The Senate

# Community Affairs Legislation Committee

## Provisions of the National Health Amendment (Budget Measures – Pharmaceutical Benefits Safety Net) Bill 2005

November 2005

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# NATIONAL HEALTH AMENDMENT (BUDGET MEASURES – PHARMACEUTICAL BENEFITS SAFETY NET) BILL 2005

## THE INQUIRY

1.1 The National Health Amendment (Budget Measures – Pharmaceutical Benefits Safety Net) Bill 2005 (the Bill) was introduced into the House of Representatives on 14 September 2005. On 5 October 2005, the Senate, on the recommendation of the Selection of Bills Committee (Report No. 11 of 2005), referred the provisions of the Bill to the Committee for report.

1.2 In recommending the reference of the Bill to the Committee, the Selection of Bills Committee provided the following issues for consideration.

To examine the provisions of the Bill relating to increases in the Pharmaceutical Benefits Safety Net thresholds and new safety net and patient co-payment arrangements for some pharmaceutical benefits where the pharmaceutical benefit is supplied within 20 days of a previous supply to determine the implications for access and equity in relation to medicines for all Australians.

1.3 The Committee considered the Bill at a public hearing on 13 October 2005. Details of the public hearing are referred to in Appendix 2. The Committee received 13 submissions relating to the Bill and these are listed at Appendix 1. The submissions and Hansard transcript of evidence may be accessed through the Committee's website at http://www.aph.gov.au/senate_ca

## THE BILL

1.4 The purpose of this Bill is to amend Part VII of the *National Health Act 1953* (the Act) in relation to certain aspects of the Pharmaceutical Benefits Scheme (PBS), as announced in the 2005-06 Budget. The amendments will implement new safety net and patient co-payment arrangements for some pharmaceutical benefits where the pharmaceutical benefit is supplied within 20 days of a previous supply. The amendments will also increase the thresholds for eligibility for PBS safety net entitlements.[1]

1.5 Expenditure on the PBS and Repatriation Pharmaceutical Benefits Scheme (RPBS) has grown at an average rate of 12 per cent per annum for the last 10 years,

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1 Explanatory Memorandum, p.1.

with a total cost of about $6.5 billion in 2004-05. This Bill implements government budget measures designed to support the affordability of the PBS into the future.[2]

1.6 The measures in the Bill have a total saving of $210 million over the four years 2005-06 to 2008-09. The amendments relating to the early supply of specified pharmaceutical benefits via the PBS and the RPBS are estimated to result in savings of approximately $70 million, while the amendments relating to increases in the safety net thresholds are estimated to result in savings to the PBS and RPBS of approximately $140 million.[3]

1.7 The Parliamentary Secretary to the Minister for Health and Ageing stated:

> The measures recognise that the PBS is important to the health of Australians. The sensible and practical steps in this bill demonstrate determination to preserve this valued part of the Medicare system for our children and future generations. We have a responsibility to keep watch on the cost of the PBS for the community as a whole and the costs for the individuals and families at the time of purchasing PBS medicines.[4]

## ISSUES

1.8 This Bill addresses two issues in relation to the operation of the PBS which have become apparent: it deters the stockpiling of medicines by discouraging repeat prescriptions within 20 days ('safety net 20 day rule') and 'will help to rebalance the way costs for the PBS as a taxpayer funded scheme are shared between the community as a whole and individuals using medicines' by gradually raising the threshold of the safety net by two co-payments every year for the next 4 years.[5]

### Safety net 20 day rule

1.9 The AMA pointed out that early repeat supply is reasonable for people who are travelling or have other commitments.[6] It also suggested that stockpiling activity would self-correct:

> From our point of view the stockpiling issue should be fairly much self-correcting. If you are spending above the safety net and you stockpile this year, it is going to take you longer to get to the safety net in the following year.[7]

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2 Parliamentary Secretary to the Minister for Health and Ageing, Second Reading Speech, 14.9.05.

