
ADDITIONAL COMMENTS

Australian Labor Party and Australian Democrats

Health Legislation Amendment Bill 2005

The Labor and Australian Democrats members of the Committee concur with the final recommendation of this report.

However, given that we would not have been able to agree to the Bill as it was originally referred to the Committee, we feel it is important that we add our additional comments.

This Bill as referred to the Committee is a mix of amendments, some of which are merely technical clarifications, one of which potentially impacts on the outcome of the Fourth Pharmacy Agreement, and one of which provides the Health Minister with new and wide-ranging powers to limit Medicare coverage.

This is a very disconcerting and questionable provision of power to the Minister. The second reading speech that accompanied this bill said; “A power of this kind is required to allow swift action to be taken to prevent medical practitioners claiming existing Medicare Benefits Schedule items for services which they were never intended to cover *or which the Government does not wish to fund through Medicare*” [emphasis added].

The Minister’s office was initially unable to say why this new power was needed. The AMA said they fear this new power could be used to ban Medicare rebates any time Treasury wanted budget savings, or to limit certain procedures such as hip replacements, for older patients. In addition, there are concerns that the Minister would use this to limit access to previously approved Medicare services (including IVF and abortion), thus having the Minister over-ride the expert decisions of both the Medical Services Advisory Committee (MSAC) and the Medicare Benefits Consultative Committee.

There are occasional instances when doctors use current MBS item numbers to cover new services that have not been approved by MSAC. In these cases, the HIC sends a ‘cease and desist’ letter, but does not move to recover the Medicare benefits paid. There is one known instance where a doctor had made a legal challenge, insisting that a current Medicare item covered the new (unapproved) spinal surgery he was doing. Giving unfettered power to the Minister to address this one issue does seem to be a sledgehammer approach to a problem that can be fixed by alternative, more precise, means.

A second reason for concern is that PHI funds cover only those items which have a Medicare number and thus Ministerial action could be used to limit the funds’ outlays.

There is good reason to believe that the Minister will be vulnerable to pressure for the PHI funds in this regard.

While Labor and the Australian Democrats would not approve the inappropriate utilisation of MBS items for procedures that have not been approved by MSAC, there are already procedures available to Medicare Australia (HIC) to address such misuse. Other, more targeted procedures could be developed if required.

We are pleased that the Minister has finally seen the light and agreed to drop plans to give himself the power to decide unilaterally which treatments get a Medicare rebate. The fact is that after his concerted efforts to limit Medicare payments for IVF treatments, his continual public statements about the need to limit abortions, and his consistent disregard for expert opinions, no one trusted him with these powers.

In agreeing to eliminate this provision, the Minister has now made it possible for Labor and the Australian Democrats to support this Bill and support the recommendation of this report.

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Senator Helen Polley
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