



Fairer Private Health Insurance Incentives Bill 2009

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Social Policy

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Fairer Private Health Insurance Incentives Bill 2009

Date introduced: 27 May 2009

House: House of Representatives

Portfolio: Treasury

Commencement: Sections 1–3 on Royal Assent; Schedule 1—on 1 July 2010, or the day on which two other related Acts receive Royal Assent, whichever is the latest.

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

This Bill is one of three Bills which propose changes to various Acts in order to implement a 2009–10 Budget initiative changing private health insurance incentives and penalties.¹ The other two Bills are Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2009 and Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Bill 2009.² The Bills propose the introduction of three new Private Health Insurance Incentive Tiers, so that those on higher incomes receive a lower private health insurance rebate when they purchase a complying health insurance policy, and face a higher Medicare levy surcharge if they opt out of private health cover.

This Bill proposes amendments to five Acts: the *Income Tax Assessment Act 1936*, *Income Tax Assessment Act 1997*, *Private Health Insurance Act 2007*, *Taxation Administration Act 1953* and *Taxation (Interest on Overpayments and Early Payments) Act 1983*. Specifically, this Bill proposes:

- to introduce three new income tiers (to be indexed annually) for the purpose of assessing the amount of the private health insurance rebate payable to those above certain income levels

1 W Swan (Treasurer), N Roxon (Minister for Health and Ageing), *Rebalancing support for private health insurance*, media release, Canberra, 12 May 2009, viewed 28 May 2009, <http://www.health.gov.au/internet/budget/publishing.nsf/Content/budget2009-hmedia13.htm>

2 For analysis of these Bills refer to the relevant Bills Digests.

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- to allow the Commissioner of Taxation to require the provision of certain information, and
- to allow for the recovery of payments that are recoverable as debts due to the Commonwealth and pay interest on overpayments

Background

Private health insurance helps fund the purchase of private health and medical services, allowing individuals to choose their own doctor and sometimes access health services more quickly. While Medicare provides for free treatment in public hospitals, patients are not able to choose their own doctor and may have to go on a waiting list for their treatment.

Medicare also subsidises the cost of medical services provided in a private hospital—for example, it covers 75 per cent of the schedule fee for a private patient in a private hospital.³ But the patient will be liable for any gap between the amount Medicare reimburses and what the doctor charges. Private health insurance can help fund this ‘gap’ and can also be used to help pay for ‘ancillary’ services not normally covered by Medicare, such as dental treatment, chiropractic, physiotherapy, prostheses or optical services.⁴

When Medicare was first introduced in 1984, membership of private health insurance funds began to fall, so that by 1998 only 30.4 per cent of the population was covered by private health insurance.⁵ The former Howard Government sought to reverse this trend when it introduced a suite of measures designed to encourage private health insurance uptake. Since their introduction, private health insurance coverage has climbed to a high of 44.6 per cent of the population, or 9.7 million Australians.⁶

The measures introduced under the former Government have been characterised as ‘carrots’ and ‘sticks’. Those on higher incomes, who opt not to take out private health insurance face the ‘penalty’ of the Medicare levy surcharge—an additional 1 per cent levy on their taxable income. Those who delay in taking out private cover after the age of 30 face higher premiums under the Lifetime Health Cover provisions. Meanwhile, those who

3 For Medicare eligible patients.

4 Private Health Insurance Administration Council (PHIAC), *Insure? Not sure?* PHIAC, Canberra, 2009, p. 3, viewed 29 May 2009, <http://www.phiac.gov.au/insurenotsure/pdf/insure.pdf>

5 Private Health Insurance Administration Council (PHIAC), ‘Membership statistics: Table 1’, *Industry statistics*, PHIAC, 2009, viewed 28 May 2009, <http://www.phiac.gov.au/statistics/membershipcoverage/table1.htm>

6 This figure is for people with basic hospital cover. PHIAC Membership statistics

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purchase private health insurance are rewarded with a rebate—a discount on their private health insurance premiums. The rebate is currently set at 30 per cent for those aged up to 65 years of age, 35 per cent for those aged between 65–70 and 40 per cent for those aged over 70.⁷

Although the introduction of the private health insurance rebate in 1999 was opposed by Labor, in the lead up to the 2007 federal election Labor committed to retaining the rebate.⁸

The Government has now announced it intends to ‘rebalance’ support for private health insurance, so that from July 2010 those on higher incomes receive ‘less carrot and more stick’ to take out private cover.⁹ The Government intends to redistribute the benefits under the rebate so that these are ‘fairer’, as well as ensure that private health insurance remains sustainable into the future.¹⁰ The cost to Government of the rebate has grown from \$1.4 billion in 1999–2000 to \$3.8 billion in 2008–09.¹¹ The proposed measures are expected to generate \$1.9 billion in savings over four years.¹²