3 Explanatory Memorandum, p.3.

4 Parliamentary Secretary to the Minister for Health and Ageing, Second Reading Speech, 14.9.05.

5 Parliamentary Secretary to the Minister for Health and Ageing, Second Reading Speech, 14.9.05.

6 *Submission* 3, p.2 (AMA).

7 *Committee Hansard* 13.10.05, p.2 (AMA).

1.10 The Australian Consumers' Association (ACA) did not support the introduction of the 'safety net 20 day rule' as it believed patient care will suffer, for example, patients who live in rural areas who often have to travel long distances to a pharmacy.[8]

1.11 The Government of Western Australia opposed the amendment on the following grounds:

> This proposed amendment could result in a patient's co-payment for the supply of any medication within 20 days not being eligible for the safety net arrangements. This will effectively penalise patients financially where the doctor is adjusting a medicine's dose to achieve an optimum effect, where a patient has lost their medicines, or where, through illness, they require an increase in the rate of supply of their medicines.[9]

1.12 The National Association of Practising Psychiatrists (NAPP) sought an exemption from the safety net 20 day rule for medications for psychiatric patients. It argued:

> It is self evident that some psychiatric patients will be among those who perhaps commonly misplace medication because of their mental state. Increases in payments, or reductions in applicability of co-payments towards safety-net arrangements would seem to us to be unintentionally punitive and perhaps discriminatory. NAPP would seek exemption of such medications under new provisions.[10]

1.13 The Australian Divisions of General Practice (ADGP) gave qualified support for the proposed change,[11] while the submission from the Health Consumers Council WA (HCC) listed a number of advantages which should accrue from the introduction of the safety net 20 day rule including that:

> This approach will discourage unnecessary supply of PBS medicines and reduce wastage costs. It encourages consumers to use medicines responsibly and not to get early or excess supplies.[12]

1.14 Research by the Department of Health and Ageing (DoHA) has found evidence that stockpiling of PBS medicines occurs towards the end of each calendar year when many people have reached their thresholds. Apart from discouraging stockpiling, the Department indicated that the introduction of the safety net 20 day rule will have the added benefits of 'reducing wastage, and reducing risks associated with excess medicines in the community'.[13]

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8 *Submission* 6, p.1 (ACA).

9 *Submission* 13, p.2 (Western Australian Government).

10 *Submission* 1, p. 2 (NAPP).

11 *Submission* 9, p.1 (ADGP).

12 *Submission* 4, p.3 (HCC).

13 *Submission* 7, p.4 (DoHA); see also *Committee Hansard* 13.10.05, pp.12-13 (DoHA).

1.15 DoHA asserted that people with chronic conditions or living in remote areas will not be worse off under the new safety net rule. It noted:

> Under the existing Regulation 24 provision, a doctor can endorse a prescription at the time of writing so that the original and all repeats can be dispensed at the one time, if that is necessary for the patient due to distance from a pharmacy or chronic illness, and hardship in obtaining repeats on separate occasions. For example, doctors can use Regulation 24 for prescriptions for people who live or work in remote areas.
>
> There will be no change to the operation of Regulation 24. Supply of multiple repeats of a prescription on the same day as the original under Regulation 24 will not be affected by the new Safety Net rule.[14]

1.16 The Department noted that only medicines for long-term therapy will be affected by the safety net 20 day rule. It clarified:

> The Safety Net 20 Day rule will apply only to medicines for long-term therapy. It is not intended to apply to all PBS medicines. It will not apply to medicines such as morphine; palliative care medicines; chemotherapy medicines; Section 100 items (eg. medicines for HIV); or medicines for acute conditions or short-term use (eg. antibiotics for acute infections).
>
> The Safety Net 20 Day rule will only apply where the same PBS item (any brand) is resupplied early for the same person. This means that where the doctor writes a prescription for the same medicine but for a different dosage or formulation (eg tablets instead of a liquid), there will be no financial penalty to the patient from the supply of both prescriptions within 20 days even where the medicine is one that is subject to the new rule.[15]

