Report on the Review of the *Dental Benefits Act 2008*
CHIEF MEDICAL OFFICER

The Hon Nicola Roxon MP
Minister for Health and Ageing
Parliament House
CANBERRA ACT 2600

Dear Minister

I am pleased to submit the report on the Review of the operation of the Dental Benefits Act 2008 (the Act) as required under Section 68 of the Act.

In relation to the Terms of Reference for the Review, it is the Committee's view that the Act and its associated Rules (the Dental Benefits Rules 2008) achieves its aim of providing an appropriate legislative and administrative framework for the payment of dental benefits. In particular it supports the Medicare Teen Dental Plan, the only program supported under the Act.

The Committee noted that the Medicare Teen Dental Plan could be formally reviewed when the Act is scheduled for further review in 24 months. The Committee noted some administrative issues that could be considered to further improve the program in the interim. These have been referred to the Department for further consideration.

I wish to thank my fellow Committee members for their valuable insights and input into the review. I would also like to acknowledge the support of the Department of Health and Ageing in assisting the Committee with its work.

This report and its findings are tendered to you for your consideration and for tabling in the Parliament.

Yours sincerely,

Professor Jim Bishop AO
MD MMED MBBS FRACP FRCPA
Review Committee Chair

18 December 2009
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### Committee members

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<td>Commonwealth Chief Medical Officer</td>
<td>Required by legislation</td>
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<tr>
<td>Dr Christopher Wilson</td>
<td>Federal Councillor Australian Dental Association</td>
<td>Australian Dental Association representative, required by legislation</td>
</tr>
<tr>
<td>Ms Darlene Cox</td>
<td>Representative of the Consumers Health Forum of Australia; and Executive Director of the Health Care Consumers’ Association</td>
<td>Representative of Consumers Health Forum of Australia, required by legislation</td>
</tr>
<tr>
<td>Dr Andrew Barnes</td>
<td>Private dental practitioner; and Dental adviser, Department of Veterans’ Affairs</td>
<td>Appointed by the Minister for Health and Ageing</td>
</tr>
<tr>
<td>Dr Martin Dooland</td>
<td>Executive Director South Australian Dental Service</td>
<td>Appointed by the Minister for Health and Ageing</td>
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Executive summary

The Review of the *Dental Benefits Act 2008* (the Act) has been undertaken as a requirement of Section 68 of the Act. Section 68 stipulates that the Minister for Health and Ageing must cause an independent review of the operation of the Act to be undertaken as soon as possible after the first anniversary of the commencement of the Act; and further independent reviews as soon as practicable after the Act’s third anniversary and at three yearly intervals thereafter.

To undertake this initial Review of the Act, the Minister for Health and Ageing, the Hon Nicola Roxon MP, appointed a Review Committee on 29 September 2009. The Committee comprised the following persons, as stipulated under Section 68 of the Act:

> person occupying the position of Commonwealth Chief Medical Officer (CCMO);

> a person nominated by the Australian Dental Association (ADA);

> a person nominated by the Consumers Health Forum of Australia (CHF); and

> two other persons nominated by the Minister, at least one of whom must have qualifications in medicine or dentistry.

The list of Committee members is on page 1.

The Committee found that the Act achieves its aim of providing a legislative framework for the payment of dental benefits, and supports the administration of the Medicare Teen Dental Plan which is, currently, the only program administered under the Act.

The Committee also found that the Act supports the aim of the Medicare Teen Dental Plan which is to help teenagers to improve their oral health habits through access to annual preventative dental services.

However, it is the Committee’s view that some changes to the Medicare Teen Dental Plan could be made in order to provide the Government, the dental profession and members of the public with a clearer understanding of the types of preventative services being accessed by eligible teenagers under the program and to streamline administrative processes.
Issues for noting

The Committee notes that:

1. the Government could consider replacing the single preventative dental check item (Dental Benefits Schedule item 88000) with individual items for each procedure provided to patients during their annual preventative dental check; and

2. as the Medicare Teen Dental Plan is in its early stages of operation, the Government could consider evaluating the program once it has matured, as part of the second statutory review of the Act.
The Review Committee’s Terms of Reference were as follows:

The Review Committee will conduct the Review before the end of 2009, having regard to:

> the attainment of the purposes of the Act; and
> the administration of the Act, particularly in relation to the Medicare Teen Dental Plan.

The Committee was tasked to deliver:

> a Draft Report one month from its first meeting on 27 October 2009; and
> a Final Report two months from its first meeting.

The Minister for Health and Ageing was required to table the Final Report in Parliament (both Houses) within 15 sitting days of its receipt from the Committee.
Conduct of the Review

The Committee undertook the Review with Secretariat support from the Dental Services Section of the Department of Health and Ageing (the Department).

The Committee met twice – on 27 October and 8 December 2009.

The Committee’s Final Report was provided to the Minister for Health and Ageing on 23 December 2009.
Background

**Dental Benefits Act 2008**

The *Dental Benefits Act 2008* (the Act) commenced on 26 June 2008. It establishes a legislative framework for the payment of dental benefits and specifically provides for the administration of the Medicare Teen Dental Plan, introduced by the Government on 1 July 2008 as an election commitment.

The Act:

> establishes an entitlement to dental benefits;
> provides for the payment of dental benefits;
> provides a framework for the issuing of vouchers (for example, in respect of teenagers who are eligible for the Medicare Teen Dental Plan);
> establishes provisions for the protection (and, where authorised, the disclosure) of protected information;
> creates general offence provisions relating to assignment of benefit agreements and the giving of false or misleading information;
> allows the Minister for Health and Ageing to make Dental Benefits Rules under the Act (through a legislative instrument); and
> provides for funds relating to the payment of dental benefits to be appropriated through a new special appropriation.

The Act is broadly modelled on relevant provisions of the *Health Insurance Act 1973* (HIA) relating to the payment of Medicare benefits, which is a long established legislative framework for the payment of benefits for medical services. Unlike the HIA, the Act provides a framework for providing benefits under a means test.

To date, there has been limited application of the Act’s legislative framework as the Medicare Teen Dental Plan is the only program administered under it.
Dental Benefits Rules 2008

The Dental Benefits Rules 2008 (the Rules) commenced on 1 July 2008. The Rules set out detailed requirements in relation to a number of provisions under the Act, mostly related to the Medicare Teen Dental Plan.

The Rules provide for the establishment of a new Dental Benefits Schedule (DBS), which sets out the single item number, service descriptor and dental benefit payable for the Medicare Teen Dental Plan’s annual preventative dental check service (item 88000). The DBS could be expanded to include items for other dental services in the future.

The Rules also set out the administrative and eligibility requirements for the annual preventative dental check item, including:
- the classes of persons that can be ‘dental providers’, or can render a service on behalf of a dental provider, for the purposes of the Act;
- the classes of persons who satisfy the means test;
- the persons to whom vouchers are to be issued;
- the period of effect of the voucher;
- the circumstances where more than one voucher may be issued for a person in a calendar year;
- the particulars to be recorded on an account, receipt or assignment of benefit form; and
- the circumstances where vouchers are not required to be issued.

