$40m.

The amendments do not have any additional savings or costs implications.

## NOTES ON AMENDMENTS

### Amendment 1

The purpose of this amendment is to clarify the definition of "reimbursement arrangement". A "reimbursement arrangement" is an arrangement under which a person is entitled to compensation by way of reimbursement of certain injury-related medical and other care expenses. The key feature of such an arrangement is that, under the arrangement, these expenses must be reimbursed as and whenever they are incurred. This means that, at the time the arrangement is entered into, the amount of compensation that will have to be paid under the arrangement is not known, since this will depend on the extent of the injury-related medical and other care expenses that arise in the future.

The amendment to the definition of "reimbursement arrangement" is necessary to clearly distinguish such arrangements from "settlements", as defined in the *Health and Other Services (Compensation) Bill 1994*. A "settlement" is an agreement under which a person agrees to pay to another person a fixed amount of compensation in respect of costs that are incurred as a result of an injury. The total amount of compensation that will have to be paid under a settlement is the amount that is specified under the agreement, or an amount that can be quantified by reference to the terms of the agreement. Under a "settlement", the total amount of compensation that is payable is known at the time the settlement is made.

### Amendment 2

This is a minor technical amendment, the purpose of which is to make the words used in the definition of "reimbursement arrangement" more consistent with references to such arrangements in later clauses of the *Health and Other Services (Compensation) Bill 1994*.

### Amendment 3

This is a minor consequential amendment arising from the changes to subclause 11(4) which are made in amendment 4. Its effect is to delete a superfluous phrase from subclause 11(4).

### Amendment 4

Under the *Health and Other Services (Compensation) Bill 1994*, certain claims for compensation for personal injury must be notified to the Health Insurance Commission (the Commission). The amendment to subclause 11(4) will ensure that the notification periods applying to claims made against an insured person, or a person who is a member of a representative organisation, are consistent with the notification periods which apply to claims made in other circumstances.

Subclause 11(4) imposes a requirement on insurers and representative organisations to notify the Commission of compensation claims if the following circumstances apply:

a claim for compensation for personal injury has been made against a person who is insured against such claims, or who is a member of a representative organisation; and

that person informs their insurer or representative organisation that the claim has been made.

Amendment 3 relates to the period within which the insurer or representative organisation must notify the Commission of the claim. Subclause 11(4), as amended, will have the following effect:

if the person against whom the claim was made informs their insurer or representative organisation of the claim within 6 months of the claim being made, the insurer or representative organisation must notify the Commission of the claim within the period of 6 months and 28 days from the day on which the claim was made;

if the person against whom the claim was made informs their insurer or representative organisation of the claim more than 6 months from the day on which the claim was made, the insurer or representative organisation must notify the Commission of the claim within 28 days of being informed of the claim.

#### **Amendment 5**

Amendment 5 further amends clause 11 by adding an additional subclause (4A). This subclause applies in the following circumstances:

a claim for compensation for personal injury has been made against a person who is insured against such claims, or who is a member of a representative organisation; and

some other event occurs that is required to be notified prior to the elapse of 6 months and 28 days from the day on which the claim was made.

The effect of subclause 11(4A) is that, in these circumstances, a notice of the claim must be given to the Commission under clause 11 at the same time that the other event is required to be notified.

#### *Examples*

- *Under clause 15 of the Health and Other Services (Compensation) Bill 1994, the Commission must be notified if a court or compensation authority sets a date for a hearing to determine a claim for compensation. That notice must be given within 28 days of the day on which the hearing date was set. If a compensation claim is made against an insured person on 1 January in a given year, and that person informs their insurer of the claim on 1 February, under subclause 11(4), the insurer would be required to notify the Commission of the claim within the period of 6 months and 28 days from 1 January. However, if, on 1 March, a court set a*

*date for a hearing to determine the claim, both the hearing date and the claim would have to be notified to the Commission on or before 29 March.*

- *If the same situation occurred as described in the above example, except that the hearing date was set on 15 July, under clause 15, the Commission would have to be notified of the hearing date on or before 12 August. However, under subclause 11(4), the Commission would have to be notified of the claim within the period of 6 months and 28 days from 1 January.*





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