

**SUBMISSION BY MEDICARE AUSTRALIA TO THE COMMUNITY AFFAIRS,  
LEGISLATION COMMITTEE REFERENCE ON THE HEALTH AND OTHER SERVICES  
(COMPENSATION) AMENDMENT BILL 2006.**

**Background**

Medicare Australia administers the Compensation Recovery program, under the auspices of the *Health and Other Services (Compensation) Act 1995* (HOSC Act), as amended. When it commenced in 1996, the Compensation Recovery program required compensation claimants and payers to notify the then Health Insurance Commission (HIC) of all claims made and provided a mechanism to calculate any debt owing. This was a particularly cumbersome system which adversely impacted HIC's capacity to administer the program efficiently and resulted in delays in claimants receiving payments. At the time, the processing required any amount owing to the claimant be repaid to HIC and this to be duly processed prior to the release of the remainder of compensation payment to the claimant. The scheme became unpopular and was perceived to create an impediment to the claimant receiving their settlement monies.

Later in 1996, Government introduced the Advance Payment Option (APO) which allowed for 10% of the compensation fixed to be forwarded to HIC whilst any debt (Notified by way of a Notice of Past Benefits – NOPB) was calculated and recovered, but allowed the remaining 90% to be released to the claimant. Any excess from the APO was returned to the compensable person. This has proved to be popular with all parties (insurers, claimants & legal representatives).

Following submissions from industry a review of many aspects of the program was conducted by Mr George Pooley. This review resulted in changes to the HOSC Act, commencing 1 January 2002. The major changes were:

- Removal of the requirement for cases to be notified to HIC prior to Judgment/Settlement;
- Allowing cases in which compensation is fixed at \$5,000 or less to be exempt from the HOSC Act;
- Extending the validity time for a Notice of Past Benefits (NOPB) from 3 to 6 months;
- Allowing for a Statutory Declaration to be signed stating that no services had ever been received in relation to the compensable injury, or that no additional services had been received since the last NOPB; and
- Creating a "sunset" clause for the APO.

In 2004, Medicare Australia made recommendations to the Department of Health and Ageing (DoHA) for changes to the HOSC Act, amongst which was the repeal of the "Sunset Clause" 33AA, as anecdotal evidence to HIC staff indicated extensive support for retention of the APO in its present form.

Currently, Medicare Australia processes some 60,000 cases per year, which results in recovery of \$30 million from 50,000 of those cases. A very large number of these use the APO. Use of APO allows the payer (mostly Insurance companies) to close off their books and move responsibility for payment to the claimant, who has received 90% of the compensation, as stated above. Some 1,500 (Approx 3%) of the APO cases result in debt recovery additional to the APO payment.

Those who do not use APO, use the Non APO (original pre APO) path. The Non APO path requires the parties to negotiate a debt (Issued in a Notice of Past Benefits – NOPB) prior to Judgment/Settlement, even though this amount may need to be recalculated every 6 months, as the parties negotiate toward an agreement. Under these circumstances, repeated interface with Medicare Australia to maintain a current NOPB can be an imposition on claimants and payers, in terms of time and cost.

## **Potential Improvements to the APO**

The Committee has asked for comment on potential improvements to the HOSC Act, particularly with respect to the APO.

Medicare Australia, formerly HIC, notes the administrative convenience that the APO has introduced for insurers, the compensation payers, and Medicare Australia. The current system has been in place for 10 years and is well understood by the parties, minimises the impact on claimants by minimising follow up debt recovery and pays refunds quickly (less than 20 days, where claimant abides by the requirements of the Act).

In a small number of cases the amount owed to Medicare Australia is greater than the APO 10%. Then Medicare Australia is required to recover the shortfall directly from the claimant. In the main (97% of cases) retention of the APO amount (10%) allows for the majority of monies to be released to the claimant with the remainder following promptly thereafter.

Medicare Australia notes that the Pooley review did contemplate a sliding scale (\$5,001 to \$10,000 would pay 5%, \$10,001 to \$50,000 would pay 3% and higher than \$50,001 would pay 1%). Any change would be a matter for policy, but Medicare Australia notes that any change with possibly more complex administrative arrangements may introduce unintended consequences such as added complexity in calculations, system developments to support claims assessment, lead time to implement and cost. The full extent of such change is difficult to quantify at this stage.

Medicare Australia would be happy to provide further information or advice which might assist the Committee in conducting its hearing. The contact officer for further inquiries is Leonie Whiting, Manager Associate Government Programs Branch, on (02) 6124 6692.