



Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2009

Amanda Biggs
Social Policy Section

Sharon Scully
Law and Bills Digest Section

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Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2009

Date introduced: 25 November 2009

House: House of Representatives

Portfolio: Health and Ageing

Commencement: Schedule 1 commences on the day this Act receives Royal Assent, or 1 April 2010, whichever is the later.

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 Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2009 (the Bill) proposes amendments to the *Health Insurance Amendment (Diagnostic Imaging Accreditation) Act 2007* (the DIA Act) which established the Diagnostic Imaging Accreditation Scheme (the Scheme).¹ The proposed amendments would broaden the Scheme to medical practices offering non-radiology diagnostic imaging procedures which are currently not covered by the Scheme.

Background

What are non-radiology diagnostic imaging services?

‘Diagnostic imaging’ refers to a wide range of technologies used by medical professionals to allow them to ‘look inside’ the human body in order to diagnose medical conditions. Diagnostic imaging technologies include radiography (x-rays), computed tomography (CT scans), magnetic resource imaging (MRI), ultrasound, mammography, and positron emission tomography (PET), a category of nuclear medicine.²

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1. The DIA is now incorporated into the primary legislation, the *Health Insurance Act 1973* (HIA). The Scheme commenced operation in July 2008.
 2. Adapted from US National Library of Medicine and the National Institutes of Health, ‘Diagnostic Imaging’, Medline Plus, viewed 11 January 2010, <http://www.nlm.nih.gov/medlineplus/diagnosticimaging.html>; see also J K Davidson, ‘Imaging techniques’ in C Blakemore and S Jennett (eds), *The Oxford Companion to the Body*, Oxford University Press, 2001, Oxford Reference Online [database], Oxford

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The services targeted under this Bill, which the Government describes as non-radiology diagnostic imaging services, are a subgroup that specifically includes cardiac ultrasound and angiography, obstetric and gynaecological ultrasound and nuclear medicine imaging.³ In addition, services involving preparation for radiological procedures are also covered under the proposed provisions.

The Australian Government provides Medicare rebates for diagnostic imaging services listed in the Diagnostic Imaging Services Table as set out in the Medicare Benefits Schedule (MBS). Management of diagnostic imaging services is undertaken cooperatively between the Department of Health and Ageing and the diagnostic imaging sector. Historically, this was done through a number of agreements known as Quality and Outlays Memoranda of Understanding (MOUs) until these expired in July 2008.⁴ In July 2008 new accreditation arrangements for diagnostic imaging commenced.

The Diagnostic Imaging Accreditation Scheme

The Diagnostic Imaging Accreditation Scheme, which commenced in July 2008, established an accreditation framework for most diagnostic imaging premises and bases for mobile imaging equipment. Accreditation is a process to ensure that organisations meet defined safety and quality standards in the delivery of services.⁵

The Scheme is being implemented in two stages. Stage 1 established the framework and operational arrangements for the Scheme and is due to expire on 30 June 2010, at which time Stage 2 is due to commence.⁶ The Government has been undertaking consultations with the diagnostic imaging sector on moving to the next stage and on broadening the scheme to include non-radiology diagnostic imaging practices. Although arrangements for Stage 2 are yet to be finalised, it is expected to include an accreditation maintenance program.⁷

University Press, viewed, 15 January 2010, <http://www.oxfordreference.com/views/ENTRY.html?subview=Main&entry=t128.e525>

3. Explanatory Memorandum, Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2009, p. 1.
4. Four separate MOUs covered the sector.
5. For more details refer to L Buckmaster and A Martyn, Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2007, *Bills Digest* no. 137 2006–07, Parliamentary Library, 8 May 2007.
6. Two Ministerial Determinations that prescribe the details of the scheme are due to expire on 30 June 2010.
7. Two consultation papers have been released by the Department of Health and Ageing, one in February 2009 and the second in April 2009. This latter paper explored broadening accreditation arrangements to include non-accredited practices. The first paper suggested the scope of Stage 2 could include a new edition of practice standards, arrangements to allow

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Since mid-2008, practices rendering diagnostic imaging services have been required to participate in the Scheme and obtain accreditation or deemed accreditation in order to be able to provide Medicare rebatable services. Around 2700 practices—mostly in the radiology sector—participate in the Scheme.⁸ Accreditation is undertaken by approved accreditors. Currently, practices that render non-radiology diagnostic imaging services—specifically cardiac ultrasound and angiography, nuclear medicine and obstetric and gynaecological ultrasound—are not included in the Scheme.⁹ This Bill would allow the Scheme to be broadened to cover these previously excluded practices which the Government estimates number around 1400.¹⁰ Of this total, a significant number are private specialist practices.¹¹

It is worth noting that this Bill does not set out the arrangements that will apply when Stage 2 of the Scheme commences. As noted, these are yet to be finalised. Rather, this Bill is proposing transitional accreditation arrangements for practices offering non-radiology diagnostic imaging services which were excluded from the Scheme. These practices were specifically excluded because unlike the MOU governing radiology services, the agreements applying to these other services did not mandate an accreditation scheme linked to the payment of Medicare benefits.¹² The proposed transitional arrangements for these non-accredited practices would align their proposed accreditation schedule with the commencement date for Stage 2.¹³

The transitional accreditation process proposed in this Bill is broadly similar to that introduced under Stage 1 of the Scheme, in that it involves two main steps. The proposed

for off-site audits and random on-site audits, arrangements to maintain accreditation and an open tender process to approve accreditors. Department of Health and Ageing, *Moving to the next phase of accreditation*, Australian Government, February 2009 and Department of Health and Ageing, *Broadening the scope of the Scheme to include non-radiology services*, Australian Government, April 2009.

