



Health Insurance Amendment (Medicare Dental Services) Bill 2007

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Health Insurance Amendment (Medicare Dental Services) Bill 2007

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Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of this Bill is to amend the *Health Insurance Act 1973* (HIA) to allow for eligible people with chronic conditions to access certain Medicare benefits up to a specified limit for dental services.

Background

Access to affordable dental health care has emerged as a major issue with media reports of up to 650 000 Australians waiting on public dental waiting lists.¹ The cost of dental treatment in Australia is overwhelmingly borne by individuals. In 2004–05 individuals spent nearly \$3.4 billion on dental services, compared to expenditure by the Commonwealth (\$450 million) and the states and territories (\$503 million). Total expenditure on dental care in 2004–05 exceeded \$5 billion.²

Until recently the provision of Medicare benefits for dental services was restricted to in-hospital dental services and treatment under the Cleft Lip and Cleft Palate Scheme, and oral

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1. The actual figure is difficult to quantify, but this figure has been quoted widely, including by the Australian Dental Association. See for example, Cath Hart, 'Rethink on dental scheme,' *The Australian*, 15 August 2007, p. 7, and Mark Metherell, 'Dental pressure forces rethink over funding', *Sydney Morning Herald*, 2 May 2007, p. 7.
 2. Australian Institute of Health and Welfare, *Health expenditure Australia 2004-05*, Canberra, AIHW, 2006, p. 105, Table A3.

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and maxillofacial surgery services to treat diseases of the jaw or severe malformations of the jaw or palate.³

The Commonwealth also funds dental services for ADF members and veterans, dental services provided through Community Controlled Aboriginal Medical Services and dental services in the Christmas and Cocos Islands. In addition it funds pharmaceuticals which may be prescribed by dentists under the Pharmaceutical Benefits Scheme (PBS). There have been other forms of Commonwealth funding for dental services; notably in funding the establishment of the School Dental Scheme in the states and territories during the 1970s and the funding of the Commonwealth Dental Health Program between 1994 and 1996.

In March 2004 the government announced the Allied and Dental Health Care measure to provide limited Medicare benefits for dental services, on referral from a GP, for patients whose dental problems were ‘significantly exacerbating’ an existing chronic condition.⁴

Commonwealth provision of dental benefits is permitted under section 51 of the Constitution.⁵

Basis of policy commitment

As noted above, in July 2004 the government introduced dental items onto the Medicare Benefits Schedule (MBS) for patients with chronic conditions, where dental problems were impacting on their condition. On referral from a GP, patients with an Enhanced Primary Care (EPC) plan could access up to three dental treatments a year from a private dentist, with a maximum Medicare rebate of \$220 per year.⁶ The supply of prostheses such as dentures, bridges, crowns or implants was not covered. At the time the government emphasised that this initiative was ‘a health care measure, not a dental scheme’.⁷

Uptake of this measure fell short of government expectations. Around \$1.8 million in Medicare benefits for some 16 400 dental services were provided to patients.⁸ The

3 As described in Department of Health and Ageing, *Medicare Benefits Schedule*, 1 November 2006.

4 Hon. Tony Abbott, [MedicarePlus](#), media release, 10 March 2004.

5 Section 51 (xxiiiA) of the Australian Constitution empowers the Commonwealth to legislate for the provision of pharmaceutical, sickness and hospital benefits, medical and dental services.

6 Hon. Tony Abbott, *MedicarePlus*, op. cit.

7 *ibid.*

8 Medicare Australia, [Medicare Statistics interactive database](#), report for item numbers 10975, 10976, 10977, for the period July 2004 to June 2007.

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government had expected 23 000 people to benefit.⁹ Many patients reportedly faced high out-of-pocket costs; on average an additional \$61 in out-of-pocket costs were incurred per service. In some instances patients paid up to \$692 for a service.¹⁰ These out-of-pocket costs, however, counted towards the Medicare Safety Net.

Currently eligible patients can access up to three dental services per calendar year, with a Medicare rebate of \$77.95 for each item.

