**Health Insurance Legislation Amendment (Assignment of Medicare Benefits) Bill 2024**

Overview of key elements, focusing on simplified billing assignments, of the [Bill as introduced to Parliament on 29 May 2024](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r7194)

If passed, the proposed amendments would make the following updates:

* This Bill will enable the eligible person’s agreement to assign a benefit to be obtained before (pre-assignment), or after a professional service is rendered.
* For simplified billing it will be possible for pre-assignment agreement for benefits in relation to future services where there is a complying health insurance product and private health insurer agreement covering the fees and charges for the treatment.
* This Bill will introduce a notification requirement about the claim which will require providers, insurers or billing agents to notify patients when they submit a claim on their behalf.
* This Bill will introduce a requirement for all records relevant to the assignment of benefit and claiming to be kept for a minimum of two years from the date of service. Records can be electronic. This will make record-keeping more efficient and help ensure compliance.

|  | Current ***Health Insurance Act******1973*** |  | Proposed ***Health Insurance Legislation Amendment (Assignment of Medicare Benefits) Bill 2024*** |
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| Division/Part or Section | Extract | Section/ Item number | Explanation of amendments |
| N/A | N/A | Item 2 | This provides for the substance of the bill to commence within a period of 18 months following Royal Assent.Flexibility about the precise date is intended to ensure there is sufficient time for sector engagement about changes to billing practices and information technology system upgrades which may be required to facilitate successful implementation. |
| Part II Medicare benefitsSubsection 19(6) | *A medicare benefit is not payable in respect of a professional service unless the person by or on behalf of whom the professional service was rendered, or an employee of that person, has recorded on the account, or on the receipt, for fees in respect of the service or, if an assignment has been made, or an agreement has been entered into, in accordance with section 20A, in relation to the medicare benefit in respect of the service, on the form of the assignment or agreement, as the case may be, such particulars as are prescribed in relation to professional services generally or in relation to a class of professional services in which that professional service is included.* | Schedule 1, items 1 and 2 | This removes the requirement for the account or receipt, or on the form of an assignment/agreement to include information concerning the professional service provided. This then provides for sub-ordinate legislation to be created which outlines a requirement for particular information concerning the professional service provided to be included on the account or receipt or in another manner. |
| Part II Medicare benefitsSubsections 20A(1), (2) and (2A) | *20A Assignment of Medicare benefit**…**(2A) If:**(a) a medicare benefit would, apart from this section, be payable to an eligible person in respect of a professional service rendered to the eligible person or another person while hospital treatment or hospital-substitute treatment is provided to the eligible person or other person; and**(b) the eligible person has entered into a complying health insurance policy with a private health insurer under which he or she is covered (wholly or partly) for liability to pay fees and charges in respect of that professional service;**the eligible person and the insurer, an approved billing agent or another person may enter into an agreement, in accordance with the approved form, under which the eligible person assigns his or her right to the payment of the medicare benefit to the insurer, approved billing agent or other person.* | Schedule 1, item 3 | This provides for a more streamlined assignment of benefit (new subsections 20A(1), (2) and (2A)) for hospital treatment and hospital-substitute treatment, compared to the current requirements. It removes the requirement for the ‘eligible person (the assignor)’ (i.e., patient) to assign the benefit using an ‘approved form’.Instead it provides three pathways for simplified billing that the patient will be taken to have assigned the benefit, if they have a complying health insurance policy with a private health insurer, which covers the service includes appropriate clauses about assignments and a claim for the benefit is made.The three pathways this will be taken to occur are detailed at item 7 below. |
| Part II Medicare benefitsSubsections 20A(3) and 20A(4) | *20A Assignment of Medicare benefit**…**A reference in this section to a person by whom a professional service is rendered shall be read as not including a reference to a person (in this subsection referred to as the agent) who renders a professional service (other than a pathology service) on behalf of another person or of an organization, but the agent may, if so authorized by that other person or that organization, on behalf of that other person or that organization, enter into an agreement under subsection (1).* | Schedule 1, items 4 and 5 | These are minor amendments to allow for the inclusion of subtitles for each of the subsections, respectively:* (3) Payment of assigned medicare benefits;
* (4) Professional services rendered on behalf of another person
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| Part II Medicare benefitsSection 20A | *20A Assignment of Medicare benefit* | Schedule 1, item 7 | This provides for a new section (20AAA) setting out three pathways a patient will be taken to have assigned the benefit (where not already bulk billed):* (1) the insurer has an arrangement (e.g., contract) with the provider of the professional service about the fees and charges for the service, either directly or under a contract with the hospital or organization;
* (2) the eligible person makes a request to assign the benefit, which can be modified (post-service) by the provider of the service (hospital, organization, or person), where not already assigned under (1) above;
* (3) services relating to complications and unplanned services provided because they are necessary, urgent, during treatment in which a service with benefit assigned under (1) or (2) is provided.

The three pathways under 20AAA (1), (2) and (3) will be taken to assign the benefit respectively to:* (2) the approved billing agent making the claim for the benefit, otherwise the private health insurer;
* (4) the approved billing agent or private health insurer outlined in the request;
* (6) the approved billing agent or private health insurer which the related professional service was assigned.