8. N Roxon, 'Second reading speech: Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2009', House of Representatives, *Debates*, 25 November 2009, pp. 12779–12780, viewed 21 January 2010, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2009-11-25%2F0038%22>
9. Practices which commenced operations after 30 June 2008 were also excluded. See *Ibid.*
10. *Ibid.*
11. A Departmental consultation paper estimated these non-accredited private practices included 406 private obstetric and gynaecological practices, 182 private cardiology practices and a lesser number of private nuclear medicine practices. In addition, a number of primary care practices offered non-accredited services. See Department of Health and Ageing, *Broadening the scope of the Scheme to include non-radiology services*, *op. cit.*, pp. 20–21.
12. *Ibid.*, p. 4.
13. *Ibid.*, p. 7.

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transitional arrangements would apply to providers of non-radiology diagnostic imaging services in the following way:

- firstly, establishing a 3 month registration period from 1 April to 30 June 2010, during which time a practice can lodge a notice with an approved accreditor for a premises (or base) to be registered for ‘deemed accreditation’¹⁴
- ‘deemed accreditation’ would cease on 1 July 2011. A practice with ‘deemed accreditation’ would have 12 months to obtain accreditation by demonstrating compliance with either entry level standards or the full suite of standards, or accreditation under the Medical Imaging Accreditation program.¹⁵

A practice that fails to obtain accreditation by 1 July 2011 would no longer be eligible to render Medicare rebatable diagnostic imaging services. Penalty provisions apply to a practice which renders a service to a patient without first notifying them that a Medicare benefit is not payable because the practice is not accredited.¹⁶

Basis of policy commitment

The Government’s intention to broaden the Scheme to include non-radiology practices was stated in a consultation paper released in April 2009, where this approach was outlined.¹⁷ As the Minister notes in her second reading speech, it is the Government’s intention to ensure ‘consistency and uniformity across the whole diagnostic imaging sector’.¹⁸ The Rudd Government’s approach to ensuring accreditation across the sector is slightly different to that favoured by the former Health Minister, Tony Abbott, in 2007, when he first introduced the Scheme on behalf of the Howard Government. At that time Mr Abbott described how the framework for the Scheme had been designed ‘to allow for the introduction of accreditation schemes for other diagnostic imaging services without further amendments to the Act’.¹⁹ Rather than introduce additional accreditation schemes

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14. The proposed 3 month time period is a shorter timeframe to that which was available to practices when the Scheme was first established.
 15. Explanatory Memorandum, p. 1. The Medical Imaging Accreditation Program is the diagnostic imaging accreditation program jointly administered by National Association of Testing Authorities, Australia (NATA) and Royal Australian and New Zealand College of Radiologists (RANZCR).
 16. Section 23DZZIAE of the DIA. Patients must be given notice in writing, or the practice must have a notice prominently displayed.
 17. Department of Health and Ageing, *Broadening the scope of the Scheme to include non-radiology services*, op. cit.
 18. N Roxon, op cit.
 19. T Abbott, ‘Second reading speech: Health Insurance Amendment (Diagnostic Imaging Accreditation) Bill 2007’, House of Representatives, *Debates*, 29 March 2007, pp. 1–2,

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without legislation, the approach favoured by the Rudd Government is to broaden the existing Scheme to include these other imaging services, through amendments to the legislation.

Position of significant interest groups/press commentary

Although press commentary on the Bill has been largely absent, a number of stakeholders have responded to the Government's consultation paper on broadening the scope of the Scheme to include non-radiology services. Thirteen of the 15 submissions received were posted on the Department's website.²⁰ The Department noted some concerns across a number of areas. In summary these were:

- the suitability of applying one accreditation model to a diverse range of practitioners
- the potential for duplication and the importance of integrating with other accreditation systems
- the importance of consultation in the development of standards
- the need for a comprehensive lead time to facilitate budgeting and planning, and
- the lack of evidence for universal practice standards as a way of improving safety and quality across diverse diagnostic imaging services.²¹

Many of these issues are not specifically addressed in this Bill, although these may be resolved when the Stage 2 details are finalised. Some stakeholder concerns may re-emerge, in particular from those practices that would face difficulties in meeting the 3 month deadline in which to register for 'deemed accreditation', and from those with concerns over a single accreditation model being applied to all practitioners.