Introduction of new ‘tiers’ and reduction of rebate

This Bill proposes amendments that will introduce three new income ‘tiers’—indexed annually—that will be used to calculate the amount of the rebate to which those assessed

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- 7 All Australians can claim the rebate provided they are eligible for Medicare and have a complying health insurance policy that provides cover for hospital treatment, general treatment (ancillaries), or both. See PHIA, *Insure? Not sure?*, p. 8.
- 8 See for example, K Rudd and N Roxon, *New directions for Australian health: Taking responsibility: Labor’s plan for ending the blame game on health and hospital care*, Australian Labor Party, August 2007, viewed 28 May 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fparty%2FGT1O6%22>
- 9 W Swan (Treasurer), N Roxon (Minister for Health and Ageing), *Rebalancing support for private health insurance*, media release, Canberra, 12 May 2009, viewed 28 May 2009, <http://www.health.gov.au/internet/budget/publishing.nsf/Content/budget2009-hmedia13.htm>
- 10 N Roxon, ‘Second reading speech: Fairer Private Health Insurance Incentives Bill 2009’, House of Representatives, *Debates*, 27 May 2009, p. 2, viewed 28 May 2009 <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2009-05-27%2F0009%22>
- 11 Australian Government, *Portfolio budget statement 2009–10: budget related paper no. 1.10: Health and Ageing Portfolio*, Commonwealth of Australia, Canberra, p. 250, viewed 21 May 2009, http://www.health.gov.au/internet/budget/publishing.nsf/Content/2009-2010_Health_PBS
- 12 N Roxon, ‘Second reading speech’.

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as being in these tiers are entitled. The effect of this is to means test the private health insurance rebate.¹³ The income tiers and amount of rebate will be set as follows:

- ‘Tier 1’ – those on annual incomes over \$75 000 for singles and over \$150 000 for couples will receive a 20 per cent rebate¹⁴
- ‘Tier 2’ – those on incomes over \$90 000 for singles and \$180 000 for families will receive a rebate of 10 per cent, and
- ‘Tier 3’ – those with incomes over \$120 000 for singles and \$240 000 for families will receive no rebate.

Existing rebate arrangements for those on incomes below \$75 000 for singles and \$150,000 for families will remain unchanged.

The two accompanying Bills propose amendments to allow for the Medicare levy surcharge to be increased from 1 per cent of taxable income up to 1.5 per cent for those in the highest income bracket when they decline to take out private health insurance.

Basis of policy commitment

The measures proposed in this and the other two Bills were announced in a joint media release from the Treasurer, Wayne Swan, and the Minister for Health and Ageing, Nicola Roxon on 12 May 2009, as part of the 2009–10 Budget.¹⁵

Committee consideration

The Bill has been referred to the Senate Economics Legislation Committee, to report by 16 June 2009.

13 For a general discussion on the policy of means testing government benefits or payments see L Buckmaster, *Money for nothing? Australia in the global middle class welfare debate*, Research paper, no. 31, 2008–09, Parliamentary Library, Canberra, 2009, viewed 3 June 2009, <http://www.aph.gov.au/Library/pubs/rp/2008-09/09rp31.pdf>

14 For the 2010–11 year of income. This Bill proposes an initial singles tier 1 threshold of \$70 000 for the 2008–09 income year, making it consistent with the current threshold for singles of the Medicare levy surcharge threshold. This threshold is anticipated to rise to \$75 000 (\$150 000 for families) due to indexation, by the 2010–11 year of income. Personal correspondence, Department of Health and Ageing, 1 June 2009.

15 W Swan (Treasurer), N Roxon (Minister for Health and Ageing), *Rebalancing support for private health insurance*, media release, Canberra, 12 May 2009, viewed 28 May 2009, <http://www.health.gov.au/internet/budget/publishing.nsf/Content/budget2009-hmedia13.htm>

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Position of significant interest groups/press commentary

As the Rudd Government had previously committed to retain the rebate, some have characterised the changes to the rebate as amounting to a broken promise.¹⁶ Some, such as the Australian Health Insurance Association—the industry group representing health insurers—argue that as a result of these changes significant numbers—up to 1 million—will abandon or downgrade their cover, and this will lead to rises in private health insurance premiums as health insurers seek to recoup higher costs.¹⁷ They also claim that uninsured people will then seek treatment in the public system adding further pressure to public hospital waiting lists.¹⁸

