



BERMUDA

HEALTH INSURANCE AMENDMENT ACT 2019

2019 : 18

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WHEREAS it is expedient to amend the Health Insurance 1970, the Bermuda Hospitals Board Act 1970 and statutory instruments made under the Health Insurance Act 1970 and the Bermuda Hospitals Board Act 1970 to provide for a new method of funding

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hospital treatment provided by the Bermuda Hospitals Board in respect of standard health benefit;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

### Citation

1 This Act, which amends the Health Insurance Act 1970 ("the principal Act"), may be cited as the Health Insurance Amendment Act 2019.

### Amends section 1

2 Section 1(1) of the principal Act is amended—

(a) by repealing the definition of "the general hospital" and substituting—

“the general hospital” has the meaning given in section 1(1) of the Bermuda Hospitals Board Act 1970;”;

(b) by inserting the following definitions, each in its alphabetical place—

“hospital fees” has the meaning given in section 1(1) of the Bermuda Hospitals Board Act 1970;

“insured person” means an individual who is insured;

“Mutual Re-insurance Fund” means the fund established under section 3A(1);

“Mutual Re-insurance Fund premium” means the premium referred to as such in section 3A(1);”;

(c) in the definition of “standard premium”, by inserting “and the Mutual Re-insurance Fund” after “benefit”.

### Amends section 2

3 Section 2(1) of the principal Act is amended—

(a) in paragraph (a), by deleting “, and the use of dialysis facilities,”;

(b) in paragraph (b), by deleting “, and the use of dialysis facilities,”;

(c) in paragraph (bb), by deleting “, and the use of dialysis facilities,”;

(d) in paragraph (c), by deleting “, including the use of dialysis facilities,”; and

(e) in paragraph (e), by deleting “and the use of dialysis facilities”.

### Amends section 3A

4 Section 3A of the principal Act is amended—

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- (a) in subsection (1), by deleting “amount as part” and substituting “premium (the “Mutual Re-insurance Fund premium”), which is part”;
- (b) by inserting after subsection (1)—

“(1A) The Mutual Re-insurance Fund premium shall be paid to the Mutual Re-insurance Fund no later than 30 days after the start of the week or month (as the case may be) covered by the payment.”;

- (c) by inserting after subsection (2A)—

“(2AA) The sums received from the Mutual Re-insurance Fund under subsection (2A)(d) shall be applied by the Board towards the cost of its provision of standard health benefit to insured persons.”;

- (d) in subsection (2E), by inserting “or a person who is entitled to full or partial subsidy under section 2” after “insured person”;
- (e) in subsection (2E)(a), by deleting “subsections (2F) and (2G)” and substituting “subsection (2G)”;
- (f) by repealing subsection (2F); and
- (g) in subsection (2G), by deleting “and section 2(1)”.

Inserts section 3B

5 The principal Act is amended by inserting after section 3A—

“Hospital fees covered by Mutual Re-insurance Fund only if Mutual Re-insurance Fund premium paid

3B (1) Subject to subsection (2), where a licensed insurer, or an employer who operates an approved scheme, pays (as required by section 3A(1A)) the Mutual Re-insurance Fund premium into the Mutual Re-Insurance Fund in respect of an insured person—

- (a) the insured person shall receive hospital treatment in respect of standard health benefit provided by the Board without charge; and
- (b) the insurer or employer (as the case may be) shall not be liable to indemnify the insured person for any hospital fees in respect of standard health benefit provided by the Board to the insured person.

(2) Any licensed insurer, or any employer who operates an approved scheme, that does not pay the Mutual Re-insurance Fund premium into the Mutual Re-insurance Fund as required by section 3A(1A) in respect of an insured person shall, during any period that the Mutual Re-insurance Fund premium remains unpaid, be liable to indemnify the insured person for any hospital fees in respect of hospital treatment in respect of standard health benefit received by the insured person.”.

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### Amends section 13D

6 Section 13D of the principal Act is amended by renumbering the existing provision as subsection (1) and thereafter inserting—

“(2) Nothing done by or on behalf of the Committee in carrying out its functions in respect of the Mutual Re-Insurance Fund shall be construed as contravening subsection (1).”.

