
HEALTH

HE301

Health Services Act 2016

**Health Services (Fees and Charges) Amendment
Order (No. 2) 2023**

SL 2023/34

Made by the Minister under section 56 of the Act.

1. Citation

This order is the *Health Services (Fees and Charges) Amendment Order (No. 2) 2023*.

2. Commencement

This order comes into operation as follows —

- (a) clauses 1 and 2 — on the day on which this order is published in the *Gazette*;
- (b) the rest of the order — on the day after that day.

3. Order amended

This order amends the *Health Services (Fees and Charges) Order 2016*.

4. Clause 3 amended

- (1) In clause 3(1) insert in alphabetical order:

asylum seeker means a person —

- (a) who has applied for —
 - (i) a permanent protection visa within the meaning of the *Migration Act 1958* (Commonwealth) section 35A(2); or
 - (ii) a temporary protection visa within the meaning of the *Migration Act 1958* (Commonwealth) section 35A(3); or

(iii) a safe haven enterprise visa within the meaning of the *Migration Act 1958* (Commonwealth) section 35A(3A);

and

(b) whose visa application referred to in paragraph (a) has not yet been decided;

compensable patient means any of the following —

- (a) a compensable day patient;
- (b) a compensable in-patient;
- (c) a compensable out-patient;
- (d) a compensable same day patient;

involuntary patient has the meaning given in subclause (3);

Medicare ineligible asylum seeker means a person who —

- (a) is an asylum seeker; and
- (b) is not an eligible person; and
- (c) is not a compensable patient;

Medicare ineligible involuntary patient means a person who —

- (a) is an involuntary patient; and
- (b) is not an eligible person; and
- (c) is not a compensable patient;

- (2) In clause 3(1) in the definition of ***day patient*** delete “11(b);” and insert:

11(1)(b);

- (3) In clause 3(1) in the definition of ***out-patient*** delete “11(c);” and insert:

11(1)(c);

- (4) In clause 3(1) in the definition of ***same day patient*** delete “11(d);” and insert:

11(1)(d);

(5) After clause 3(2) insert:

(3) A person is an *involuntary patient* if —

- (a) the person is under an inpatient treatment order as defined in the *Mental Health Act 2014* section 4; or
- (b) the person is under a community treatment order as defined in the *Mental Health Act 2014* section 4; or
- (c) the person is under another order under the *Mental Health Act 2014* under which they are, or may be, detained; or
- (d) the person has been referred under the *Mental Health Act 2014* section 26(2) or (3)(a) and —
 - (i) the referral has not expired; and
 - (ii) the referral has not been revoked under the *Mental Health Act 2014* section 31; and
 - (iii) the examination referred to in the *Mental Health Act 2014* section 26(1) has not been conducted;

or

- (e) the person has been referred under the *Mental Health Act 2014* section 36(2) and —
 - (i) the referral has not expired; and
 - (ii) the referral has not been revoked under the *Mental Health Act 2014* section 37; and
 - (iii) the examination referred to in the *Mental Health Act 2014* section 36(2) has not been conducted.

5. Clause 6A inserted

After clause 6 insert:

6A. Medicare ineligible patients

Despite any other provision of this Part, no fees or charges are payable in respect of a health service provided to —

- (a) a Medicare ineligible asylum seeker; or
- (b) a Medicare ineligible involuntary patient as part of their treatment under the *Mental Health Act 2014*.

6. Clause 11 amended

(1) In clause 11 delete “For” and insert:

(1) Subject to subclause (2), for

(2) At the end of clause 11 insert:

(2) For the purpose of a service provided in respect of a patient by, in or at a hospital, the patient does not need to be classified under subclause (1) if the patient is —

(a) a Medicare ineligible asylum seeker; or

(b) a Medicare ineligible involuntary patient and the service is provided as part of their treatment under the *Mental Health Act 2014*.

7. Clause 15 amended

Delete clause 15(2)(e) and insert:

(e) an ineligible same day patient, namely, a same day patient —

(i) who is not an eligible person; and

(ii) who is not a compensable same day patient.

A. SANDERSON, Minister for Health.
