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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HEALTH INSURANCE AMENDMENT BILL 1980

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Health
the Honourable M.J.R. MacKellar)

OUTLINE

The Bill provides for amendments to the Health Insurance Act 1973:

- (1) To extend the definition of "eligible pensioner" to include persons in receipt of a sickness benefit under the Social Services Act 1947, other than those excluded by the pensioner health benefits income test. The amendment, which comes into operation on 1 November 1980, will entitle a sickness beneficiary:-
 - (A) to Commonwealth medical benefits at the rate of 85 per cent of the fee for medical benefit purposes, or the fee for medical benefit purposes less \$5, whichever is the higher amount; and
 - (B) to assign a Commonwealth medical benefit in respect of a professional service to the practitioner by whom or on whose behalf it was rendered.
- (2) To provide for the payment of medical benefits for orthodontic and associated treatment rendered by accredited dentists to persons under 22 years of age, for cleft lip and cleft palate conditions.

Clause 1: Short Title, etc

This clause cites the amending Act as the Health Insurance Amendment Act 1980, and identifies the Health Insurance Act 1973, which that Act is to amend, as the "Principal Act".

Clause 2: Commencement

This clause provides that the amending Act will commence operation on the date of Royal Assent, with the exception of sub-section 3(2) (relating to the expansion of the definition of "eligible pensioner" to include sickness beneficiaries), which is to come into operation on 1 November 1980.

Although the amendments relating to orthodontic treatment for cleft lip and cleft palate conditions are to come into operation on the date of Royal Assent, medical benefits will not be payable immediately for such treatment because of the necessity to make regulations amending the table of medical services (medical benefits schedule). It is expected that this will be achieved by early next year.

Clause 3: Interpretation

Clause 3 amends section 3 of the Principal Act which is an interpretative provision.

Sub-clause 3(1) provides for the amendment of sub-section 3(1) of the Principal Act in relation to the payment of medical benefits for orthodontic treatment for cleft lip and cleft palate conditions, as follows:-

Paragraph (a) inserts a definition of "accredited dental practitioner" which is defined to mean a dental practitioner who is accredited by the Minister in writing. (Committees established under section 136 of the National Health Act will consider applications for accreditation of dental practitioners and make recommendations to the Minister. Where such an application is refused, the practitioner will be able to appeal to another committee).

Paragraph (b) amends the definition of "professional service" by inserting a new paragraph (ba) into the definition.

By virtue of section 10 of the Principal Act Commonwealth medical benefits are payable only in respect of "professional services". In addition the requirement for registered medical benefits organizations to pay fund medical benefits is also dependent on a service being a "professional service". "Professional service" is defined in the Principal Act to mean certain services specified in the table of medical services when rendered by those practitioners specified in the definition.

The new paragraph (ba) provides that the term "professional service" is to include a service that is specified under the Principal Act as an item in the table of medical services, being an item which is expressed to relate to a professional attendance by an accredited dental practitioner. It is also provided in the new paragraph that the service must be one rendered by an accredited dental practitioner to a referred dental patient (as defined) under the age of 22 years. (It will be necessary for regulations to be made to insert the relevant items in the table of medical services.)

Paragraph (c) inserts definitions of "referred dental patient" and "referring practitioner".

'Referred dental patient' is defined to mean a person under the age of 22 years in respect of whom a referring practitioner (as defined) has issued a certificate stating that the person suffers from a cleft lip or cleft palate condition, and who is referred by the referring practitioner to an accredited dental practitioner in the manner prescribed by regulations.

'Referring practitioner' is defined to mean a medical or dental practitioner who is approved as a referring practitioner by the Minister in writing.

Paragraph (d) amends sub-section 3(4) of the Principal Act, which interprets the term "professional attendance", to exclude services by odontologists or other accredited dentists from the application of that sub-section. This provision is consequential upon the references to a "professional attendance by an accredited dental practitioner", in new paragraph (ba) of the definition of "professional service" in sub-section 3(1) inserted by this clause, and in new paragraph (aa) of sub-section 21(4) inserted by clause 4.

Sub-clause 3(2) further amends sub-section 3(1) of the Principal Act, to implement the government's announcement that Commonwealth pensioner fringe benefits are to be available to sickness beneficiaries and their dependants.

Paragraph (a) amends the definition of "eligible pensioner" in sub-section 3(1) to include a person who is in receipt of a sickness benefit under the Social Services Act 1947, other than such a person excluded by the pensioner health benefits income test for which provision is made in section 83CA of that Act.

Paragraph (b) makes, in consequence of the amendment made by paragraph (a) of this clause, an amendment to sub-section 3(10) of the Principal Act which amplifies sub-section 3(9) of the Principal Act. The latter sub-section is an interpretative provision relating to the definition of "dependant" of an eligible pensioner.

Pensioner Benefits

The fringe health benefits that are available to pensioners under this Act are:

- Commonwealth medical benefits at the rate of 85% of the schedule fee or that fee less \$5, whichever is the higher;
- the capacity to assign Commonwealth medical benefits to a practitioner (who may, but is not necessarily bound to, accept the benefit entitlement in full settlement of the patient's account).

Clause 4: Medical services outside Australia

Section 21 of the Principal Act provides for the payment of Commonwealth medical benefits for medical services rendered to Australian residents outside Australia by medical practitioners authorised to practise in the place, or by other persons approved by the Minister.

Sub-section 21(4) presently excludes, from the operation of the section, services by "participating optometrists" and dental practitioners approved by the Minister, because there are not any participating optometrists or approved dental practitioners outside Australia. For the same reason new paragraph 21(4)(aa), inserted by clause 4, excludes from the operation of the section services by accredited dental practitioners.

Clause 5: Functions of Committee

This clause gives an expanded meaning to the word "treatment" for the purpose of section 67 of the Principal Act.

Section 67 outlines the functions of the Medical Benefits Advisory Committee which the Minister has established under the Act. One function of the Committee involves the consideration of the manner in which, and to what extent a particular treatment or combination of treatments should be specified in the table of medical services under the Act and the appropriate fee to apply. "Treatment" is defined in sub-section 67(2) to mean a medical, surgical, obstetric or dental treatment, but does not clearly include the supply of prostheses.

The amendment to sub-section 67(2) by Clause 5 will empower the Committee to consider the supply of prostheses in connection with treatment of a cleft lip or palate condition.