### Amends section 31

7 Section 31 of the principal Act is amended—

- (a) in subsection (1), by deleting “Notwithstanding” and substituting “Subject to section 3B(1), notwithstanding”; and
- (b) in subsection (2), by deleting “A licensed” and substituting “Subject to section 3B(1), a licensed”; and
- (c) by inserting after subsection (7)—

“(8) For greater clarity, a licensed insurer is not liable to indemnify an insured person in respect of hospital treatment in respect of standard health benefit under subsections (1) and (2) if the insured person is at the time he receives the treatment entitled to hospital treatment in respect of standard health benefit provided by the Board without charge under section 3B(1).”.

### Amends section 32

8 Section 32 of the principal Act is amended by inserting after subsection (3)—

“(4) Where—

- (a) an insured person receives, for injuries sustained in an accident involving a motor vehicle, hospital treatment in respect of standard health benefit provided by the Board without charge pursuant to section 3B(1); and
- (b) a person who is insured under a policy of insurance issued to him pursuant to the Motor Car Insurance (Third Party Risks) Act 1943 either admits liability for the injuries or is adjudged by a court of competent jurisdiction to be so liable,

then, notwithstanding anything to the contrary in any contract or any enactment or the common law, the injured person shall have a right to recover the expenses incurred for hospital treatment in respect of standard health benefit for which such person is insured pursuant to this Act, and such right shall be transferred and vest in the Board.

(5) Where a person has received hospital treatment in the general hospital in respect of standard health benefit as a result of an accident involving a motor vehicle, notwithstanding anything in section 3B(1) or in section 13AA of the

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Bermuda Hospitals Board Act 1970, for the purposes of subsection (4) and section 4(2) of the Motor Car Insurance (Third Party Risks) Act 1943, hospital fees in effect at the time the treatment is received shall be used to determine the expenses incurred by the hospital (the Board) in affording such treatment.”.

Amends section 40

9 Section 40 of the principal Act is amended—

- (a) in subsection (1)(b), by deleting “the standard health benefit” and substituting “standard health benefit and the Mutual Re-insurance Fund”; and
- (b) in subsection (1A)—
  - (i) by deleting the semi-colon at the end of paragraph (a) and substituting “; and”;
  - (ii) by repealing paragraph (b); and
  - (iii) in paragraph (c), by deleting “, 3(3)”.

Consequential amendments to Bermuda Hospitals Board Act 1970

10 The Bermuda Hospitals Board Act 1970 is amended—

- (a) in section 1(1)—
  - (i) in the definition of “fees”, by deleting ““fees” includes” and substituting ““hospital fees” means”, and moving the definition to its new alphabetical place;
  - (ii) in the definition of “the general hospital”, by deleting “any premises which may be declared by the Minister, by notice published in the Gazette, to be part thereof” and substitute “any other facility operated by the Board”; and
- (b) by inserting after section 13—

“Hospital fees in respect of standard health benefit chargeable in certain circumstances

13AA (1) Subject to section 3B of the Health Insurance Act 1970, if a person receives treatment provided by the Board that is in respect of standard health benefit and the person—

- (a) is insured or qualifies for fully subsidized treatment, no hospital fees shall be chargeable for the treatment;
- (b) is not insured and does not qualify for fully subsidized treatment, the full amount of the hospital fees shall be chargeable for the treatment; or

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(c) is not insured and qualifies for partially subsidized treatment, the portion of the hospital fees that is not covered by the subsidy shall be chargeable for the treatment.

(2) For the avoidance of doubt, if a person receives treatment provided by the Board that is not in respect of standard health benefit, the full amount of the hospital fees shall be chargeable for the treatment.

(3) In this section—

“fully subsidized treatment” means full subsidy under paragraph (a), (c) or (e) of section 2(1) of the Health Insurance Act 1970;

“insured” has the meaning given in section 1(1) of the Health Insurance Act 1970;

“partially subsidized treatment” means partial subsidy under paragraph (b) or (bb) of section 2(1) of the Health Insurance Act 1970.”.