The Department of Health and Ageing argued that the reason for the lower-than-expected uptake of the dental items was that patients and service providers were ‘still getting used to the new arrangements’.¹¹ Nevertheless, concerns remained about the high out-of-pocket costs faced by some patients.¹²

The government subsequently announced an expansion of this measure in the 2007–08 Budget, with expanded funding of \$377.6 million over four years. Dental items were expanded to include diagnostic services, and eligibility was extended to residents of aged-care facilities who were being managed by a GP under a multidisciplinary care plan. It was proposed that benefits be capped at \$2000 per calendar year (including for benefits under the Medicare Safety Net). It was estimated that this expanded measure would assist up to 200 000 patients with chronic conditions to access dental care.¹³

In mid-August further changes were announced so as to allow eligible patients to access up to \$4250 of Medicare-funded dental treatments over two consecutive calendar years (including for dentures) from 1 November 2007. The changes were designed to ‘give more flexibility’ to patients so that they could access dental services when they required them.¹⁴

This Bill proposes to implement these changes by amending the *Health Insurance Act 1973*. It proposes the introduction of a ministerial determination, firstly to allow eligible patients to claim Medicare benefits for dental services up to total of \$4250 over two

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9. Hon. Tony Abbott, *MedicarePlus*, op. cit.
 10. For the period 2005–06. Senate Community Affairs Committee, Answers to Estimates Questions on Notice, Health and Ageing Portfolio, Supplementary Budget Estimates, 2006–07, 1 November 2006, Question no. E06-142.
 11. Senate Community Affairs Legislation Committee, *Answers to Estimates Question on Notice: Health and Ageing portfolio*, Budget Estimates 2005–06, 1 and 2 June 2005, Question no. E05-126.
 12. Paul Smith, ‘[Push for revamp of dental MBS items](#),’ *Australian Doctor*, 30 March 2007, p. 8.
 13. Hon. Tony Abbott, [Improving Medicare and hearing services](#), media release, 8 May 2007.
 14. Hon. Tony Abbott, [More dental care through Medicare](#), media release, 14 August 2007.

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consecutive calendar years (including benefits under the Medicare Safety Net); and secondly to allow for Medicare benefits to be payable for dental prostheses, including dentures. It does not affect existing arrangements for patients with cleft lip and cleft palate conditions, and will only apply to the new dental items.

The proposal to limit Medicare benefits is significant and is discussed below.

Medicare Safety Net

Introduced in 2004, the Medicare Safety Net is designed to assist patients who face high out-of-pocket medical costs, by reimbursing them once certain thresholds are reached. Patients are reimbursed for 80 per cent of their out-of-pocket medical costs (that is, the cost over and above the relevant Medicare rebate) for medical treatment received in a non-hospital setting, once a certain threshold is reached in a calendar year. Out-of-pocket costs for medical services include: GP and specialist consultations, and diagnostic and pathology tests. Dental services for eligible patients with chronic conditions are also included in the Safety Net.¹⁵ Once an individual or family incurs accumulated medical costs which equal the threshold amount in a calendar year, the Safety Net reimburses 80 per cent of the cost of any further out-of-pocket costs for the rest of that calendar year. The original thresholds were set at \$300 for concession-card holders and low-income families, and \$700 for other patients.¹⁶ The current thresholds are higher: \$519.50 and \$1039 (indexed annually).¹⁷

The Safety Net became a contentious issue because of the cost to government, which was higher than initially expected. Many commentators warned of the inflationary aspects of the policy and that it was unsustainable.¹⁸ For a fuller discussion on the controversy over cost of the Safety Net see the Parliamentary Library's [Bills Digest](#) for the Health Insurance Amendment (Medicare Safety-nets) Bill 2005.

Supporters of the Safety Net argued that it is needed because Medicare schedule fees have, in many cases, not kept pace with the cost of doctors' fees, and patients, particularly those

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15. Department of Health and Ageing, '[Medicare items for dental care for people with chronic conditions and complex care needs](#)', *Fact Sheet*, prepared February 2007, accessed 20 August 2007.
 16. Hon. Tony Abbott, '[More affordable health care under the Howard government](#)', media release, 28 June 2004.
 17. Medicare Australia, 'How does the Medicare Safety Net work?', Fact Sheet, <http://www.medicareaustralia.gov.au/resources/medicare/1856-24-how-does-the-medicare-safety-net-work.pdf>, accessed on 21 August 2007.
 18. For example, Dr Bill Glasson, former President of the AMA, reported in A. Pratt, '[Health Insurance Amendment \(Medicare Safety-nets\) Bill 2005](#)', *Bills Digest*, no. 17, Parliamentary Library, Canberra, 2005–06.