Copies of the Act and Rules are at Appendices 1 and 2 respectively.

Medicare Teen Dental Plan

The Medicare Teen Dental Plan was introduced by the Australian Government on 1 July 2008 as an election commitment. The program provides financial assistance to families to help assess the health of their teenagers’ teeth, and to introduce preventative strategies to encourage lifetime good oral health habits. The program was enhanced on 1 January 2009 to include additional groups of teenagers. Approximately 1.3 million teenagers are eligible for the program each year, out of a population of approximately 2 million 12 to 17 year olds.

Under the program, eligible teenagers receive a voucher each calendar year to assist with the cost of a preventative dental check provided in that year (see Appendix 3). The preventative dental check consists of an oral examination as a minimum requirement and, where necessary, x-rays, a scale and clean, fluoride treatment, oral hygiene instruction, dietary advice and/or fissure sealing.
Preventative dental checks are provided by dentists who are registered with Medicare Australia. The preventative dental check can also be provided by a dental therapist or dental hygienist on behalf of the dentist. Vouchers can be used at private dental surgeries and public dental clinics participating in the program.

In 2008, the voucher provided a Medicare benefit of up to $150 towards the cost of an annual preventative dental check. This was indexed to $153.45 for 2009. Dentists may set their own fees for services, however, the Government has encouraged dentists to bulk bill preventative dental checks for eligible teenagers. As at 30 November 2009, 57% of preventative dental checks were bulk billed. However, as the lag time between service provision and benefit claiming can be several months, it is not possible to predict the future annual bulk billing rate for the program at this early stage.

Eligibility requirements

The Medicare Teen Dental Plan is available to teenagers who are eligible to receive Medicare benefits, and who, at some time in the calendar year:

- are aged between 12 and 17 years; and
- satisfy the means test for the program.

At the time of implementing the scheme, the means test limited access to teenagers 12 to 17 years of age in families receiving Family Tax Benefit Part A (FTB-A), and teenagers in the same age group receiving Youth Allowance or Abstudy. However, it was determined that the means test excluded some groups of teenagers that should benefit from the Medicare Teen Dental Plan. For example, 16 and 17 year olds receiving financial assistance under the Veterans’ Children Education Scheme (VCES), the Military Rehabilitation and Compensation Act Education and Training Scheme (MRCAETS), or the Disability Support Pension are not eligible to receive Youth Allowance or Abstudy and their families are not eligible to receive FTB-A with respect to that teenager.

In consultation with the Department of Human Services, Department of Veterans’ Affairs (DVA), Department of Education, Employment and Workplace Relations, Department of Families, Housing, Community Services and Indigenous Affairs, Centrelink and Medicare Australia, eligibility for the Medicare Teen Dental Plan was extended from 1 January 2009 to teenagers 12-17 years of age where:

- the teenager is receiving either Carer Payment, Disability Support Pension, Parenting Payment, Special Benefit; or

- the teenager’s family/carer/guardian is receiving either Parenting Payment, or the Double Orphan Pension in respect of the teenager; or
> the teenager’s partner is receiving Parenting Payment; or
> the teenager is receiving financial assistance under VCES or MRCAETS and cannot be included as a dependent child for the purposes of Family Tax Benefit because they are 16 years or older.

This enhancement has extended eligibility to a further 15,000 teenagers each year.

**Funding**

Funding for the Medicare Teen Dental Plan was announced as $490.7 million over five years to 2011–12. The following table details administered funding to 2012–13:

<table>
<thead>
<tr>
<th>Medicare Teen Dental Plan – Administered funding</th>
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Departmental (operational) costs for Medicare Australia and Centrelink to administer the program are $37.4 million over 5 years from 2007–08.

Actual administered expenditure under the Medicare Teen Dental Plan in 2008–09 was $66.7 million. Expenditure for 2009–10, to 30 November 2009, was $54.7 million.

The projected utilisation rate of vouchers for the 2008–09 financial year was 55%. Voucher utilisation for the 2008 calendar year (from 1 July when the program was introduced) was 26.4% (345,074 services claimed of 1.30 million vouchers sent)\(^1\). Utilisation of 2009 calendar year vouchers is 21.8% as at 30 November 2009 (296,672 services claimed of 1.36 million vouchers sent)\(^2\). The 2009 utilisation rate is expected to rise as claims are still being made. A more accurate picture of utilisation will not be available until some time in 2010.

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1 Based on ‘date of service’ data available as at 30 November 2009.
2 Based on ‘date of service’ data available as at 30 November 2009.
Administration

The Medicare Teen Dental Plan is administered by Medicare Australia using client eligibility data provided by Centrelink and DVA. In mid-January each year, Centrelink and DVA provide Medicare Australia with data on teenagers who will be eligible for the program that year. From March onwards, Centrelink and DVA provide Medicare Australia with monthly data on newly eligible teenagers.

Medicare Australia matches Centrelink/DVA data with data held by Medicare Australia (to confirm the teenager’s eligibility to receive Medicare benefits) and issues a voucher. Where data cannot be matched, Medicare Australia is unable to issue a voucher. To date, around 97% of eligibility records have been able to be matched with Medicare Australia records.

Medicare Australia undertakes a bulk mail out of vouchers at the beginning of each calendar year – in 2008, this occurred in July/August. Medicare Australia also sends vouchers to newly eligible teenagers or their families at the beginning of each month between March and November. Vouchers are not automatically distributed to teenagers who become eligible in November and December. Instead, vouchers are provided on request of the teenager, family or carer. A voucher is not required for a dentist to confirm eligibility. Medicare Australia can be contacted directly by the provider or patient for eligibility confirmation.

Communication

Prior to its introduction, information about the Medicare Teen Dental Plan was sent to all dentists (this included a letter from the Minister and the Medicare Teen Dental Plan booklet), as well as to dental and medical professional groups. Information and resources are also available on the Department of Health and Ageing’s website at www.health.gov.au/dental and Medicare Australia’s website at www.medicareaustralia.gov.au. Medicare Australia has also provided dentists with brochures promoting the program, for display in their surgeries. Medicare Australia also displays posters and brochures on the program in Medicare Offices. Each year, eligible teenagers and families receive a letter from Medicare Australia, together with their voucher(s). The letter outlines the program and explains how to use the voucher.
Arrangements for representative public dentists

Preventative dental checks provided in public dental clinics are bulk billed. As the Medicare system requires providers to be individually registered with Medicare Australia, states and territories have nominated one or more ‘representative public dentists’ (RPDs) under whose name and special Medicare provider number the preventative checks are billed. 100% of the benefits assigned to RPDs are paid by Medicare Australia directly into state/territory or public health service controlled bank accounts.

The Commissioner for Taxation has ruled that income derived by RPDs from Medicare benefits assigned under the Medicare Teen Dental Plan is taxable income (Class ruling CR 2009/16). However, the amount paid by Medicare Australia to a state or territory bank account in respect of those benefits is an allowable deduction to the RPD under section 8-1 of the Income Tax Assessment Act 1997 (ie 100% deductible).