Individual health insurers have expressed more divergent views. Mark Fitzgibbon, the Managing Director of one of the for profit health insurers, nib, argues that the negative impact on the industry of the proposed changes will be mitigated by a number of factors. These include the proposed increases to the Medicare levy surcharge, the ongoing effect of Lifetime Health Cover arrangements, proposed income tax cuts, price inelasticity of demand amongst high income earners and the continuing crisis of confidence in the public system.¹⁹

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- 16 See for example, M Turnbull (Leader of the Opposition), *A sustainable health system for all Australians*, media release, Canberra, 15 May 2009, viewed 29 May 2009, <http://www.liberal.org.au/news.php?Id=3123>; Australian Health Insurance Association (AHIA), *Rudd abandons private health*, media release, Canberra, 13 May 2009, viewed 29 May 2009, <http://www.ahia.org.au/media%20releases/AHIA%20Media%20Release%20-%20Rudd%20Abandons%20Private%20Health%2012May09.pdf>
- 17 AHIA, *Rudd abandons private health*, also AHIA, *Forcing more Australians onto public hospital waiting lists is not an 'insignificant' matter*, media release, 27 May 2009, viewed 29 May 2009, <http://www.ahia.org.au/media%20releases/AHIA%20Media%20Release%20-%20Forcing%20More%20Australians%20Onto%20Public%20Hospital%20Waiting%20Lists%20Is%20Not%20An%20Insignificant%20Matter%2027May09.pdf>
- 18 N Ahmed; 'Cuts to raise health charges' *Australian financial review*, 13 May 2009, viewed 20 May 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FJCJT6%22>; also Australian Health Insurance Association. This view is contested by others. For an overview of the debate that private health insurance membership reduces pressure on public hospitals, see A Pratt, *Public versus private? An overview of the debate on private health insurance and pressure on public hospitals*, Research note, no. 54, 2004–05, Parliamentary Library, Canberra, 2005, viewed 21 May 2009, <http://www.aph.gov.au/library/pubs/rn/2004-05/05rn54.pdf>
- 19 nib Holdings, *nib responds to proposed rebate changes*, ASX announcement, 8 May 2009, viewed 29 May 2009, http://www.nib.com.au/home/newtonib/about/MediaReleases/nib_responds_to_proposed_rebate_changes_080509.pdf

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Some are concerned that the proposal is confusing and complex. The Australian Private Hospitals Association (APHA) argues that Treasury estimates that 99.7 per cent of people will retain their private health insurance as a result of this measure, cannot be trusted, due to the complexity of the proposed arrangements.²⁰

Others who have argued the rebate is poor policy, such as the Australian Health Care Reform Alliance, have broadly welcomed the proposed changes, albeit with some reservations. These include concerns that the estimated savings could be more modest than anticipated, and that any savings should be re-directed from general revenue to the under-resourced public health system.²¹

The Government argues that the proposed changes will have an ‘insignificant’ impact on public hospital admissions—it estimates that around 8 000 additional admissions to public hospitals can be expected as a result of this measure. Further, the Government argues, those on incomes below \$75 000 for singles and \$150 000 for families will receive the same rebate as they currently enjoy.²²

Opposition/Greens/Family First policy position/commitments

The Opposition Leader, Malcolm Turnbull, has announced that the Opposition will oppose the changes to the private health insurance rebate. He proposes that the Government should retain the rebate in its current form and instead seek to realise equivalent savings by increasing the excise on tobacco products by 12.5 per cent.²³

Independent Senators Nick Xenophon and Steve Fielding have indicated they have concerns with the proposed changes. Senator Xenophon has expressed concern over the

20 M Roff (Australian Private Hospitals Association), *Health fund membership grows—can Treasury forecasts be trusted?* media release, 18 May 2009, viewed 29 May 2009, <http://www.apha.org.au/read/2436434745.html>

21 See, T McBride (Australian Health Care Reform Alliance), *Is health reform on the backburner?* media release, 14 May 2009; also P Power (Australian Healthcare & Hospitals Association), *Mixed fortunes for hospitals*, media release, 12 May 2009, viewed 29 May 2009, http://www.aushealthcare.com.au/news/news_details.asp?nid=13854

22 N Roxon, ‘Second reading speech: Fairer Private Health Insurance Incentives Bill 2009’.

23 M Turnbull, ‘A pile of debt for future generations’, *Sydney morning herald*, 15 May 2009, p. 11, viewed 29 May 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FGHKT6%22>

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potential impact on public hospitals if changes to the rebate drive people out of the private system.²⁴ Senator Fielding has concerns over the impact on families.²⁵