## Increase in safety net thresholds

1.17 At present the general patient co-payment under the PBS is $28.60, and the concessional patient co-payment is $4.60. Currently general patients who reach their safety net threshold of $874.90 (equivalent to 30 prescriptions) pay $4.60 for any additional PBS scripts for the remainder of that calendar year, while additional medicines are free for concessional patients who reach their threshold of $239.20 (equivalent to 52 prescriptions).[16]

1.18 The AMA argued that the safety net thresholds are already high and stated:

> Increasing these already high thresholds by a further 8 scripts to 38 and 60 respectively will impose further hardship on the sickest Australians.
>
> This measure is in addition to increases in the general and concessional co-payments which are indexed annually following a more than 20%

14 *Submission* 7, p.5 (DoHA).

15 *Submission* 7, p.5 (DoHA); see also *Committee Hansard* 13.1.0.05, p.14 (DoHA).

16 Bills Digest No. 56 dated 12 October 2005, p.6.

> adjustment in the 2004-05 budget. This measure will cause hardship for the people in our community least able to afford it.[17]

1.19 The Health Consumers Council WA (HCC) voiced a similar concern:

> People with chronic illnesses, the elderly and families with children will also be amongst the groups hardest hit by the increased safety net contributions for PBS medicines.[18]

1.20 The Queensland Government commented that 'it could be anticipated that the increased number of co-payments will create major pressures for some non-concessional patients with chronically ill patients in the family, and for many concessional patients'.[19] Similarly, the Government of Western Australia felt that raising the safety net thresholds 'will disadvantage the chronically ill in our community'.[20]

1.21 The Australian Women's Health Network (AWHN) expressed grave concern that medicines are being priced out of the reach of increasing numbers of ordinary Australians. It added:

> This issue is of particular concern to women because they use more hospital and medical services and medicines than men, partly in fulfilling their reproductive roles and partly because they live longer, using more services in old age. Moreover, they experience more episodes of illness. Affordability of medicines is thus crucial to women.[21]

1.22 Women's Health Victoria (WHV) made a similar point, stating that the Bill will affect women disproportionately.[22]

1.23 Catholic Health Australia (CHA) argued against the proposed increases as previous price rises are already impacting on demand, resulting in budgetary savings for the Government. CHA noted:

> In fact the latest data on PBS expenditure over the twelve months to June 2005 shows that PBS expenditure is running at around $250m less, on an annualised basis, than if the trend established over the last 5 years had continued. A significant component of this saving is undoubtedly due to volume reduction with the latest HIC figures suggesting a reduction of around 5 million scripts in the year to June 2005 compared to what could have otherwise been expected.[23]

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17 *Submission* 3, p.1 (AMA).

18 *Submission* 4, p.1 (HCC (WA)); see also *Submission* 6, p.2 (ACA).

19 *Submission* 10, p.1 (Queensland Government).

20 *Submission* 13, p.1 (Western Australian Government)

21 *Submission* 12, p.2 (AWHN).

22 *Committee Hansard* 13.10.05, p.6 (WHV).

23 *Submission* 5, p.2 (CHA); see also *Submission* 6, p.2 (ACA).

1.24 The Department Health and Ageing (DoHA) argued that people accessing PBS medicines should 'contribute a fair and reasonable amount to the cost of those medicines, in line with their treatment needs and ability to pay'. DoHA continued:

> The cost to a patient for a PBS medicine is often only a fraction of the actual total cost. Increases in the cost of the PBS have meant that the relative contribution of patient payments as a proportion of total PBS costs has fallen from around 20% in the early 1990's to 16.4% in 2004-05.
>
> The incremental increases in the Safety Net thresholds will result in a gradual adjustment over four years which will help to rebalance the way costs for the PBS as a taxpayer-funded scheme are shared between the government and individuals. The on-going benefits of the PBS Safety Net will continue to protect individuals and families.[24]

### Recommendation

**1.25 The Committee reports to the Senate that it has considered the National Health Amendment (Budget Measures – Pharmaceutical Benefits Safety Net) Bill 2005 and recommends that the Bill be passed without amendment.**

Senator Gary Humphries
Chairman

November 2005

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24 *Submission* 7, p.2 (DoHA).