Public feedback

Members of the public have provided feedback on the program through ministerial correspondence and direct contact with the department. This feedback includes concerns about:

- the level of benefit for the preventative dental check and ‘value for money’;
- teenagers being charged the full $153.45 for a short oral exam (which is the minimum requirement for claiming item 88000), compared with a sibling or friend who received a more comprehensive service (including, for example, a scale and clean, fluoride treatment and x-rays) for the same price;
- access to, and Medicare coverage of, follow-up treatment needed after a preventative dental check identifies an oral health issue; and
- limited access to participating dentists outside metropolitan areas.
Discussion of key issues

In examining whether the purposes of the Act have been attained, and whether its administration in relation to the Medicare Teen Dental Plan has been appropriate, the Committee explored the following key issues:

1. Whether the Act and Rules provide an appropriate legislative framework for the payment of dental benefits.
2. Whether the Act and Rules support the appropriate administration of the Medicare Teen Dental Plan.
3. Whether the start-up of the Medicare Teen Dental Plan has been successful.

Issue 1 – do the Act and Rules provide an appropriate legislative framework for the payment of dental benefits?

The Committee finds that the Act and Rules achieve their aim of providing an appropriate legislative framework for the payment of dental benefits.

However, the Committee also perceived some benefit in making some structural and administrative changes to the Medicare Teen Dental Plan.

The use of a single item number (DBS item 88000) for the range of procedures covered by the preventative dental check causes systems problems for dentists. All dentists use the Australian Schedule of Dental Services and Glossary (currently, 9th Edition) published by the Australian Dental Association (ADA) for the charting and billing of private patients. This is the generally accepted coding system of dental treatment and is endorsed by the National Coding Centre.

The ADA Schedule assigns a three-digit code to items or clinical procedures. As a general rule, each item describes a treatment outcome (eg, an oral examination, x-ray, clean and scale, fluoride treatment, oral hygiene instruction, dietary advice and fissure sealing are all ascribed an individual item number).
It is acknowledged that the Medicare system cannot accommodate the ADA three digit codes as set out in the ADA schedule of items. However, the Medicare chronic disease dental scheme (CDDS) already applies a two-digit prefix to corresponding ADA items for services provided by dentists, dental specialists and dental prosthetists under the scheme. For example, dentists use Medicare CDDS items 85011 (oral examination), 85022 (x-ray), 85111 (clean and scale), 85121 (fluoride treatment), 85131 (dietary advice), 85141 (oral hygiene instruction) and 85161 (fissure sealing). These items correspond to ADA items 011, 022, 111, 121, 131, 141 and 161 respectively.

The use of the single DBS item (88000) to describe the range of treatment outcomes covered by the preventative dental check also does not allow policy makers and researchers to collect meaningful data about the impact of the Medicare Teen Dental Plan (ie it does not allow the Government to know which services patients are getting). This lack of transparency also affects patients who can be left unsure about which services they have received during their check-up.

In the Committee’s view, the introduction of new item numbers for each procedure included under the preventative dental check, using ADA schedule codes as per the CDDS items, may solve these issues.

The Committee notes the potential difficulties experienced by eligible teenagers moving between the private and public dental sectors where they require follow-up treatment. This may include problems with transferring patient records between sectors, and potentially incompatible treatment plans across jurisdictions. Patients are also often unaware of what treatment they require.

Although the issue of ongoing treatment is not part of the Medicare Teen Dental Plan, the Committee notes that the Government and the ADA both have a role in ensuring that dentists are aware of this problem and in encouraging dentists to provide teenagers who need follow-up treatment with a written copy of their proposed treatment plan.

The Committee notes that while Dental students provide a significant number of dental services in the public dental sector, the provision of preventative dental checks by dental students is not covered by the Act.

**Issue for noting:**

1. The Government could consider replacing the single preventative dental check item (DBS item 88000) with individual items for each procedure provided to patients during their annual preventative dental check.
Issue 2 – do the Act and Rules support the appropriate administration of the Medicare Teen Dental Plan?

The Committee finds that the Act and Rules support the appropriate administration of the Medicare Teen Dental Plan.

However, the Committee views the key question about the administration of the program as the degree to which it supports behaviour change in teenagers (ie having regular dental check-ups) and the extent to which this has contributed to improving oral health outcomes.

Between 1994 and 2005, the proportion of teenagers aged 12 to 17 years who visited a dentist within the previous 12 months ranged from 74.2% in 1994 to 78.9% in 2005\(^3\). It may be, therefore, that the majority of 12–17 year olds who have received preventative dental checks under the Medicare Teen Dental Plan would have had a check-up irrespective of the program. However, some dentists report that there is a proportion of teenagers who are having preventative dental checks because they have received a voucher under the program.

The Medicare Teen Dental Plan pays a flat fee (of $153.45 in the 2009 calendar year) for an annual preventative dental check which must consist of an oral examination as a minimum requirement and, where required, may include a clean and scale, x-rays, fluoride treatment, oral hygiene instruction, dietary advice and/or fissure sealants. There is a concern that the flat fee structure of the program may not provide a sufficient incentive for dental practitioners to provide some of the preventative services additional to the oral examination. However, without individual items for each procedure covered by the preventative dental check, it is not possible to know if this is happening.

In the Committee’s view, it is too early in the program cycle to tell whether the Medicare Teen Dental Plan has been the motivating factor in teenagers having preventative dental checks. Section 68 of the Act requires that the operation of the Act be reviewed again as soon as practicable after the third anniversary of its introduction (ie after 1 July 2011). Reviewing the Medicare Teen Dental Plan as part of the second review of the Act would allow it sufficient time to mature, giving it at least two full calendar years of operation prior to evaluation.

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2 As the Medicare Teen Dental Plan is in its early stages of operation, the Government could consider evaluating the program once it has matured, as part of the second statutory review of the Act.

The Committee finds that the introduction of the Medicare Teen Dental Plan has been successful.

Eligible teenagers are receiving their vouchers and utilisation of the program has increased in the 2009 calendar year to 30 November 2009.

To better understand utilisation of the program and the social and geographical circumstances of eligible teenagers, the Committee considered data relating to teenagers who received vouchers and teenagers who used those vouchers. The Committee also looked at the breakdown of receipt and utilisation of vouchers in metropolitan, rural and remote areas and the proportion of bulk billed services in metropolitan, rural and remote areas.

The SEIFA index of relative socio-economic advantage and disadvantage was used for the SEIFA analyses of voucher utilisation and bulk billing rates. This is a general socio-economic index. A low score on the index indicates relatively greater disadvantage and a lack of advantage in general. An area could have a low score if there are (among other things) many households with low incomes, or many people in unskilled occupations; and few households with high incomes, or few people in skilled occupations. A high score indicates a relative lack of disadvantage and greater advantage in general. An area may have a high score if there are (among other things) many households with high incomes, or many people in skilled occupations; and few households with low incomes, or few people in unskilled occupations.