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with chronic conditions, can face high out-of-pocket costs.¹⁹ Others argued that because Safety Net benefits are uncapped, a sustainability problem is created. This aspect of the Safety Net was a concern of the Labor Opposition and several commentators in the health sector.²⁰

In an attempt to rein in the higher-than-expected cost of the Medicare Safety Net, the government increased the Medicare Safety Net threshold levels to \$500 for concessional patients and low-income families, and \$1000 for others from January 2006.²¹ These increases appear to have had some effect. Around 445 687 families qualified for the Safety Net in 2006, compared to 610 541 in 2005.²²

As noted above, some patients have faced high out-of-pocket costs in accessing Medicare-funded dental services. Dental fees have increased at rates substantially higher than the CPI and other health services, and are likely to continue to do so. Between 1989–90 and 1998–99, dental service prices increased by 50.8 per cent, while the increase in health prices over the same period was only 22 per cent.²³

Once a patient's out-of-pocket expenditure reaches the Safety Net threshold, they are eligible for reimbursement of 80 per cent of any further out-of-pocket medical or dental expenses for that calendar year. Consequently, the government has faced an increase in the cost of the Safety Net associated with the provision of dental benefits, although the extent of this has not been quantified.

It should be noted that some patients may have incurred significant out-of-pocket costs before the Safety Net thresholds were reached (even with the existing Medicare rebates), and they continue to face ongoing costs even after the Safety Net kicks in (at least 20 per cent of the balance of any further costs).

The proposed amendments will replace the existing Medicare arrangements in relation to dental services, including the payment of Medicare rebates and Safety Net thresholds, with a capped total benefit. Patients will be able to claim total benefits up to and including

19. *ibid.*

20. *ibid.*

21. This occurred as a result of the passage of the *Health Insurance Amendment (Medicare Safety-nets) Bill 2005*.

22. Senate Community Affairs Legislation Committee, Answers to Estimates Questions on Notice, Health and Ageing Portfolio, Additional Estimates 2006–07, 13 February 2007, Question no. E07-191.

23. Australian Health Ministers Conference, *Oral health of Australians: National planning for oral health improvement Final Report* AHMAC Steering Committee, Adelaide, 2001, p. 51.

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\$4250 over two consecutive years. They may then face further costs if they need to access on-going dental treatment beyond this limit.

It is not clear from the Explanatory Memorandum or the Minister's second reading speech if there is an intention to index the proposed limit on total dental benefits. However, as the current Medicare Safety Net is indexed on an annual basis, it could be argued that it would be appropriate for this cap on benefits to be subject to the same indexing arrangements.

Position of significant interest groups/press commentary

Although the 2007–08 Budget announcement to expand Medicare benefits for dental services for patients with chronic conditions was welcomed, there were criticisms. One observer noted that the \$2000 cap on benefits would be insufficient for patients facing higher costs associated with on-going dental treatment, and was concerned that few patients on current dental waiting lists even qualify for these expanded benefits.²⁴ This latter concern was echoed by the Australian Dental Association (ADA), which while 'pleased' with the 2007–08 Budget announcement, 'envisaged a greater role' on the part of the federal government.²⁵ It also criticised the government for failing to include dental prostheses in the new arrangements, although these have been subsequently included.