# MINORITY REPORT

## Australian Labor Party and Australian Democrats

### National Health Amendment (Budget Measures – Pharmaceutical Benefits Safety Net Bill 2005

**THE BILL**

This Bill amends the *National Health Act 1953* in relation to two changes to the PBS announced in the 2005-06 Budget.

The amendments will implement new safety net and patient co-payment arrangements for some pharmaceutical benefits where the pharmaceutical benefit is supplied within 20 days of a previous supply. The amendments will also increase the thresholds for eligibility for PBS safety net entitlements.

The safety net 20 day rule will result in the following effects:

- the patient co-payment amount will not accrue towards the safety net threshold; and
- the patient co-payment will be the standard amount that applies to the person's entitlement, reduced safety net co-payments will not apply.

The pharmaceutical benefits which will be subject to the measure will be determined by the Minister, on the advice of the Pharmaceutical Benefits Advisory Committee (PBAC).

The Bill will also increase the thresholds for eligibility for PBS safety net entitlements for general and concessional patients.

These amendments will:

- increase the general threshold by an amount equal to two indexed general patient co-payment amounts on 1 January each year from 2006 to 2009 inclusive; and
- increase the concessional threshold by an amount equal to two indexed concessional patient co-payment amounts on 1 January each year from 2006 to 2009 inclusive.

The increases will result in a gradual adjustment of the eligibility thresholds for the PBS safety net entitlements via increments over four years.

These increases will occur in addition to the annual indexation of the safety net thresholds on 1 January each year.

**ISSUES**

The Howard Government says that these provisions *"will help to rebalance the way costs for the PBS are shared between the Commonwealth government and individuals to reflect a fair contribution by patients to the cost of the PBS at the point of sale"*.

In actual fact this will place yet another additional cost burden on those Australians who can least afford it. The Committee heard evidence from a number of groups concerned at the impact of this provision on patients.

New data show that the increased co-payments instituted in January and the cuts in prices of drugs with generic alternatives have had a major impact on the growth of the PBS. In the year to August, the costs of the PBS grew by 4.84%, compared with 11% in the previous year, with a drop in prescription growth to just 1.36%. There is growing evidence that this is due to patients having difficulty in affording their needed medicines.

The pushing out of the safety net thresholds means that needy patients must pay more and more for their needed PBS medicines. More likely, as recent data show, they will go without, or ration their medicines inappropriately.

There is some evidence that as patients approach the threshold of the PBS safety net (currently $239.20 or 52 scripts within a calendar year for concession card holders and $874.90 for general patients) that patients accumulate medicines in order to reach the safety net.

The stated purpose of the safety net 20 day rule is to ensure that the PBS safety net will not act as an incentive for patients to obtain early supplies of pharmaceutical benefits for the purpose of gaining safety net benefits.

However, this is a blunt instrument to address this issue, which requires better education of patients, doctors and pharmacists. While the legislation currently allows for some exceptions, there is little flexibility. For example, there is no allowance for when patients must travel and need an extra prescription supply to take with them. In such cases, the patient must either pay more for their medicines and/or forgo adding the cost of that medicine towards the safety net, or return to their doctor for a special new prescription.

The Committee heard that certain patients (eg psychiatric patients) are especially likely to require new prescriptions within a 20-day time frame. These patients are also less likely to be able to afford the out-of-pocket costs associated with a visit to a doctor to get a new prescription.

The PBS medicines which will be subject to the measure will be determined by the Minister, on the advice of the Pharmaceutical Benefits Advisory Committee (PBAC). This would also seem to provide scope for the Minister to intervene to limit the availability of medicines on the PBS.

Unfortunately we have seen rather too much of this Minister intervening to limit the availability of medicines on the PBS:

- Calcium tablets to be removed by December, in defiance of expert advice;
- Guidelines recommending that cholesterol lowering drugs are prescribed more widely have not been implemented; and
- Constant changes, exemptions and Special Patient Copayments to the Government's generic pricing policy.

