

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
CANBERRA

AGREEMENT ON HEALTH CARE INSURANCE
BETWEEN
AUSTRALIA
AND
THE KINGDOM OF BELGIUM

Canberra, 10 August 2006

Not yet in force
[2006] ATNIF 19

AGREEMENT ON HEALTH CARE INSURANCE BETWEEN AUSTRALIA AND THE KINGDOM OF BELGIUM

Australia and the Kingdom of Belgium, desirous of regulating reciprocal relations between the two Parties in the area of health care insurance, have agreed as follows:

SECTION I General Provisions

Article 1

Definitions

1. For the purpose of this Agreement:

(a) The term "Belgium" means: the Kingdom of Belgium;

The term "Australia" means: the Commonwealth of Australia;

(b) The term "territory" means:

In relation to Belgium: the territory of the Kingdom of Belgium;

In relation to Australia: the territory of Australia, excluding all external territories other than the territories of Cocos (Keeling) Islands and Christmas Islands;

(c) The term "legislation" means:

The laws and determinations specified in Article 2;

(d) The term "competent authority" means:

In relation to Belgium: the Ministers responsible, as far as they are concerned, for applying the legislation that is the subject of Article 2, paragraph 1(a);

In relation to Australia: the Secretary of the Department of Health and Ageing (or such other Department that may in the future carry out the relevant functions of this body) responsible as far as it is concerned for applying the legislation that is the subject of Article 2, paragraph 1(b);

- (e) The term "competent body" means:

The institution, organisation or authority responsible for applying, in full or in part, the legislation that is the subject of Article 2, paragraph 1;

- (f) The term "period of insurance" means:

In relation to Belgium: any period recognised as such by the legislation under which this period was accomplished, and similarly any equivalent period recognised by this legislation;

In relation to Australia: any period of eligibility for Medicare under the relevant legislation;

- (g) The term "benefits in kind" means:

In relation to Belgium: health benefits, being those appearing at Article 34 of the law relating to compulsory health care insurance and allowances that was coordinated on 14 July 1994;

In relation to Australia:

- (a) professional services provided under the terms of the Health Insurance Act 1973;
- (b) hospital services provided in the public health system under the terms of the Health Insurance Act 1973.

In relation to (a) and (b), any agreement or determination in relation to the provision in the States and Territories of Australia of hospital and other services;

- (c) pharmaceutical benefits provided to a general patient as defined in the National Health Act 1953;

(h) The term "residence" means:

In relation to Belgium: the usual place of stay;

In relation to Australia: residence refers to the holding of either a current Australian passport or any other current passport endorsed to the effect that the holder is entitled to reside indefinitely in Australia as defined in and for the purposes of the Health Insurance Act 1973;

(i) The term "visit" means:

In relation to Belgium: present in that territory within the limits of such period as may be prescribed by the legislation;

In relation to Australia: lawfully present in that territory but not resident.

2. Any word used in this Agreement but not defined in paragraph 1 of this Article has the meaning assigned to it by the applicable legislation.

Article 2

Matters covered

1. This Agreement applies to:

(a) In relation to Belgium: the legislation concerning health insurance for salaried persons and self-employed persons;

(b) In relation to Australia: the legislation concerning the Health Insurance Act 1973, the National Health Act 1953 and related regulations and determinations, and any agreement in relation to the provision in the States and Territories of Australia of hospital and other services.

2. Subject to paragraph 3 of this Article, this Agreement shall apply equally to any legislation, regulation, determinations, and agreements that replace, amend or supplement the legislation, regulations, determinations, and agreements specified in paragraph 1 of this Article.

3. This Agreement shall apply to any act or regulation which extends the existing health insurance schemes to new categories of beneficiaries unless, in this respect, the contracting Party which has amended its legislation notifies the other contracting Party of its objections concerning such extensions within six months of the official publication of the said acts or regulations.

Article 3

Persons covered

Unless otherwise specified, this Agreement applies to persons who are insured subject to Belgian legislation or eligible subject to Australian legislation and similarly to their family members.

Article 4

Equality of treatment

Unless otherwise provided for in this Agreement, persons covered by Article 3 are subject to the obligations and entitled to the benefits of the legislation of the contracting Party in whose territory they are lawfully present under the same conditions as the Belgian nationals in Belgium and the Australian residents in Australia.

SECTION II

Specific provisions concerning health care insurance

Article 5

1. Except as otherwise provided for in Articles 6 and 7, a person who has the right to benefits in kind under the legislation of one of the contracting Parties and whose condition warrants immediate medical treatment in the course of a visit to the territory of the other contracting Party, is entitled to benefits in kind in the territory of this other contracting party.
2. The benefits in kind are provided by the competent body in the contracting Party the person is visiting, in accordance with its applicable legislation.
3. Paragraph 1 of this Article does not apply when a person travels to the territory of the other contracting Party with the objective of receiving medical treatment.
4. It is the responsibility of the competent body of the place of visit to determine the immediate necessity of the medical treatment that is the subject of paragraph 1 of this Article.