The Australian Standard Geographical Classification Remoteness Area was used for the remoteness area analyses of voucher utilisation and bulk billing rates. There are six ‘Remoteness Areas’ in this classification:

1. Major Cities of Australia: Collection Districts (CDs) with an average Accessibility/Remoteness Index of Australia (ARIA) index value of 0 to 0.2
2. Inner Regional Australia: CDs with an average ARIA index value greater than 0.2 and less than or equal to 2.4
3. Outer Regional Australia: CDs with an average ARIA index value greater than 2.4 and less than or equal to 5.92
4. Remote Australia: CDs with an average ARIA index value greater than 5.92 and less than or equal to 10.53
5. Very Remote Australia: CDs with an average ARIA index value greater than 10.53
6. Migratory: composed of off-shore, shipping and migratory CDs

All analyses are based on ‘date of service’ data available as at 30 November 2009.

**Important Note:** where postcodes were not included in either the SEIFA or Remoteness Area concordance file (or both), the relevant data was included in the ‘Unalloc’ (unallocated) grouping in Charts 1, 2, 3 and 4 below. Less than 1% of vouchers across the analyses were ‘unallocated’.

Charts 1 and 2 show that uptake of vouchers during the period was highest in areas of relatively greater advantage (peaking at 29.4% in SEIFA index 10 locations), and in major cities and inner regional areas (24.8% and 25.1% respectively). This likely reflects greater availability of service providers in wealthier metropolitan and inner regional areas.

**Chart 1: Voucher utilisation by SEIFA – 1 July 2008 to 30 November 2009**

![Chart 1: Voucher utilisation by SEIFA – 1 July 2008 to 30 November 2009](image-url)
Charts 3 and 4 show that bulk billing rates for the period were highest in areas of relatively greater disadvantage (ranging from a high of 74.1% in SEIFA index 1 locations to a low of 43.5% in SEIFA index 10 locations). The bulk billing rate in SEIFA index 6 (63.2%) went against the trend. However, this may be an anomaly which will disappear over time.

Bulk billing rates were also highest in remote areas (64.6%), while rates in major cities, inner and outer regional areas were similar (57.8%, 55.0% and 55.3% respectively).
Chart 3: Bulk billing by SEIFA – 1 July 2008 to 30 November 2009

SEIFA decile (% services bulk billed)

- Patient billed services
- Bulk billed services

Chart 4: Bulk billing by area – 1 July 2008 to 30 November 2009

Remoteness area (% services bulk billed)

- Patient billed services
- Bulk billed services
The results of the above analyses may reflect eligible families’ ability to pay out-of-pocket costs for dental services, and the current distribution of the dental workforce. However, it is too early in the program’s life cycle to know whether this is the case and if these early trends will continue.

Other issues

The Committee notes that printed and web-based communication materials for the Medicare Teen Dental Plan have been appropriate for its introduction. However, consideration could be given to advertising the program more broadly to potentially increase uptake of the vouchers.

For example, the Government could use school newsletters in high schools, brochures in doctors’ waiting rooms and its relationship with relevant consumer organisations (eg Consumers Health Forum) to make families more aware of the program. Linking into the healthdirect Australia national telephone service and Centrelink’s communication to clients may also be useful in promoting the program.

Dental practitioners could also receive timely reminders about the availability of the program. This could be achieved with the support of the ADA.

In all of these measures, it will be important to ensure that communication materials are easy to read, particularly those aimed directly to eligible teenagers. It will also be important that the materials help manage the expectations of families with eligible teenagers.

The Medicare Teen Dental Plan voucher could also be improved with stronger branding. Currently, the voucher does not look like a ‘voucher’ and this may be contributing to the lower than expected utilisation of the program.

In addition, it may be prudent to delay slightly the bulk mail-out of vouchers at the beginning of each calendar year. Sending letters and vouchers to families at a time when children are on extended school holidays may not capture and retain their attention. Early to mid February may be a more suitable timeframe for the bulk mail-out of vouchers.
Conclusion

The Committee was tasked with examining whether the Act has attained its purposes and evaluating the administration of the Act in relation to the Medicare Teen Dental Plan.

In conducting this Review, the Committee has found that the Act, and its associated Rules, provide an appropriate legislative framework for the payment of dental benefits and support the administration of the Medicare Teen Dental Plan.

The Committee has also found that the introduction of the Medicare Teen Dental Plan has been successful.

The Committee has noted that introducing individual item numbers for the range of procedures covered by the preventative dental check may improve integration of the program with dentists’ billing systems and provide better information for patients and for evaluating the impact of the Medicare Teen Dental Plan.

The Committee also noted that the Government could consider including an evaluation of the operation of the Medicare Teen Dental Plan as part of the second statutory review of the operation of the Act, to be undertaken as soon as practicable after the third anniversary of its introduction (ie after 1 July 2011). The evaluation would confirm whether the early successes of the program have been sustained and show whether eligible teenagers are improving their oral health habits by coming back for regular preventative dental checks each year.
Appendix 1

*Dental Benefits Act 2008*
Dental Benefits Act 2008

No. 41, 2008

An Act to provide a framework for the provision of dental benefits, and for related purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)
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iii Dental Benefits Act 2008 No. 41, 2008
Dental Benefits Act 2008

No. 41, 2008

An Act to provide a framework for the provision of dental benefits, and for related purposes

[Assented to 25 June 2008]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the Dental Benefits Act 2008.
Part 1 Preliminary

Section 2

2 Commencement

This Act commences on the day after it receives the Royal Assent.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act sets up a framework for the provision of dental benefits.

- Dental benefit is payable if dental expenses are incurred in respect of a dental service rendered to an eligible dental patient.

- The amount of dental benefit payable is the amount specified in, or determined in accordance with, the Dental Benefits Rules.

- If dental benefit is payable, it is payable by the Medicare Australia CEO to the person who incurs the dental expenses in respect of the dental service. In some circumstances, dental benefit is payable to the dental provider.

- Claims for dental benefit must be lodged with the Medicare Australia CEO.

- The Medicare Australia CEO is to issue vouchers in relation to a dental service to persons who qualify for a voucher.

- A person qualifies for a voucher if the person meets the requirements of this Act or if the Dental Benefits Rules provide that the person qualifies for a voucher.

- A person in respect of whom a voucher is in effect is an eligible dental patient. The Dental Benefit Rules may also provide that certain eligible persons are eligible dental patients.
• The Minister may make Dental Benefit Rules which may provide for a Dental Benefits Schedule.

• This Act also makes provision in relation to the disclosure of information, offences against this Act and other matters.

4 Definitions

In this Act:

**ABSTUDY scheme** means the scheme known as **ABSTUDY**.

**approved form** means a form approved, in writing, by the Medicare Australia CEO.

**associate**, in relation to a corporation, means:
(a) a director (within the meaning of the **Corporations Act 2001**), secretary or manager of the corporation; or
(b) a receiver, or a receiver and manager, of any part of the undertaking of the corporation appointed under a power contained in any instrument; or
(c) a liquidator of the corporation appointed in a voluntary winding up.

