

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

---

Presented and read a first time, 28 March 1984

*(Minister for Health)*

## A BILL

FOR

### **An Act to amend section 17 of the *Health Insurance Act 1973*, and for related purposes**

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

#### **Short title, &c.**

5     **1.** (1) This Act may be cited as the *Health Insurance Amendment Act 1984*.

**(2)** The *Health Insurance Act 1973*<sup>1</sup> is in this Act referred to as the Principal Act.

#### **Commencement**

10     **2.** This Act shall come into operation on the day on which it receives the Royal Assent.

**Medicare benefits not payable in respect of certain medical expenses**

3. (1) Section 17 of the Principal Act is amended—

(a) by inserting after sub-section (1) the following sub-section:

“(1A) Where guidelines formulated by the Minister for the purposes of this section are in force under this section and the Minister is satisfied that the right of a medical practitioner, or of medical practitioners included in a class of medical practitioners, to render, in circumstances referred to in sub-paragraph (1) (aa) (i), (ii) or (iii), professional services that relate to items prescribed for the purposes of paragraph (1) (aa) is being, or is reasonably likely to become, regulated by, or in accordance with—

(a) the laws of the State or Territory in which those services are, or are to be, rendered; or

(b) agreements or arrangements entered into, or to be entered into, under such laws ,

in a manner consistent with those guidelines, the Minister may, by instrument signed by him, declare that he is so satisfied and, if such a declaration is made—

(c) unless and until the instrument is revoked by him, paragraph (1) (aa) has no application in relation to the rendering of services of that kind in that State or Territory by that medical practitioner or by medical practitioners included in that class of medical practitioners, as the case may be; and

(d) if, in the instrument, the Minister declares that the instrument is to be deemed to have had effect from a day earlier than the day on which it was made by him, not being a day earlier than 1 March 1984, paragraph (1) (aa) shall be deemed not to have had any application in relation to the rendering of services of that kind in that State or Territory by that medical practitioner or by medical practitioners included in that class of medical practitioners, as the case may be.”; and

(b) by adding at the end thereof the following sub-sections:

“(5) Sections 48, 49, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to guidelines formulated under this Act for the purposes of sub-section (4) as if, in those sections references to regulations were references to guidelines, references to a regulation were references to a guideline and references to a repeal were references to a revocation.

“(6) Guidelines formulated under this Act for the purposes of sub-section (4) shall be deemed not to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*, but sub-sections 5 (3) to (3C) (inclusive) of that Act apply in relation to such guidelines in like manner as they apply to statutory rules.

“(7) For the purposes of the application of sub-section 5 (3B) of the *Statutory Rules Publication Act 1903* in accordance with sub-section

(6) of this section, the reference in that first-mentioned sub-section to the Minister of State for Administrative Services shall be read as the reference to the Minister administering this Act.

5 “(8) Section 5 of the *Evidence Act 1905* applies to a guideline formulated by the Minister under this Act for the purposes of sub-section (4) in like manner as that section applies to an order made by the Minister.”

10 (2) Guidelines made under the Principal Act for the purposes of section 17 of that Act before the date of commencement of this Act shall have effect, on and after that date, as if they had been made for the purposes of section 17 of the Principal Act as amended by this Act but, in the application of the provisions of the *Acts Interpretation Act 1901* to those guidelines in accordance with sub-section 17 (5) of the Principal Act as so amended—

15 (a) the requirement to notify those guidelines in the *Gazette* shall be taken to have been complied with by the publication of the guidelines in the *Gazette* in accordance with section 17 of the Principal Act; and

20 (b) the requirement to lay the guidelines before each House of the Parliament shall be taken to be complied with if the guidelines are so laid within 15 sitting days of that House after the date of commencement of this Act.

---

**NOTE**

1. No. 42, 1974, as amended. For previous amendments, see No. 58, 1975; Nos. 59, 91, 101 and 109, 1976; No. 75, 1977; Nos. 89 and 133, 1978; Nos. 53 and 123, 1979; No. 132, 1980; No. 118, 1981; Nos. 49 and 112, 1982; and Nos. 54 and 139, 1983.