**RECOMMENDATION**

The Labor and Australian Democrats members of the Committee dissent from the findings of the Majority Report on this Bill. Labor and the Australian Democrats recommend that this Bill should not be supported.

Senator Claire Moore
ALP, Queensland

Senator Lyn Allison
AD, Victoria

Senator Jan McLucas
ALP, Queensland

Senator Helen Polley
ALP, Tasmania

# Family First Dissenting Report

## Inquiry into the National Health Amendment (Budget Measures – Pharmaceutical Benefits Safety Net) Bill 2005

The *National Health Amendment (Budget Measures – Pharmaceutical Benefits Safety Net) Bill 2005* is another piece of legislation which shifts health costs to Australian families.

My principle concern is that the Bill, when combined with other measures, will lead to significant increased health costs for families and individuals. This Bill is a prime example of how a Family Impact Statement would have helped illuminate the practical effect of changes for Australian families.

The increase in the threshold is one of the measures "… designed to support the affordability of the PBS into the future."[1]

The changes to the Pharmaceutical Benefits Scheme (PBS) Safety Net thresholds are "… expected to save the Government $140.2 million over four years."[2]

However The Australian Medical Association challenges this:

> Describing these measures as savings is curious. They are in effect transferring extra costs to households and could more accurately be described as cost shifting measures.[3]

**Increase in Safety Net thresholds**

The Bill will increase costs on families because it increases the PBS Safety Net thresholds. The Department of Health and Ageing explains that:

> For general patients, this will mean that the current Safety Net threshold of $874.90 will increase by the equivalent of two indexed co-payments (currently $28.60) on 1 January of each year until 2009. By 2009, the general Safety Net threshold will include eight additional co-payments. For concessional patients, the Safety Net will increase by the equivalent of two co-payments [currently $4.60] each year from 52 prescriptions currently ($239.20) to 60 co-payments by 2009.[4]

To gauge the effect of the extra costs, by 2009 a patient without a concession card would have to spend at least an extra $228.80 each year before being eligible for the concessional rate. Concessional patients would need to spend an extra $36.80 each year before co-payments are waived.

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1 Second reading speech, House of Representatives, 14 September 2005

2 Bills Digest No. 56, 12 October 2005, page 4.

3 Submission 3, page 1 (Australian Medical Association)

4 Submission 7, page 1-2 (Department of Health and Ageing)

**The effect of increasing health costs**

The effect of increasing the threshold for the PBS Safety Net is compounded for families by the 30 per cent increase in co-payments on 1 January 2005[5] and by the recent Government decision to raise the Medicare Safety Net. Changes to the Medicare Safety Net increased the amount families would have to pay in out-of-pocket non-hospital health costs by at least $180 each year, before they are eligible for Medicare Safety Net benefits.

A number of groups giving evidence pointed out that people relying on the PBS Safety Net are not likely to be in good health and are likely to have a low income:

> …someone who is taking 60 scripts a year is probably quite sick. If they are a concessional they are probably not working. They are probably not going to be loaded with cash. Obviously not 100 per cent of people fit within that. There are people who have big assets and low incomes who can manage to get into these things but, by and large, you can make a pretty good correlation, I think, between the concession card people and low income, particularly someone who is on 60 scripts a year. That is a lot of scripts.[6]

Spending on pharmaceuticals is a necessary cost and should not be regarded as discretionary spending. This can pose particular problems for people on lower incomes.

> Given that medicines are normally only prescribed for sick people, spending on medicines should not be regarded as discretionary – increased payments will therefore need to come at the expense of some other purchase. Where a person has a number of health conditions (as is often the case with the elderly for example), this impact will be exacerbated. Incomes and health status tend to be closely correlated – so sick people are more likely to have lower incomes. Some may not be in a position to afford increased co-payments.[7]

The increase in the PBS Safety Net therefore will have a particularly harsh effect on lower income people who require pharmaceuticals for medical problems. The Government should consider other ways to fund cuts to expenditure, rather than these measures which negatively affect vulnerable people.