In addition 20AAA(7) provides for how an ‘operator of a hospital’ or ‘organization’ can authorise provision of treatment.This item also provides for sub-ordinate legislation (8) to be created which outlines requirements for particular information to be provided to patients, the manner, form, circumstances of, and information required in, requests or modifications to requests and any notifications required in association with the information to be provided or request modifications. |
| Part II Medicare benefitsSubsection 20B(1) to (3) | *20B Claims for medicare benefit**(1) Subject to this section, a claim for a medicare benefit:**(a) in respect of a professional service other than a professional service referred to in paragraph (b)—shall be made in accordance with the approved form and lodged with the Chief Executive Medicare, or (in such circumstances and subject to such conditions as are prescribed by the regulations) sent to the Chief Executive Medicare in such manner as the Chief Executive Medicare determines; or**(b) in respect of a professional service rendered before such date (if any) as is prescribed—shall be made in accordance with the approved form and lodged with the Chief Executive Medicare, or (in such circumstances and subject to such conditions as are prescribed by the regulations) sent to the Chief Executive Medicare in such manner as the Chief Executive Medicare determines, within the period of 2 years, or such further period as is allowed in accordance with subsection (3A), after the rendering of the service.**(2) A claim for a medicare benefit assigned under section 20A shall:**(a) be made in accordance with the approved form; and**(b) be lodged with the Chief Executive Medicare, or (in such circumstances and subject to such conditions as are prescribed by the regulations) sent to the Chief Executive Medicare in such manner as the Chief Executive Medicare determines, within the period of 2 years, or such longer period as is allowed in accordance with subsection (3A), after the rendering of the professional service to which the benefit relates.**(2A) Without limiting paragraph (2)(b), a determination under that paragraph may provide for a claim for a medicare benefit to be sent to the Chief Executive Medicare, in such circumstances and subject to such conditions as are prescribed by the regulations, by means of an electronic transmission.**(3) A claim referred to in subsection (2) shall not be paid unless the claimant satisfies the Chief Executive Medicare that:**(c) in the case of an agreement under subsection 20A(1) that was signed by each party in the presence of the other—the assignor retained in his or her possession after the agreement was so signed a copy of the agreement; or**(d) in the case of an agreement under subsection 20A(1) that was signed by the assignor in circumstances other than those referred to in paragraph (c)—the assignor retained in his or her possession after so signing a copy of the document so signed.* | Schedule 1, item 8 | These amendments provide for the requirements for making a claim for benefit (new 20B(1) and (2)):* within 2 years of the professional service;
* the manner and form to be set out in a notifiable instrument by the Chief Executive Medicare;
* other requirements to be set out in sub‑ordinate legislation.
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| Part II Medicare benefitsSubsection 20B(3A) | *20B Claims for medicare benefit**…**(3A) Upon application made by a claimant to the Minister in accordance with the approved form, the Minister may, in his or her discretion, by notice in writing served on the claimant, allow a longer period for lodging the claim than the period of 2 years referred to in paragraph (1)(b) or (2)(b).* | Schedule 1, item 9 | This removes the, now redundant, reference to the 2 year limit for claiming for a benefit (included in new subsection 20B(1)) and clarifies the terminology in relation to ‘making’ a claim. |
| Part II Medicare benefitsSubsection 20B(3B) | *20B Claims for medicare benefit**…**(3B) In exercising his or her power under subsection (3A) to allow a longer period for lodging a claim, the Minister shall have regard to all matters that he or she considers relevant, including, but without limiting the generality of the foregoing, any hardship that might be caused to the claimant if a longer period is not allowed.* | Schedule 1, items 10 | This is a minor amendment to clarify the terminology in relation to ‘making’ a claim for benefit, consistent with the other amendments to claiming requirements. |
| Part II Medicare benefitsSection 127 | *127 Assignor of medicare benefit to be given copy of assignment etc.* | Schedule 1, item 11 | This provides for new penalty provisions (127) requiring that:* (3) the insurer or billing agent must provide the patient a notification within 6 months of payment of the benefit;
* (4) the practitioner, hospital, organization, or billing agent must provide a copy of the terms of assignment to the patient if the patient requests it;
* (5) the hospital or organization must provide the patient with a notification if they modify a request for assignment;
* (6) any other notification requirements are met; and
* (7) any additional notification requirements are to be set out in sub‑ordinate legislation, including the manner, form, circumstances of, and information required.

This also provides for new record keeping requirements (127A) in relation to:* (1), (2) and (3) who needs to keep the records;
* (4) and (5) the form and retention period respectively;
* with the kinds of record, relevant matters and start date for retention to be set out in sub-ordinate legislation allowing for variability across who needs to keep them;
* penalties for not meeting the record keeping requirements.
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| Subsections 19(6), 20A(1), 20A(2) and 20B | *19 Medicare benefit not payable in respect of certain professional services**…**20A Assignment of Medicare benefit**…* | Schedule 1, item 12 | This provides for current requirements in the *Health Insurance Act 1973* to continue to apply following passage of the Bill and amendments to the Act for services provided and assignment agreements entered into before commencement of the amendments. |