



National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005

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Contents

Purpose.	2
Background.	2
Pharmaceutical Benefits Scheme	2
PBS Safety Net.	3
Cost of the PBS	3
Basis of policy commitment.	4
Increase in PBS Safety Net thresholds	4
New PBS Safety Net arrangements for early supply of some medicines	4
ALP/Australian Democrat/Greens policy position/commitments	5
Main Provisions	5
Schedule 1—exclusion of early supplies of specified PBS medicines from Safety Net entitlements	5
Schedule 2— increase in PBS Safety Net thresholds	6
Concluding comments	6
Endnotes.	7

National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005

Date Introduced: 14 September 2005

House: House of Representatives

Portfolio: Health and Ageing

Commencement: The following provisions commence on Royal Assent: Sections 1 to 3; Schedule 1, items 1, 2 and 12; Schedule 2, Part 1. The Following provisions commence on subsequent specified dates: Schedule 1, items 3 to 11 and 13, and Schedule 2, Part 2 (1 January 2006); Schedule 2, Part 3 (1 January 2007); Schedule 2, Part 4 (1 January 2008); Schedule 2, Part 5 (1 January 2009); and Schedule 2, Part 6 (31 December 2009).

Purpose

The Bill proposes to amend the *National Health Act 1953* (the Act) to make the following changes to the Pharmaceutical Benefits Scheme (PBS):

- increase the thresholds for PBS Safety Net entitlements
- exclude ‘early supplies’ of specified PBS medicines from Safety Net entitlements.

These measures were announced in the 2005-06 Budget.

Background

Pharmaceutical Benefits Scheme

The Pharmaceutical Benefits Scheme (PBS) is the Commonwealth Government scheme for providing universal, subsidised access to medicines. The PBS subsidises the price of medicines for Australian residents when they fill a prescription for an item listed on the Schedule of Pharmaceutical Benefits (the Schedule).

Under the PBS, general patients pay up to \$28.60 for medication listed on the Schedule, while those with concession cards pay up to \$4.60. These payments are called patient contribution or co-payments and are revised both annually in line with the Consumer Price Index and on other occasions when the government seeks to further increase the share of the cost of the PBS borne by individual patients (in order, for example, to restrain demand on the PBS and decrease its overall cost to the health budget)—the 30 per cent increase in co-payments on 1 January 2005 is a recent example.

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Provisions governing the operations of the PBS are contained in Part VII of the *National Health Act 1953* (the Act), together with the *National Health (Pharmaceutical Benefits) Regulations 1960* made under the Act.

PBS Safety Net

The PBS Safety Net is intended to alleviate the impact of out-of-pocket expenses for people who purchase large numbers of medicines.

Under current arrangements, general patients who have reached the Safety Net threshold of \$874.90 pay the concessional rate of \$4.60 for further PBS prescribed items for the remainder of the calendar year. For patients with a concession card, the patient co-payment per prescription item is removed after they have reached the Safety Net threshold of \$239.20 or 52 scripts within a calendar year.

The government spent around \$1.6 billion on the PBS Safety Net in 2004-05 (an increase of 15 per cent on the previous year), around one quarter of total benefits paid under the PBS in that year.¹

Cost of the PBS

In 2004-05 the federal government paid out around \$5.9 billion in benefits through the PBS. Expenditure on the PBS, an uncapped, prescriber-driven program, is currently rising at a very high rate: with an average growth rate of 11 percent from 1993-94 to 2003-04 (in real terms).² Further, the Government estimates that its expenditure on the PBS will increase annually by around nine per cent between 2005-06 and 2008-09.³

In response to the rising cost of the Scheme, the government has, over recent years, introduced a range of initiatives aimed at containing the cost of medicines under the PBS and ensuring the Scheme's future sustainability. These include increased patient co-payments, efforts to increase price competition through the development of a generic medicines industry in Australia, programs aimed at changing prescribing behaviour, improved monitoring of entitlements to pharmaceutical benefits, and deletion of particular items from the Schedule.⁴

Further, the 2005-06 budget contains a strong emphasis on the sustainability of the PBS and includes a number of measures aimed both at achieving more or less immediate savings (worth approximately \$1.3 billion over the next four years) and developing a more sustainable framework for future expenditure. These measures include the introduction of a 12.5 per cent price reduction following listing of a generic medicine, the deletion of calcium tablets from the Schedule, the move to cost recovery funding for the administration of the Pharmaceutical Benefits Advisory Committee (PBAC) and the PBS listing process, and changes to PBS Safety Net entitlements (the measure introduced through this Bill).

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Despite the general trend of rising costs, it should be noted that PBS statistics for the first half of 2005 have shown a slowing in expected demand for PBS medicines.⁵ Some commentators have argued that this is a direct result of the increased PBS co-payments and other cost-containment factors.⁶ It is unclear at this stage whether this will be a sustained reduction in demand and to what extent this has been accounted for in the Government's projections.