Article 6

Students and their accompanying family members who are subject to the legislation of a contracting Party, and lawfully present in the territory of the other contracting Party, are entitled to benefits in kind in the territory of this other contracting Party. The benefits in kind are provided by the competent body of the latter contracting Party in accordance with its applicable legislation.

Article 7

A person who is, by virtue of Articles 9 to 11 of the Agreement on Social Security between Australia and the Kingdom of Belgium dated 20 November 2002, subject to the legislation of a contracting Party, and similarly the members of his or her accompanying family, is entitled to benefits in kind during the whole period of their presence in the territory of the other contracting Party.

Article 8

1. Benefits in kind, which are the subject of Articles 5 to 7, are at the expense of the contracting Party which provided these benefits.
2. The competent authorities may agree that there shall be a refund between the competent bodies concerned. The terms and conditions of this refund will be agreed between the competent authorities.

SECTION III

Various provisions

Article 9

Responsibilities of the competent authorities

The competent authorities shall:

- (a) take by jointly determined administrative arrangements, the necessary steps to apply this Agreement and designate the liaison bodies and the competent bodies;
- (b) communicate directly to each other all information concerning the steps taken in the application of this Agreement;

(c) communicate to each other, as soon as possible and directly, any amendment to their legislation that might affect the application of this Agreement.

Article 10

Administrative collaboration

1. In the application of this Agreement, the competent authorities and similarly the competent bodies of each contracting Party shall reciprocally provide assistance to one another as if they were applying their own legislation. This mutual assistance is free, except as otherwise agreed between the competent authorities.

2. In the application of this Agreement, the competent authorities and the competent bodies of the contracting Parties are authorised to correspond directly with each other and similarly with any person, whether this person is present in Australia or Belgium. Correspondence shall be in one of the official languages of the contracting Parties.

Article 11

Taxes and exemption from authentication

1. The benefit of exemption from, or reduction in taxes, stamp duty, recording or registration as provided for by the legislation of one of the contracting Parties for the documents and papers required to be produced under the legislation of that contracting Party, is extended to similar documents and papers required to be produced under the legislation of the other contracting Party.

2. All statements and documents required to be produced under this Agreement are exempt from the diplomatic or consular authorities' stamp of authentication.

Article 12

Applications, statements and appeals

1. Applications, statements or appeals which are required to have been lodged under the legislation of a contracting party within a specified period of time with an authority, a body or a jurisdiction of this contracting Party, are acceptable if they are lodged within the same period with an authority, body or jurisdiction of the other contracting Party. In this case, the authority, body or jurisdiction that is thus approached, transmits without delay these applications, statements or appeals to the authority, body or jurisdiction of the former contracting Party either directly or by the intermediary of the competent authorities of the contracting Parties. The date on which these applications, statements or appeals have been lodged with an authority, body or jurisdiction of the other contracting Party is deemed to be the date of their lodgement with the competent authority, body or jurisdiction for the purposes of its ability to consider them.
2. An application or a document may not be rejected on the basis of it being written in an official language of the other contracting Party.

Article 13

Settlement of disputes

The competent authorities of the contracting Parties shall resolve, to the extent possible, any difficulties which arise in interpreting or applying this Agreement according to its spirit and fundamental principles.

SECTION IV

Transitional provisions

Article 14

Possible instances prior to the Agreement coming into force

This Agreement does not provide any right to benefits in kind for a period prior to when it comes into force.

Article 15

Term of Agreement

This Agreement is concluded for an indefinite period. It may be terminated by one of the contracting Parties by written notice through their diplomatic channel delivered to the other contracting Party. The Agreement will remain in force, however, until the expiration of twelve months from the date on which such notice is delivered to the other contracting Party.

Article 16

Agreement to come into force

This Agreement will come into force on the first day of the third month that follows the date or receipt of the note through the diplomatic channel by which the last of the two contracting Parties has informed the other contracting Party that the formalities that are legally required for this Agreement to come into force have been completed.

In witness whereof, the undersigned, duly authorised, signed this Agreement.

Done at Canberra on the tenth day of August two thousand and six, in duplicate, in the English, French and Dutch languages, the three texts being equally authoritative.

For the Government of
Australia:

For the Kingdom of
Belgium:

Tony Abbott
Minister for Health and Ageing

HE Frank Carruet
Ambassador