Financial implications

The Explanatory Memorandum estimates the cost of implementing this measure at around \$649 000, which would be met from existing Departmental resources. Some of the costs that practices would incur by participating in the Scheme are calculated in the Business Cost Calculator contained in the Explanatory Memorandum. This Calculator estimates the likely administrative costs to practices in lodging the registration forms. These are

viewed 19 January 2010,

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2007-03-29%2F0009%22>

20. Department of Health and Ageing, 'Diagnostic Imaging: Summary of submissions on "Broadening the Scope of the Accreditation Scheme" to include Non-radiology services', *webpage*, viewed 19 January 2010, <http://www.health.gov.au/internet/main/publishing.nsf/Content/diaccred-broadscope-nonradserv-sum>
21. *Ibid.*

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expected to vary depending on the type of labour resources involved in lodging the registration form.

Practices using administrative staff to lodge the forms would face the lowest cost burden estimated at around \$47; those using technical staff would face a slightly higher cost of around \$84. Practices using a diagnostic imaging specialist to submit the form would face the highest cost estimated at around \$600.²² The cost of any lodgement fees levied by accreditors is not included in the Cost Calculator estimates.²³ At least some of the four accreditors currently registered under Stage 1 of the Scheme appear to include the cost of any lodgement fee in the overall fee they charge for accreditation.²⁴ However, it is not certain that these fee structures would remain unchanged.

Main provisions

The Bill seeks to amend the DIA Act by inserting **proposed item 12A** into Schedule 1 of the Act.

Proposed item 12A sets out the new provisions to be included in the DIA Act. It extends the scope of the Diagnostic Imaging Accreditation Scheme (the Scheme) to proprietors of a diagnostic imaging premises or of a base for mobile diagnostic imaging equipment who render non-radiology diagnostic imaging procedures at the premises or base before 30 June 2010. Where the relevant premises or base is not accredited under a diagnostic imaging accreditation scheme, such proprietors may register for the Scheme. Failure to register would result in the relevant non-radiology diagnostic imaging procedures not attracting Medicare rebates under the HIA.

‘Non-radiology diagnostic imaging procedure’ is defined in **proposed subitem 12A(2)** as a diagnostic imaging procedure for the following services:

- cardiac ultrasounds
- gynaecology and obstetrics ultrasounds
- cardiac angiography
- nuclear medicine imaging, and

22. Explanatory Memorandum, pp. 4–6.

23. Under the current regulations an accreditor is permitted to charge a fee for the work involved in receiving a processing a notice for registration. See section 5(1) of the Health Insurance (Diagnostic Imaging Accreditation) Determination 2008.

24. For example, QIP’s website states, ‘QIP’s fee structure covers the entire accreditation process including registration, application and practice assessment’. Fees vary depending on the size of the practice. QIP charges between \$220 and \$880. See, QIP ‘Medical imaging accreditation’, *webpage*, viewed 18 January 2009, <http://www.qip.com.au/accreditation.asp?acrid=11>

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- preparations for radiological procedures.

Under **proposed subitems 12A(3) and (4)**, the proprietor may register the premises or base only for non-radiology diagnostic imaging procedures; or for a combination of diagnostic imaging procedures, by lodging a notice with the person whom the Minister designates by 30 June 2010. It would be necessary to comply with any requirements as to the form of such notice and/or any fees charged for lodging the notice under **proposed subitems 12A(5) and (6)** respectively.

Proposed subitem 12A(7) provides that the premises or base would have a *deemed accreditation* status if it is so registered—in other words, it would be considered as being accredited in relation to the diagnostic imaging procedures specified in the notice for the purposes of section 16EA of the *Health Insurance Act 1973*.

It is noted that the proprietor of the premises or base may include additional diagnostic imaging procedures in the deemed accreditation by lodging a notice with the person deemed by the Minister by 30 June 2011 under **proposed subitem 12A(8)**.

While under **proposed subitem 12A(9)**, the deemed accreditation would not be transferable—in that it would only apply to the premises or base specified in the notice—**proposed subitem 12A(10)** provides that the deemed accreditation would not be affected by any change in the proprietor of the premises or base.

Proposed subitem 12A(11) provides that the deemed accreditation status would end:

- if the application for deemed accreditation is approved—on the day accreditation takes effect, or
- if such application is refused—on the later of the following:
 - 30 June 2011, or
 - the day on which the right to reconsideration of such refusal expires, or
- in any other case—on 30 June 2011.

Comment

It is noted that the DIA Bill seeks to amend what is essentially an amendment Act, which has already been incorporated into the *Health Insurance Act 1973* (the primary legislation), instead of amending the primary legislation itself.

As this is not usual practice, the Parliamentary Library is seeking clarification from the Department of Health and Ageing and the Office of Parliamentary Counsel.

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Concluding comments

The provisions in this Bill will expand the scope of the diagnostic imaging accreditation Scheme to cover non-radiology based practices to ensure consistency across the sector. To achieve this, the Bill proposes transitional provisions to move these practices to 'deemed accreditation' status under the Scheme by July 2010, which also aligns with the scheduled introduction of the next stage of the Scheme. There will be some administrative costs to those practices affected by these provisions, which will vary with the size of the practice. However, the full cost burden is difficult to estimate. Although most of the proposed provisions are largely uncontroversial, stakeholder concerns may yet emerge.

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