Basis of policy commitment

The Government has explained the need for changes to PBS Safety Net entitlements in terms of supporting the 'affordability of the PBS into the future' for both the community as a whole and individuals and families that purchase PBS medicines.⁷ The Explanatory Memorandum to the Bill estimates that these changes will result in savings of approximately \$210.3 million over the four years to 2008-09.⁸

Increase in PBS Safety Net thresholds

Under current arrangements, general patients who have reached the Safety Net threshold of \$874.90 pay the concessional rate of \$4.60 for further PBS prescribed items for the remainder of the calendar year. For concessional patients, the patient co-payment per prescription item is removed after they have reached the Safety Net threshold of \$239.20 or 52 scripts within a calendar year. The measures announced in the budget involve, from 1 January 2006, increasing the thresholds beyond which patients can benefit from the safety net: for general patients the thresholds will increase by the dollar equivalent of two co-payments each year until 1 January 2009, while for concessional patients the thresholds will increase to 54 prescriptions, with further increases of two prescriptions occurring each year until 1 January 2009.

According to the Parliamentary Secretary to the Minister for Health and Ageing, Christopher Pyne, this measure 'will help to rebalance the way costs for the PBS as a taxpayer-funded scheme are shared between the community as a whole and individuals using medicines'.⁹ This measure is expected to save the Government \$140.2 million over four years.¹⁰

New PBS Safety Net arrangements for early supply of some medicines

Under current arrangements, when a patient has 'repeat' prescriptions for a medication, normally they cannot obtain the repeat script until 20 days after the supply of the original prescription. This is designed to prevent 'stockpiling' of medicines. However, in special circumstances the patient can obtain the script early (or immediately) under the 'immediate supply' provisions of the PBS, for example if the original medication is lost or damaged. Under the proposed changes, from 1 January 2006 'some PBS medicines' (from a list to be determined on the basis of advice from the PBAC) provided under the 'immediate supply' provisions will be excluded from Safety Net entitlements, that is, they will not count towards the Safety Net. Patients already on the Safety Net will not be

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eligible for the lower co-payment (of \$4.60 for general patients or zero for concessional patients) if the repeat prescription is dispensed under the ‘immediate supply’ provisions (that is, within 20 days of the original prescription).

According to the Parliamentary Secretary, the purpose of the measure is to remove the ‘incentive for patients to obtain extra PBS medicines for the purpose of accessing Safety Net advantages’ and ‘will help reduce wastage and reduce the risk that excess medicines in the community can pose to patients and others’.¹¹ The Government anticipates savings from this measure of \$70.1 million over four years.¹²

It is notable that, as the Minister’s power to exclude specified PBS medicines from the Safety Net entitlements under Schedule 2 will be via legislative instrument, presumably such Ministerial decisions will be subject to Parliamentary disallowance in the usual way under the *Legislative Instruments Act 2003*.

ALP/Australian Democrat/Greens policy position/commitments

The Opposition has criticised the measures in this Bill as breaking a commitment during the 2004 election campaign that the government does not believe in cutting health spending.¹³ According to the Shadow Minister for Health, Julia Gillard, these changes can be seen as ‘ripping a hole in the PBS Safety Net’.

Main Provisions

Schedule 1—exclusion of early supplies of specified PBS medicines from Safety Net entitlements

This Schedule introduces new Safety Net arrangements for early supply of some PBS medicines by providing

- a definition of early supply of a specified pharmaceutical benefit (**Subsection 84AAA(1)**),
- that the Minister may specify, by legislative instrument, pharmaceutical benefits for the purposes of the new early supply arrangements (**Subsections 84AAA(2) and (3)**),
- that the patient charge that applies for a general benefit prescription after a person or the person’s family has made co-payments totalling the safety net is not reduced to the concessional co-payment amount if the supply of the pharmaceutical benefit is an early supply of a specified pharmaceutical benefit (**Subsection 87(2)(2AAA)**),
- that the patient co-payment for a concession card prescription will be at the general patient benefit co-payment amount (currently \$28.60) not the concessional co-payment amount (currently \$4.60), if the supply of the pharmaceutical benefit is an early supply of a specified pharmaceutical benefit (**Paragraph 87(2)(e)**),

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- that any amount charged for an early supply of a specified pharmaceutical benefit (other than a supply of an out-patient medication) is to be disregarded for the purpose of whether a person or the person's family has reached the general patient safety net threshold (**Paragraph 87(2AB)(e)**),
- for an extension of the PBAC's functions such that the PBAC is to make recommendations to the Minister about what medicines should be subject to the new provisions relating to the early supply of pharmaceutical benefits (**Subsection 101(3AA)**).