The Greens have indicated they have some ‘misgivings’ about the measure to ‘means test’ the rebate, but propose to move an amendment that would see savings from the measure redirected to the public health system.²⁶

Financial implications

The Government estimates that the combined effect of the measures proposed in this and the two accompanying Bills will result in net savings of \$1.9 billion over four years.²⁷ This will comprise savings through a reduction in the amount of Government expenditure on the private health insurance rebate—around \$1.8 billion according to Budget estimates—and an increase in revenue through the Medicare levy surcharge—\$145 million covering the same period. At the same time the total cost to implement these proposed measures is estimated to be around \$69 million over five years.²⁸

The estimates of savings provided in the Explanatory Memorandum differ slightly from the estimates of the measure provided in Budget Paper no. 2; affecting savings forecast for the forward years 2011–12 and 2012–13. The Budget estimates show savings of \$580.2 million and \$605.8 million for each of these respective years, while the Explanatory Memorandum estimates savings of \$650.2 million and \$680.8 million respectively.²⁹

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- 24 N Xenophon, *Xenophon welcomes rethink on private health insurance changes*, media release, 14 May 2009, viewed 29 May 2009, <http://www.nickxenophon.com.au/media.php?id=7>
- 25 S Fielding, *Budget speech*, media release, 14 May 2009, viewed 29 May 2009, http://www.stevefielding.com.au/images/press_room/090514_Budget.pdf
- 26 B Brown, *Greens urge Rudd to back Turnbull’s cigarette tax increase*, media release, 15 May 2009, viewed 29 May 2009, <http://bob-brown.greensmps.org.au/content/media-release/greens-urge-rudd-back-turnbull%E2%80%99s-cigarette-tax-increase>
- 27 N Roxon, ‘Second reading speech: Fairer Private Health Insurance Incentives Bill 2009’, House of Representatives, *Debates*, 27 May 2009, p. 2, viewed 28 May 2009 <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2009-05-27%2F0009%22>
- 28 Australian Government, *Budget measures: budget paper no. 2: 2009–10*, Commonwealth of Australia, Canberra, 2009, p. 311.
- 29 *Budget measures: budget paper no. 2*, p. 310; Explanatory memorandum, Fairer Private Health Insurance Incentives Bill 2009, p. 1.

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If the Budget figures are read to include the ‘related revenue’ figures, which appear on a separate line, this discrepancy disappears.³⁰

Main provisions

Schedule 1—Amendments

Amendments to the *Income Tax Assessment Act 1936*

When a person is eligible for the private health insurance rebate they can obtain the rebate in one of three ways. The premium reduction scheme allows a private health insurer to reduce the premium on the health policy. Alternatively, individuals can claim the rebate as a ‘tax offset’ when lodging their annual income tax return under the incentive payments scheme, or lastly an individual can claim the rebate direct from a Medicare office. **Item 1** inserts **new paragraphs 264BB(2)(ga) and (gb)** into the *Income Tax Assessment Act 1936* to allow the Commissioner of Taxation to require a private health insurer to provide additional information about reductions in premium payments, the amount of such reductions and the particulars of participants under the premium reduction scheme.

Amendments to the *Income Tax Assessment Act 1997*

Items 4, 6–9, insert new provisions to subdivision 61-G, so that when a person claims the rebate as a tax offset they are assessed as being either a tier 1, 2 or 3 income earner and have their offset reduced accordingly. For tier 1 income earners their offset is reduced by 10 per cent, for tier 2 income earners their offset is reduced by 20 per cent, and for a tier 3 earner the tax offset is removed altogether.

Item 10 inserts new sections that define the new single and family tiers 1, 2 and 3 thresholds. **Proposed section 61-230** inserts new private health insurance singles thresholds; singles tier 1 threshold, to apply for the 2008–09 year of income is to be set at \$70 000. Singles tier 2 threshold to apply for the 2010–11 year of income, is to be set at \$90 000, and singles tier 3 threshold to apply for the 2010–11 year of income is to be set at \$120 000. All thresholds will be indexed annually according to the indexation factor proposed at **item 15**.

Readers should note, however, that the singles tier 1 threshold of \$70 000 this Bill proposes is different to the figure of \$75 000 cited in the Explanatory Memorandum and the Minister’s second reading speech. It is intended that the singles tier 1 threshold be consistent with the singles income threshold for the Medicare levy surcharge, which is currently set at \$70 000 for singles (\$140 000 for families). Allowing for indexation, it is anticipated that the singles income threshold for the Medicare levy surcharge will rise to

30 Advice from the Department of Health and Ageing, personal correspondence, 1 June 2009.

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\$75 000 in the 2010–11 year of income.³¹ **Proposed section 61-235** specifies that the family thresholds will be double the singles threshold for each tier; and that for those with 2 or more dependants, their threshold will increase by \$1 500 for each dependent child.³²

Item 10 also **proposes new section 61-225** which includes a table that explains how singles and families will be assessed as tiers 1, 2 or 3.