**authorised disclosure** has the meaning given by subsection 34(4).

**bank** includes, but is not limited to, a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the **Banking Act 1959**.

**clinically relevant service** means a service that is generally accepted in the dental profession as being necessary for the appropriate care or treatment of the patient to whom it is rendered.

**dental benefit** means dental benefit payable under Part 3.

**Dental Benefits Rules** means the Dental Benefits Rules referred to in section 60.

**Dental Benefits Schedule** means the Dental Benefits Schedule referred to in section 61.
Part 1  Preliminary

Section 4

dental expenses means an amount payable in respect of a dental service.
dental practitioner has the same meaning as in the Health Insurance Act 1973.
dental provider has the meaning given by section 6.
dental service means a clinically relevant service specified in an item, being a service rendered by or on behalf of a dental provider.
disclose means divulge or communicate.
eligible dental patient has the meaning given by section 5.
eligible person means:
(a) a person who is an eligible person within the meaning of section 3 of the Health Insurance Act 1973; or
(b) a person who is treated as such a person because of section 6, 6A or 7 of that Act.
employee of Medicare means an employee within the meaning of the Medicare Australia Act 1973.
entrusted public official has the meaning given by subsection 34(2).
item means an item in the Dental Benefits Schedule.
making a statement, when used in Division 3 of Part 6, includes a reference to issuing or presenting a document.
Medicare Australia CEO has the same meaning as in the Health Insurance Act 1973.
private health insurer has the same meaning as in the Private Health Insurance Act 2007.
protected information has the meaning given by subsection 34(3).
qualifies for a voucher has the meaning given by sections 23 and 26.
rendered on behalf of a dental provider has the meaning given by section 7.

satisfies the means test has the meaning given by section 24.

Secretary means the Secretary of the Department.

this Act includes:
(a) the regulations; and
(b) the Dental Services Rules.

voucher means a voucher issued under Part 4.


5 Meaning of eligible dental patient

(1) An eligible dental patient, in relation to a dental service, is:
   (a) a person in respect of whom a voucher in relation to the dental service is in effect; or
   (b) an eligible person included in a class of eligible persons specified in the Dental Benefits Rules to be eligible dental patients in relation to the dental service; or
   (c) if the Dental Benefits Rules provide that all eligible persons are eligible dental patients in relation to the dental service—an eligible person.

(2) Without limiting the way in which a class of eligible persons may be described for the purposes of paragraph (1)(b), the class may be described by reference to one or both of the following:
   (a) age;
   (b) receipt of a specified pension, benefit or allowance at a specified time or throughout a specified period.

6 Meaning of dental provider

(1) A dental provider, in relation to a dental service, means the following:
   (a) a dental practitioner;
Part 1  Preliminary

Section 7

(b) if the Dental Benefits Rules specify a class of persons to be dental providers in relation to the dental service—a person included in that class.

(2) Despite subsection (1), a dental practitioner is not a dental provider in relation to a dental service, if:

(a) the dental practitioner is included in a class of dental practitioners specified in the Dental Benefits Rules not to be dental providers in relation to the dental service; or

(b) the Dental Benefits Rules specify that dental practitioners are not dental providers in relation to the dental service.

7 Meaning of rendered on behalf of a dental provider

For the purposes of this Act, a dental service is taken to be rendered on behalf of a dental provider if, and only if:

(a) the dental service is rendered by another person included in a class of persons specified in the Dental Benefits Rules for the purposes of this paragraph; and

(b) the other person provides the dental service, in accordance with accepted dental practice, under the supervision of the dental provider.
Part 2—Entitlement to dental benefits

8 Simplified outline

The following is a simplified outline of this Part:

- This Part creates a basic entitlement to dental benefit in respect of a dental service.
- Dental benefit is payable if dental expenses are incurred in respect of the dental service.
- The amount of dental benefit payable is the amount specified in, or determined in accordance with, the Dental Benefits Rules.

9 Entitlement to dental benefits

Basic entitlement

(1) If dental expenses are incurred in respect of a dental service rendered in Australia to an eligible dental patient, dental benefit is payable under section 11 in respect of the dental service.

Amount payable

(2) The amount of dental benefit payable in respect of a dental service is the amount specified in, or determined in accordance with, the Dental Benefits Rules.

Note: See also sections 61 and 62.

(3) The amount of dental benefit payable in respect of a dental service must not exceed the dental expenses incurred in respect of the dental service.
Part 3— Payment of dental benefits
Division 1— Introduction

10 Simplified outline

The following is a simplified outline of this Part:

- This Part deals with the payment of dental benefit in respect of a dental service.

- Dental benefit is payable by the Medicare Australia CEO to:
  
  (a) the person who incurs the dental expenses in respect of the dental service; or
  
  (b) the dental provider, if there has been an assignment of dental benefits or if there has been a request that the dental provider be paid.

- Claims for dental benefit must be lodged with the Medicare Australia CEO.

- Dental benefit is not payable in certain circumstances.
Division 2—Payment of dental benefits

11 Payment of dental benefits to persons who incur dental expenses

(1) Subject to this Part, dental benefit in respect of a dental service:
   (a) is payable by the Medicare Australia CEO on behalf of the Commonwealth to the person who incurs the dental expenses in respect of the dental service; and
   (b) is to be paid in such manner as the Medicare Australia CEO determines.

(2) A determination under paragraph (1)(b) may provide for the amount of dental benefit to be paid to the credit of a bank account in such circumstances (if any), and subject to such conditions (if any), as are specified in the Dental Benefits Rules.

(3) Subsection (2) does not limit paragraph (1)(b).

12 Assignment of dental benefits

Scope

(1) This section applies if dental benefit is payable under section 11 to a person in respect of a dental service.

Assignment of dental benefits

(2) The person and the dental provider by whom, or on whose behalf, the dental service is rendered may enter into an agreement, in accordance with the approved form, under which:
   (a) the person assigns his or her right to the payment of the dental benefit to the dental provider; and
   (b) the dental provider accepts the assignment in full payment of the dental expenses incurred by the person in respect of the dental service.

(3) An assignment of a dental benefit must not be made except in accordance with this section.
Agents

(4) If a person renders a dental service on behalf of a dental provider, the person may enter into an agreement under subsection (2) on behalf of the dental provider only if the person is authorised to do so by the dental provider.

13 Payment of assigned dental benefits

(1) If an assignment under section 12 takes effect with respect to a dental benefit, the dental benefit is, subject to section 15, payable in accordance with the assignment.

(2) Dental benefit payable under subsection (1) is to be paid in such manner as the Medicare Australia CEO determines.

(3) A determination under subsection (2) may provide for the amount of dental benefit to be paid to the credit of a bank account in such circumstances (if any), and subject to such conditions (if any), as are specified in the Dental Benefits Rules.

(4) Subsection (3) does not limit subsection (2).