Schedule 2— increase in PBS Safety Net thresholds

This Schedule increases the thresholds beyond which patients can benefit from the PBS Safety Net by providing

- a new definition of the PBS Safety Net to allow for the new method of calculation of the general patient Safety Net amount to come into effect on 1 January 2006 and to apply on 1 January of each year thereafter until and including 2009 (**Item 5, Section 99F**),
- for the removal on 1 January 2006 of '52' and substitution with '54' as the number by which the concessional co-payment amount is multiplied to calculate the concessional beneficiary Safety Net for that year (**Item 8, Section 99F**). In subsequent years, '54' will be replaced with '56' (1 January 2007), '56' will be replaced with '58' (1 January 2008) and '58' will be replaced with '60' (1 January 2009) as the number by which the concessional co-payment amount is multiplied to calculate the concessional beneficiary Safety Net.
- for the new method of calculating the general patient Safety Net to incorporate the indexed base amount from the previous year plus two indexed general co-payment amounts effective from 1 January 2006 (**Item 9, Section 99F**). In subsequent years, '2' will be replaced with '4' (1 January 2007), '4' will be replaced with '6' (1 January 2008) and '6' will be replaced with '8' (1 January 2009) as the number by which the general patient charge amount is multiplied before being added to the indexed general patient safety net base amount in calculating the general patient Safety Net for that year.

Concluding comments

While few would question the overall objective of containing the cost of the PBS, it could be argued that, by 'rebalancing' the way costs for the PBS 'are shared between the community as a whole and individuals using medicines' (i.e. shifting the cost from the Government to individual patients), there is a risk that the measures contained in this Bill could undercut the original purpose of the PBS Safety Net—that is, to alleviate the impact of out-of-pocket expenses for (often chronically ill) people who purchase large numbers of medicines. For example, following the announcement of these changes in the budget, the

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then former President of the Pharmaceutical Guild of Australia, John Bronger, argued that they amounted to a ‘significant raising of the bar’ and made it more difficult for families to reach the Safety Net.¹⁴ He added that ‘the provision to cease crediting prescriptions marked ‘immediate supply necessary’ for the purposes of the safety net will also impose unnecessary hardship on the chronically ill’.¹⁵

It is also important to note that the Government has not provided a detailed explanation for how the list of drugs to be included in the new Safety Net arrangements for early supply of some PBS medicines will be determined. While, as discussed above, the Government has indicated that it will seek the advice of the PBAC in this exercise, it has not provided information on the criteria to be used by the PBAC in developing this advice or how many medicines are likely to be considered ‘appropriate’ for inclusion in the new arrangements. As such, it is not possible to make any judgment at this stage about the likely impact of this measure on individual consumers of PBS medicines.

Endnotes

- 1 Medicare Australia, PBS and RPBS Group Reports, at http://www.medicareaustralia.gov.au/cgi-bin/broker.exe? PROGRAM=dyn_pbs.pbsgtab1.sas& SERVICE=default& DEBUG=0& group=1& VAR=BENEFIT& RPT_FMT=3& start_dt=199507& end_dt=200506, accessed 10 October 2005.
- 2 Australian Institute of Health and Welfare *Health expenditure Australia 2003-04* p 59
- 3 *Budget Strategy and Outlook 2005-06*, pp. 6–11.
- 4 For a discussion of various options for controlling the cost of the PBS, see M. Rickard, *The Pharmaceutical Benefits Scheme—options for cost control*, Current Issues Brief 12, Parliamentary Library, 2001–02.
5. See, for example, A. Stafford ‘Runaway PBS costs slowing’, *Australian Financial Review*, 4 October 2005; A. Creswell, ‘PBS clampdown saves \$300 million’, *Australian*, 9 August 2005.
6. *ibid.*
- 7 Hon. Christopher Pyne MP, Parliamentary Secretary to the Minister for Health and Ageing, *National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005 Second Reading Speech*, House of Representatives, *Debates*, 14 September 2005, p. 1.
- 8 *National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005 Explanatory Memorandum*, p. 3.
- 9 Hon. Christopher Pyne MP, Parliamentary Secretary to the Minister for Health and Ageing, *National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005 Second Reading Speech*, *op. cit.*, p. 2.

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- 10 [*National Health Amendment \(Budget Measures—Pharmaceutical Benefits Safety Net\) Bill 2005 Explanatory Memorandum*](#), p. 3.
11. Hon. Christopher Pyne MP, Parliamentary Secretary to the Minister for Health and Ageing, [*National Health Amendment \(Budget Measures—Pharmaceutical Benefits Safety Net\) Bill 2005 Second Reading Speech*](#), op. cit., p. 2.
- 12 [*National Health Amendment \(Budget Measures—Pharmaceutical Benefits Safety Net\) Bill 2005 Explanatory Memorandum*](#), p. 3.
- 13 Julia Gillard, Shadow Minister for Health, [*No Safety Net Abbott won't cut*](#), media release, 11 May 2005.
- 14 Quoted in D. Cronin, '[*Patients dealt double blow as spending reined in*](#)', *Canberra Times*, 11 May 2005.
- 15 *ibid.*

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