### Consequential amendment to Bermuda Hospitals Board (Hospital Fees) Regulations 2018

11 The Bermuda Hospitals Board (Hospital Fees) Regulations 2018 are amended by inserting after regulation 1—

“Hospital fees payable subject to section 13AA of Bermuda Hospitals Board Act 1970

1A Subject to section 13AA (hospital fees in respect of standard health benefit chargeable in certain circumstances) of the Bermuda Hospitals Board Act 1970, hospital fees shall be payable to the Board under these Regulations.”.

### Consequential amendments to Health Insurance (Standard Health Benefit) Regulations 1971

12 The Health Insurance (Standard Health Benefit) Regulations 1971 are amended—

(a) in regulation 2—

(i) by inserting “provided by the Board” after “in-patient services”;

(ii) in subparagraph (xiv), by deleting “or in an establishment approved by the Council”; and

(iii) after subparagraph (xxvii), by inserting—

“(xxviii) any in-patient hospital treatment provided by the Board in respect of standard health benefit for which hospital fees are prescribed by regulations made under section 13 of the Bermuda Hospitals Board Act 1970.”;

(b) in regulation 3—

(i) by renumbering the existing regulation as paragraph (1);

(ii) in paragraph (1)—

(A) by revoking subparagraph (xv) and substituting—

“(xv) health care services or products provided in the home of a patient, or services in support of home-based care, where the services, the products, the person responsible for the provision of such services, and the reimbursement rates, have been approved by the Council;”;

(B) by revoking subparagraph (xxxviii) and substituting—

“(xxxviii) diabetes counselling and wound care products where the facility, the services, the products and the reimbursement rates have been approved by the Council;”;

(C) by inserting after subparagraph (xliv)—

“(xlv) any outpatient hospital treatment provided by the Board in respect of standard health benefit for which hospital fees are prescribed by regulations made under section 13 of the Bermuda Hospitals Board Act 1970.”; and

(iii) by inserting after paragraph (1)—

“(2) For greater clarity, the outpatient services listed in the following subparagraphs of paragraph (1)—

(i) subparagraphs (i) to (iv);

(ii) subparagraph (vii);

(iii) subparagraphs (ix) to (xi);

(iv) subparagraph (xiii); and

(v) subparagraphs (xvi) to (xxviii),

are included in standard health benefit where those outpatient services are provided by the Board.”;

(c) in regulation 9—

(i) by deleting “\$101.97” and substituting “\$331.97”; and

(ii) by deleting “\$23.53” and substituting “\$76.61”; and

(d) in regulation 10—

(i) by deleting “\$214.17” and substituting “\$1,025.96”; and

(ii) by deleting “\$49.42” and substituting “\$236.76”.

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Consequential amendments to Health Insurance (Mutual Re-Insurance Fund) (Prescribed Sum) Order 2014

13 Paragraph 2 of the Health Insurance (Mutual Re-Insurance Fund) (Prescribed Sum) Order 2014 is amended—

- (a) in subparagraph (a), by deleting “Fund, the sum of \$50.35” and substituting “Health Insurance Fund, the sum of \$35.89”; and
- (b) in subparagraph (c), by deleting “\$0.55” and substituting “\$1.00”; and
- (c) in subparagraph (d), by deleting “\$13.16” and substituting “\$231.33”.

Consequential amendment to Health Insurance (Maternity Benefit) Regulations 1971

14 Regulation 1 of the Health Insurance (Maternity Benefit) Regulations 1971 is amended in the definition of “maternity treatment” by deleting “a hospital” and substituting “the general hospital”.

Consequential amendment to Health Insurance (Mental Illness, Alcohol and Drug Abuse) Regulations 1973

15 Regulation 1 of the Health Insurance (Mental Illness, Alcohol and Drug Abuse) Regulations 1973 is amended by deleting “a hospital” and substituting “the general hospital”.

Regulations

16 (1) The Minister may by regulations make such transitional or operational arrangements as he considers necessary in consequence of the amendments made by this Act.

(2) Regulations under subsection (1) shall be subject to the negative resolution procedure, and the regulations may be deemed to have taken effect on a date that is earlier than the date on which they are made (being a date that is not earlier than 1 June 2019).

Commencement

17 This Act shall come into operation on 1 June 2019.

[Assent Date: 31 May 2019]

[Operative Date: 01 June 2019]