14 Payment of dental benefits to dental providers if a request is made

Scope

(1) This section applies if:

(a) dental benefit is payable under section 11 to a person in respect of a dental service; and

(b) the person has not paid the dental expenses that the person incurred in respect of the dental service.

Dental benefit not to be paid to the person

(2) Dental benefit is not to be paid to the person.

Dental benefit to be paid to the dental provider if a request is made

(3) The person may request the Medicare Australia CEO to:
(a) give the person personally; or
(b) send by post to the address specified by the person;

a cheque for the amount of dental benefit payable in respect of the
dental service in lieu of a payment to the person under section 11
in respect of the dental service.

(4) The Medicare Australia CEO must comply with a request under
subsection (3).

(5) A cheque given or sent as requested under subsection (3) must be
drawn in favour of the dental provider by whom, or on whose
behalf, the dental service was rendered.
Part 3  Payment of dental benefits
Division 3  Claims for dental benefits

Section 15

Division 3—Claims for dental benefits

15 Claims for dental benefits

Claims for unassigned dental benefits

(1) A claim for a dental benefit (other than a dental benefit assigned under section 12) must be made in accordance with the approved form and:
   (a) lodged with the Medicare Australia CEO; or
   (b) sent, in such circumstances (if any), and subject to such conditions (if any), as are specified in the Dental Benefits Rules, to the Medicare Australia CEO in such manner as he or she determines.

Claims for assigned dental benefits

(2) A claim for a dental benefit assigned under section 12 must be made in accordance with the approved form and:
   (a) lodged with the Medicare Australia CEO; or
   (b) sent, in such circumstances (if any), and subject to such conditions (if any), as are specified in the Dental Benefits Rules, to the Medicare Australia CEO in such manner as he or she determines;
   within the period of 2 years, or such longer period as is allowed under subsection 16(2), after the rendering of the dental service to which the dental benefit relates.

(3) A claim referred to in subsection (2) must not be paid unless the claimant satisfies the Medicare Australia CEO that, after signing the relevant agreement under subsection 12(2), the assignor retained in his or her possession a copy of the agreement.

(4) A determination under paragraph (2)(b) may provide for a claim for a dental benefit to be sent by electronic transmission.

(5) Subsection (4) does not limit paragraph (2)(b).
16 Application for a longer period to lodge claims for assigned dental benefits

(1) A person may, in accordance with the approved form, apply to the Medicare Australia CEO for a longer period within which to lodge a claim referred to in subsection 15(2).

(2) If an application under subsection (1) is made, the Medicare Australia CEO may, by notice in writing given to the person, allow a longer period for the lodgment of the claim.

(3) The Medicare Australia CEO must, in exercising his or her power under subsection (2), have regard to all matters that the Medicare Australia CEO considers relevant including, but not limited to, any hardship that might be caused to the person if a longer period is not allowed.
Part 3  Payment of dental benefits
Division 4  When dental benefit is not payable

Section 17

Division 4—When dental benefit is not payable

17  Dental benefit is not payable unless particulars are recorded on the account etc.

(1) Dental benefit is not payable in respect of a dental service unless subsection (2) is satisfied.

(2) This subsection is satisfied if:

(a) the dental provider by whom, or on whose behalf, the dental service was rendered; or
(b) an employee of that dental provider;

has recorded on one or more of the following:

(c) the account or receipt for fees in respect of the dental service;
(d) the voucher that relates to the dental service;
(e) if an assignment has been made in accordance with section 12 in relation to the dental benefit in respect of the dental service—on the form of the assignment;

such particulars (if any) as are specified in the Dental Benefits Rules in relation to dental services generally or in relation to a class of dental services in which the dental service is included.

18  Dental benefit is not payable unless conditions specified in the Dental Benefits Rules are satisfied

(1) The Dental Benefits Rules may provide that dental benefit is not payable in respect of a dental service unless the conditions specified in the Dental Benefits Rules are satisfied.

(2) Conditions specified in the Dental Benefits Rules for the purposes of subsection (1) may include, but are not limited to, conditions relating to:

(a) the dental service; or
(b) the circumstances in which the dental service is rendered; or
(c) the dental provider by whom, or on whose behalf, the dental service is rendered; or
(d) the eligible dental patient to whom the dental service is rendered; or
(e) dental services rendered by, on behalf of or under an arrangement with:
   (i) the Commonwealth; or
   (ii) a State; or
   (iii) an internal Territory; or
   (iv) a local governing body; or
   (v) an authority established by a law of the Commonwealth, a law of a State or a law of an internal Territory.

Note: For specification by class, see subsection 13(3) of the Legislative Instruments Act 2003.

19 Dental benefit is not payable if a benefit has been received etc. under a complying health insurance policy

(1) Dental benefit is not payable to a person in respect of a dental service if:
   (a) under a complying health insurance policy with a private health insurer, the person is covered, in whole or in part, for the liability to pay fees and charges in respect of the dental service; and
   (b) the person has received, or chooses to receive, a benefit from the private health insurer in respect of the dental service.

(2) In this section:

complying health insurance policy has the same meaning as in the Private Health Insurance Act 2007.

cover, in relation to a complying health insurance policy, has the same meaning as in the Private Health Insurance Act 2007.

20 Dental benefit is not payable in respect of a dental service rendered as part of an episode of hospital treatment etc.

(1) Dental benefit is not payable in respect of a dental service rendered to an eligible dental patient if the dental service is rendered:
Part 3  Payment of dental benefits
Division 4  When dental benefit is not payable

Section 21

(a) as part of an episode of hospital treatment provided to the eligible dental patient; or
(b) as part of hospital-substitute treatment provided to the eligible dental patient in respect of which the eligible dental patient chooses to receive a benefit from a private health insurer.

(2) In this section:

hospital-substitute treatment has the same meaning as in the Private Health Insurance Act 2007.

hospital treatment has the same meaning as in the Private Health Insurance Act 2007.

21  Dental Benefits Rules may provide that dental benefit is not payable

(1) The Dental Benefits Rules may provide that dental benefit is not payable in respect of a dental service.

(2) Without limiting subsection (1), the Dental Benefits Rules may provide that:

(a) dental benefit is not payable in respect of a specified dental service; or
(b) dental benefit is not payable in respect of a dental service provided in specified circumstances; or
(c) dental benefit is not payable in respect of a dental service rendered by, or on behalf of, a specified dental provider; or
(d) dental benefit is not payable in respect of a dental service rendered to a specified eligible dental patient; or
(e) dental benefit is not payable in respect of a dental service rendered by, on behalf of or under an arrangement with:
   (i) the Commonwealth; or
   (ii) a State; or
   (iii) an internal Territory; or
   (iv) a local governing body; or
   (v) an authority established by a law of the Commonwealth, a law of a State or a law of an internal Territory.
Note: For specification by class, see subsection 13(3) of the Legislative Instruments Act 2003.
Part 4— Dental benefits vouchers

Division 1— Introduction

22 Simplified outline

The following is a simplified outline of this Part:

- This Part sets up a framework for the issuing of vouchers in relation to a dental service to persons who qualify for a voucher.