Items 11–15 propose to insert new indexation provisions for the purpose of calculating the singles tier 1 and 2 thresholds in future years. **Item 15 proposes new section 960-290** which specifies the indexation process, including defining the quarterly index number to be used in calculating annual indexation. The quarterly index number is defined as the estimate of full-time adult average weekly ordinary time earnings for the middle month of the quarter as published by the Australian Statistician.

For calculating the singles tier 1 threshold in future years, **new section 960-290** proposes multiplying the amount for the 2008–09 year of income (currently this is set at \$70 000) by the indexation factor, then rounding this amount down in \$1 000 increments. For the singles tier 2 or 3 thresholds, **new section 960-290** proposes multiplying the amount for the 2010–11 income year (that is, the proposed tier 2 amount of \$90 000 or the proposed tier 3 amount of \$120 000) by the indexation factor, and rounding this amount down in \$1 000 increments. The reference year for calculating the singles tier 1 threshold is set at 2007; for singles tier 2 or 3 thresholds the reference year is 2009.

Amendments to the *Private Health Insurance Act 2007*

Items 27–31 propose to insert new provisions to Division 23, that allow for a taxpayer's eligibility for the rebate under the premium reduction scheme—which is the premium discount offered by private health insurers—to be reduced by 10 per cent for those assessed as being in tier 1, 20 per cent if they are assessed as being in tier 2 or removed altogether if they are assessed as being in tier 3.

Items 32–36 propose to insert new provisions to Division 23, that allow for a taxpayer's eligibility to claim the rebate under the incentive payment scheme—which is claimed as a tax offset—to be reduced by 10 per cent for those assessed as being in tier 1, 20 per cent if they are assessed as being in tier 2 or removed altogether if they are assessed as being in tier 3.

Currently subdivision 282-A allows certain amounts to be recoverable by the Commonwealth in certain circumstances, for example, when there has been an overpayment. **Item 38** inserts **new subdivision 282-AA, new sections 282-16 to 282-19** to allow the recovery of certain amounts by the Commissioner of Taxation but prevents

31 Advice from the Department of Health and Ageing, personal correspondence 1 June 2009.

32 This makes it consistent with the provisions for calculating liability for the Medicare levy surcharge, for high income earners with children.

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double recovery (**new subsection 282-17 (3)**). The Commissioner will be responsible for the recovery of premium reductions that exceed the amount allowable under section 23-1 of the Act, and for the recovery of payments that exceed the amount to which a person is entitled under section 26-1 of the Act. Note **new subsection 282-1(1A)** will provide that if the private health insurer was not at fault for causing the payment, then the amount will not be recoverable. Interest can be charged on overdue unpaid debts to the Commonwealth (**new section 282-19**).

Items 43-45 insert the new definitions in the Dictionary of a tier 1, 2 and 3 earner into the Act as a consequence of the amendments made to the *Income Tax Assessment Act 1997* in this Bill (**item 10**).

Amendments to the *Taxation Administration Act 1953*

Items 46 and 47 make necessary amendments to the *Taxation Administration Act 1953* as a consequence of the new functions of the Commissioner of Taxation and other amendments made under the Bill.

Amendments to the *Taxation (Interest on Overpayments and Early Payments) Act 1983*

Items 48-52 make provision for circumstances when the Commissioner is required to pay interest as a consequence of a taxpayer making an overpayment under **new subdivision 282-AA** of the PHIA 2007.

Concluding comments

This Bill is one of three seeking to give effect to a 2009–10 Budget announcement intended to ‘rebalance’ private health insurance arrangements. This specific Bill proposes amendments to a number of Acts that will means test the private health insurance rebate—which is paid to those who purchase private health insurance. The Bill proposes to establish 3 new tiers of income for the purposes of calculating the amount of rebate to which those in these income tiers will be entitled. Those in the two highest tiers—tiers 2 and 3—who do not take out appropriate private health insurance will have their rebate amount reduced by 10 per cent and 20 per cent respectively.³³ As the Opposition has indicated it opposes the measure, it will require the support of the Greens and the Independents to pass the Senate.

33 Those high income earners who decline to take out appropriate private health insurance will also be liable for a higher Medicare levy surcharge as proposed in the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2009.

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