The subsequent government announcement in mid-August that it would increase the amount which can be claimed (up from \$2000 over one year to \$4250 over two years), was seen by some as a 'counter' to Opposition plans to 'revamp' dental services.²⁶ However, it was reported that the ADA remained 'disappointed' that the new arrangements were not means-tested and still failed to address the 'needy'.²⁷ Given their opposition to a Medicare-funded dental scheme, the ADA stance is not surprising.²⁸

The proposed arrangements will address, to some extent, concerns from dentists that the Medicare rebate (currently set at \$77.95) was set too low. In March 2007 the ADA was

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24. Lesley Russell, 'Dental scheme well-funded, but not well-planned', *Canberra Times*, 11 May 2007, p. 15. See also Australian Dental Association, [Federal Budget 2007/08](#), media release, 9 May 2007.
 25. Australian Dental Association, 'Federal Budget 2007/08', op. cit.
 26. Mark Metherell, 'Limit for dental claims doubled', *Sydney Morning Herald*, 15 August 2007, p. 7.
 27. *ibid.*
 28. The ADA stated its opposition to such a scheme in a 1986 submission to the Medicare Benefits Review Committee, and re-stated it in its submission to the Senate Select Committee on Medicare in 2003.

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reported as describing the current dental arrangements as a ‘nightmare’, with many dentists reportedly ‘turning their back’ on the dental items because the rebate is too low.²⁹

The Opposition’s health spokeswoman, Nicola Roxon MP, reportedly described the expanded scheme as ‘moving the deckchairs on the Titanic’.³⁰

Financial implications

According to the Explanatory Memorandum, the measure is expected to cost \$384.6 million over four years.³¹ This is an increase of some \$13 million on what was announced in the Budget.

The forward estimates provided in the 2007–08 budget papers envisaged expenditure on the program steadily increasing each year over the four-year period, but annual costs presented in the Explanatory Memorandum show less even growth in costs over the period. In the 2008–09 financial year, costs are expected to reach \$117.1 million, then fall back to \$97.1 million before rising again in the 2010–11 financial year (\$113.2 million). This probably reflects the proposed arrangement where the limit on benefits will apply over a consecutive two-year period, meaning that expenditure on the program in the second year could be expected to be higher.

Main provisions

Amendments – Schedule 1

Item 1 allows for a Ministerial Determination to set a limit on the total of Medicare benefits payable to a person for eligible dental services over a specified period, and provides that the limit shall apply to all Medicare benefits including those under the Medicare Safety Net, irrespective of provisions in Part II of the HIA which specify Safety Net thresholds and Medicare benefits. As mentioned earlier in this Digest the government has indicated this limit will be set at \$4250 over two consecutive calendar years.

Item 2 inserts a new definition of an ‘eligible dental service’, and **item 3** replaces the paragraph that excludes dental prostheses with paragraphs allowing for the provision of a dental service to supply dental prostheses and the supply of those prostheses.

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29. Paul Smith, ‘Push for revamp of dental MBS items’, *Australian Doctor*, 30 March 2007, p. 8.
 30. Danielle Cronin, ‘Minister offers more funds in dental plan for chronically ill’, *Canberra Times*, 15 August, 2007, p. 6.
 31. Explanatory Memorandum, p. 2.

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Item 4 allows the existing Medicare dental items to continue under existing rules; the amendments in this Schedule are only to apply to the new dental items.

Concluding comments

This Bill proposes the introduction of new arrangements for dental services for patients with chronic conditions whose health is being undermined by dental problems or poor oral health. Medicare benefits for the new dental items (which will include dentures) will be subject to a financial limit (including those benefits paid under the Medicare Safety Net) of \$4250 over two consecutive calendar years. The Bill proposes to include in this limit only benefits paid for specified dental services (costs incurred for other medical services will continue to count towards the Medicare Safety Net).

In effect, the Bill proposes replacing existing Medicare arrangements for dental services with a monetary cap, limiting total reimbursements to patients. Although this monetary limit is set higher than what was proposed in the Budget, and can therefore be described as ‘more generous’,³² those patients who exceed this limit must bear the full cost of further dental treatment, without additional financial assistance from Medicare.

On the other hand, the proposed arrangements will be welcomed because they go some way to addressing the financial barriers to dental treatment faced by patients with chronic conditions. However, it is unlikely that this measure will address the problem of long public dental waiting lists.

It is also likely to raise further questions over the sustainability of the Medicare Safety Net, and concerns over the erosion of the universality of Medicare.

32. Hon. Tony Abbott, ‘Second reading speech: Health Insurance Amendment (Medicare Dental Services) Bill 2007’, House of Representatives, *Debates*, 16 August 2007, p. 1.

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