- A person qualifies for a voucher for a calendar year if he or she is aged between 12 and 18 years at any time during the calendar year, is an eligible person and satisfies the means test.

- The Dental Benefit Rules may also provide that an eligible person qualifies for a voucher for a calendar year.

- The Medicare Australia CEO must issue a voucher to a person if the person qualifies for the voucher on or before 31 October in a calendar year.

- A person who qualifies for a voucher may request the Medicare Australia CEO to issue the voucher.

- Unless the Dental Benefit Rules provide otherwise:
  
  (a) only one voucher may be issued in relation to a dental service in respect of a person for a calendar year; and

  (b) a voucher for a calendar year remains in effect until the end of the calendar year.
Division 2—Qualification for vouchers

23 Qualification for a voucher—teenagers

Section applies to certain teenagers

(1) This section applies to a person, in relation to a calendar year, if:
   (a) the person is aged at least 12 years but is aged under 18 years on 1 January in the calendar year; or
   (b) the person will, in the ordinary course of events, reach the age of 12 years at any time during the calendar year.

Point in time at which person qualifies for a voucher

(2) The person qualifies for a voucher for the calendar year, in relation to a dental service specified in the Dental Benefits Rules for the purposes of this section, at the first time in the calendar year when:
   (a) the person is an eligible person; and
   (b) the person satisfies the means test set out in section 24.

24 When a person satisfies the means test

Basic rule

(1) For the purposes of section 23, a person satisfies the means test at a particular time if, at that time:
   (a) the person is receiving a payment under the ABSTUDY scheme, or another person is receiving such a payment in respect of the person; or
   (b) the person is receiving youth allowance; or
   (c) the person is an FTB(A) teenager; or
   (d) the person is included in a class of persons specified in the Dental Benefits Rules as satisfying the means test for the purposes of this paragraph.
When a person is an FTB(A) teenager

(2) For the purposes of this section, a person (the teenager) is an FTB(A) teenager at a particular time if, at that time:

(a) there is in force a section 16 determination that the teenager, or the teenager’s partner, is entitled to be paid family tax benefit at a Part A rate that is greater than nil; or

(b) there is in force a section 16 determination that an FTB recipient in relation to the teenager is entitled to be paid family tax benefit in respect of the teenager at a Part A rate that is greater than nil; or

(c) the teenager, or the teenager’s partner, has received an FTB lump sum payment in respect of the last income year ending before the start of the calendar year during which the time occurs; or

(d) an FTB recipient in relation to the teenager has received an FTB lump sum payment that is:

(i) in respect of the teenager; and

(ii) in respect of the last income year ending before the start of the calendar year during which the time occurs; or

(e) the teenager is included in a class of person specified in the Dental Benefits Rules to be an FTB(A) teenager for the purposes of this paragraph.

Definitions

(3) In this section:

approved care organisation has the same meaning as in the A New Tax System (Family Assistance) Act 1999.

FTB child, in relation to family tax benefit, has the same meaning as in the A New Tax System (Family Assistance) Act 1999.

FTB lump sum payment means a payment of family tax benefit under section 24 of the A New Tax System (Family Assistance) (Administration) Act 1999 that has a Part A rate that is greater than nil.

FTB recipient, in relation to a teenager, means:
Dental benefits vouchers  Part 4
Qualification for vouchers  Division 2

Section 25

(a) a person of whom the teenager is an FTB child in relation to family tax benefit; or
(b) an approved care organisation of which the teenager is a client (within the meaning of the A New Tax System (Family Assistance) Act 1999).

income year has the same meaning as in subsection 3(1) of the A New Tax System (Family Assistance) Act 1999.

Part A rate means the Part A rate calculated under the A New Tax System (Family Assistance) Act 1999.

partner has the same meaning as in the A New Tax System (Family Assistance) Act 1999.

receive:
(a) in relation to a payment under the ABSTUDY scheme— has the meaning given by subsection (4); and
(b) in relation to youth allowance— has the same meaning as in section 23 of the Social Security Act 1991.

section 16 determination means a determination under section 16 of the A New Tax System (Family Assistance) (Administration) Act 1999.

When a person is receiving ABSTUDY

(4) For the purposes of this section, a person is taken to be receiving a payment under the ABSTUDY scheme:
(a) from the earliest day on which the payment is payable to the person, even if an instalment of the payment, or the payment, it is not paid until a later day; and
(b) until the latest day on which the payment is payable to the person, even if the last instalment of the payment, or the payment, is not paid until a later day.

25 Dental Benefits Rules must specify certain matters

(1) Dental Benefits Rules made for the purposes of paragraph 24(1)(d) must specify the time, or how to work out the time, at which a person satisfies the means test for the purposes of the paragraph.
(2) Dental Benefits Rules made for the purposes of paragraph 24(2)(e) must specify the time, or how to work out the time at which, a person is an FTB(A) teenager for the purposes of the paragraph.

26 Qualification for a voucher—other persons

The Dental Benefits Rules may provide that each eligible person included in a specified class of eligible persons qualifies for a voucher for a calendar year in relation to a specified dental service.
Division 3—Issue of vouchers and other matters

27 Medicare Australia CEO must issue vouchers

Persons who qualify on or before 31 October

(1) The Medicare Australia CEO must issue a voucher for a calendar year in respect of a person, in relation to a dental service, if:
   (a) the person qualifies for the voucher on or before whichever of the following dates is applicable:
      (i) 31 October in the calendar year;
      (ii) if an earlier or later date in the calendar year is specified in the Dental Benefits Rules for the purposes of this paragraph— the specified date; and
   (b) subject to subsection (5), the Medicare Australia CEO has not already issued a voucher for the calendar year in respect of the person in relation to the dental service.

Persons who request a voucher

(2) The Medicare Australia CEO must issue a voucher for a calendar year in respect of a person, in relation to a dental service, if:
   (a) the person qualifies for the voucher; and
   (b) the Medicare Australia CEO is requested by or on behalf of the person to issue the voucher; and
   (c) subject to subsection (5), the Medicare Australia CEO has not already issued a voucher for the calendar year in respect of the person in relation to the dental service.

Timing and form of a request

(3) A request under subsection (2):
   (a) must be made not later than 15 days, or such other number of days as is specified in the Dental Benefits Rules for the purposes of this paragraph, before the end of the calendar year; and
   (b) must be in the approved form.
Voucher to be issued as soon as reasonably practicable

(4) The Medicare Australia CEO must issue a voucher under subsection (1) or (2) as soon as reasonably practicable after the person qualifies for the voucher or the request for the voucher is made, as the case requires.

Exception to the one voucher per year rule

(5) The Dental Benefits Rules may specify circumstances in which more than one voucher in relation to a dental service, may be issued in respect of a person for a calendar year.

When voucher is not required to be issued

(6) This section has effect subject to sections 28 and 29.