> You have to ask the question whether there would not be a better way to do it which would impact more generally across the board on patients or taxpayers rather than to affect those who are using a hell of a lot of pharmaceuticals. To get to 60 scripts for a concessional you have got to be quite sick.[8]

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5 Bills Digest, No. 56, 12 October 2005, page 1

6 Committee Hansard, 13 October 2005, page 2 (Australian Medical Association)

7 Submission 5, page 1-2 (Catholic Health Australia)

8 Committee Hansard, 13 October 2005, page 1 (Australian Medical Association)

Both the AMA and Catholic Health Australia have called for a joint Medicare and PBS Safety Net.[9] This would at the least help policy makers to better determine the impact of policy change on families and individuals.

**Trading off money for health**

People living on low incomes are more vulnerable to increases in the cost of living. Many other low income households will also be forced to decide between buying pharmaceuticals and forgoing other spending, or risking their health.

It is argued that some recent savings in PBS expenditure made by the Government after increasing the price of medicines "… is undoubtedly due to volume reduction with the latest HIC figures suggesting a reduction of around 5 million scripts in the year to June 2005 compared to what could have otherwise been expected."[10]

Unfortunately the Department of Health and Ageing does not appear to understand the very real impact of drug costs on lower income Australians, implying they are lucky to not be paying even more:

> The maximum financial disincentive we are talking about there is the difference between $4.60 and $28.60 at the moment, with those rates indexing each year. I am sure it is a significant amount of money … for some people in need. No doubt. But it is not as if we are asking them to pay the full cost of those medicines.[11]

**Conclusion**

The increase in the PBS Safety Net thresholds is just one more in a series of recent increases in the health costs forced on Australian families by the Federal Government. If the Government was genuinely concerned about the interests of families, particularly low income and disadvantaged families, it would issue a Family Impact Statement on such policy measures so that the full impact on families can be understood. In the absence of such a statement, the evidence shows that such increases in the health costs for families are not in their interests and should be addressed by the Government.

Senator Steve Fielding
Family First, Victoria

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[9] Submission 3, page 2 (Australian Medical Association); Submission 5, page 2 (Catholic Health Australia)

[10] Submission 5, page 2 (Catholic Health Australia)

[11] Committee Hansard, 13 October 2005, page 15 (Department of Health and Ageing)

# APPENDIX 1

## Submissions received by the Committee

1 National Association of Practising Psychiatrists (NSW)
2 Women's Health Victoria (VIC)
3 Australian Medical Association (AMA) (ACT)
4 Health Consumers' Council WA (Inc) WA
5 Catholic Health Australia (ACT)
6 Australian Consumers' Association (NSW)
7 Department of Health and Ageing (ACT)
*Supplementary information*
Additional information received at the public hearing
8 Public Health Association of Australia (ACT)
9 Australian Divisions of General Practice (ACT)
10 Queensland Government (QLD)
11 South Australian Government (SA)
12 Australian Women's Health Network (ACT)
13 Western Australian Government (WA)

# APPENDIX 2

## Public Hearing

A public hearing was held on the Bill on 13 October 2005 in Senate Committee Room 2S1, Parliament House, Canberra.

### Committee Members in attendance

Senator Humphries (Chairman)
Senator Moore (Deputy Chair
Senator Adams
Senator Allison
Senator Fielding
Senator McLucas
Senator Polley

### Witnesses

**Australian Medical Association**

Mr John O'Dea, Director, Medical Practice Department

**Women's Health Victoria**

Ms Marilyn Beaumont, Executive Director

Ms Kerrilie Rice, Policy & Research Officer

**National Association of Practising Psychiatrists**

Dr Gil Anaf, past President

**Department of Health and Ageing**

Ms Rosemary Huxtable, First Assistant Secretary, Medical and Pharmaceutical Services Division

Ms Joan Corbett, Assistant Secretary, Pharmaceutical Benefits Branch