

FACT SHEET

Health Amendment (Fees Validation) Bill 2015

This Bill amends fees regulations made under the *Health Act 1997* (Tas) in respect of nursing-home-type-patient fees. It also amends the *Health Act 1997* to validate certain fees charged since 1 April 2007.

By an order made under the *Health Insurance Act 1973* (Cth), nursing-home-type-patients (NHTPs) are effectively eligible for free care for the first 35 days of public hospital care, and are then charged NHTP fees on days they remain non-acute. Any day of acute care continues to be free.

The fees regulations made under the Health Act currently define NHTP by reference to the Commonwealth Act.

Prior to 1 April 2007, the Commonwealth Act defined NHTP as a patient in a hospital who had been provided with accommodation and nursing care for a continuous period exceeding 35 days, but with the effect patients certified as 'acute' were not charged.

In 2007, the Commonwealth Act was amended to dispense with the formal requirement for an acute care certificate. It simplified the definition to refer to a NHTP being a patient receiving accommodation and nursing care 'as an end in itself' for a continuous period of 35 days.

The understood intention was not to change the patient group, but to simplify the definition and dispense with the statutory acute certification.

As a result of a general patient complaint in 2013 about fees that were charged to the patient, the Health Complaints Commissioner sought advice on the NHTP fees issue. This identified that the 2007 amendment had some technical consequences for the patients captured by the NHTP definition. These consequences were unanticipated.

The consequence identified in 2013 was that mental health patients could not be charged NHTP fees if they happened to be on involuntary mental health orders.

More recently, a further possible consequence was identified. That is, in simplifying the reference to 35 days, the Commonwealth amendment could be interpreted as unintentionally changing the way in which those days were counted for all NHTP patients, not just involuntary patients.

All other jurisdictions continue to charge NHTP fees to at least some patient groups. Some jurisdictions charge involuntary mental health patients for accommodation and nursing care. The treatment of NHTPs amongst jurisdictions is not easily comparable. It is necessary to clarify these issues beyond doubt in Tasmania.

All fees being validated by the Bill are fees charged for public hospital care provided to patients within the intended group. The Bill will clarify charging can continue for currently charged patients, and resume in future for involuntary mental health patients when the Department and Tasmanian Health Service have ensured patients have been given sufficient notice and information. Whole or partial fee waivers for financial hardship and categories where mental health patients require a lower level of care will continue to apply.

These fees go to the Tasmanian Health Service as service provider and play a part in funding these long-stay health services.