28 When voucher is not required to be issued—person dies

Despite section 27, if:
(a) a person qualifies for a voucher for a calendar year; and
(b) the person dies before the Medicare Australia CEO issues the voucher for the calendar year in respect of the person;
the Medicare Australia CEO is not required to issue the voucher.

29 When voucher is not required to be issued—circumstances specified in the Dental Benefit Rules

The Dental Benefit Rules may specify circumstances in which the Medicare Australia CEO is not required to issue a voucher for a calendar year in respect of a person who qualifies for the voucher.

30 Voucher must specify dental service

A voucher must specify the dental service to which it relates.

31 Voucher remains in effect until the end of a calendar year

A voucher for a calendar year takes effect on the day on which it is issued and remains in effect until the end of the calendar year,
unless the Dental Benefits Rules provide for a different period of effect.

32 Dental Benefits Rules may provide for other matters

The Dental Benefits Rules may provide for the following:
(a) matters relating to requests for vouchers;
(b) altering the period of effect of vouchers;
(c) the persons to whom vouchers are to be issued;
(d) lost vouchers.
Part 5—Disclosure of protected information

Division 1—Introduction

33 Simplified outline

The following is a simplified outline of this Part:

- Except as authorised by this Part, an entrusted public official must not disclose protected information.

- An entrusted public official must not, except for the purposes of this Act, be required:
  
  (a) to disclose protected information to a court or tribunal; or

  (b) produce documents that contain protected information in a court or tribunal.

- This Part also sets out a number of offences relating to the disclosure etc. of protected information.
Division 2—Disclosure of protected information

34 Prohibition on disclosure of protected information

Offence

(1) A person commits an offence if:

(a) the person is, or was at any time, an entrusted public official; and
(b) the person has, or has at any time had, a duty, function or power under this Act; and
(c) the person discloses information to another person; and
(d) the information is protected information; and
(e) the disclosure is not an authorised disclosure.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

Entrusted public official

(2) Each of the following persons is an entrusted public official:

(a) the Medicare Australia CEO;
(b) an employee of Medicare Australia;
(c) a consultant engaged under section 21 of the Medicare Australia Act 1973;
(d) the Secretary of the Department administered by the Minister who administers this Act;
(e) an APS employee in that Department;
(f) any other person employed or engaged by that Department.

Protected information

(3) Information is protected information if the information relates to a person other than the person who obtained it and:

(a) the information is obtained by a person in the course of performing duties or functions, or exercising powers, under this Act; or
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Division 2 Disclosure of protected information

Section 35

(b) the information was information to which paragraph (a) applied and is obtained by a person by way of an authorised disclosure under section 36.

Authorised disclosure

(4) A disclosure of information is an authorised disclosure if the disclosure is one that a person may make under section 35, 36, 37, 38, 39, 40 or 41.

35 Authorised disclosure—official duties

For the purposes of subsection 34(4), a person may disclose protected information if the disclosure is made:
(a) in the course of performing a duty or function, or exercising a power, under this Act; or
(b) for the purposes of enabling another person to perform duties or functions, or exercise powers, under this Act; or
(c) for the purposes of enabling a person to perform duties or functions, or exercise powers, under the Medicare Australia Act 1973.

36 Authorised disclosure—public interest

(1) For the purposes of subsection 34(4), a person may disclose protected information if:
(a) the disclosure is, or is a kind of disclosure, certified, in writing by the Secretary or the Medicare Australia CEO, to be in the public interest; and
(b) the disclosure is made in accordance with any requirements specified in the Dental Benefit Rules.

(2) An instrument made under paragraph (1)(a) is not a legislative instrument.

37 Authorised disclosure—authorisation by affected person

For the purposes of subsection 34(4), the Secretary or the Medicare Australia CEO may disclose protected information to a person who
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is expressly or impliedly authorised by the person to whom the protected information relates to obtain it.

38 Authorised disclosure—enforcement of the criminal law etc.

(1) For the purposes of subsection 34(4), the Secretary or the Medicare Australia CEO may disclose protected information to an agency if:

(a) the Secretary or the Medicare Australia CEO believes on reasonable grounds that the disclosure is reasonably necessary for:
   (i) the enforcement of the criminal law; or
   (ii) the enforcement of a law imposing a pecuniary penalty; or
   (iii) the protection of the public revenue; and
(b) the functions of the agency include that enforcement or protection; and
(c) the disclosure is for the purposes of that enforcement or protection.

(2) In this section:

agency includes:

(a) a police force of a State or Territory; or
(b) any other authority or person responsible for the enforcement of the laws of the State or Territory.

39 Authorised disclosure—preventing or lessening a serious and imminent threat to the life or health of a person

For the purposes of subsection 34(4), the Secretary or the Medicare Australia CEO may disclose protected information if:

(a) the Secretary or the Medicare Australia CEO believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of a person; and
(b) the disclosure is for the purposes of preventing or lessening that threat.
40 Authorised disclosure—professional body

(1) For the purposes of subsection 34(4), the Secretary or the Medicare Australia CEO may disclose to a professional body protected information that relates to:
   (a) a dental provider; or
   (b) the dental services rendered by or on behalf of a dental provider;
if the Secretary or the Medicare Australia CEO believes on reasonable grounds that the dental provider should be reported to the professional body.

(2) Subsection (1) does not apply to protected information:
   (a) that relates to a person who is a patient of the dental provider; and
   (b) from which the identity of the person is apparent or can reasonably be ascertained;
unless the Secretary or the Medicare Australia CEO believes on reasonable grounds that the disclosure of the protected information is necessary in connection with the reporting of the dental provider to the professional body.

(3) In this section:

   professional body means a body responsible for the licensing, registration, accreditation or standards of professional conduct of dental providers generally or a class of dental providers.

41 Authorised disclosure—administration of this Act

(1) For the purposes of subsection 34(4), a person may disclose protected information to:
   (a) the Medicare Australia CEO or an employee of Medicare Australia; or
   (b) the Chief Executive Officer of Centrelink or an employee of Centrelink; or
   (c) the Minister who administers:
       (i) this Act; or
       (ii) the Medicare Australia Act 1973; or
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(iii) the Social Security Act 1991 in so far as that Act relates to youth allowance; or
(iv) the A New Tax System (Family Assistance) Act 1999 in so far as that Act relates to family tax benefit; or
(v) the ABSTUDY scheme; or
(d) the Secretary of, or an APS employee in, the Department administered by a Minister mentioned in paragraph (c);
if the disclosure is for the purposes of administering this Act.

Note: For the definition of APS employee, see section 17AA of the Acts Interpretation Act 1901.

(2) In this section:

Centrelink means the Commonwealth Services Delivery Agency.

employee of Centrelink means an employee within the meaning of the Commonwealth Services Delivery Agency Act 1997.

family tax benefit has the same meaning as in the A New Tax System (Family Assistance) Act 1999.

42 Disclosure of protected information to courts or tribunals

Scope

(1) This section applies if:
(a) a person is, or was at any time, an entrusted public official; and
(b) the person obtained:
(i) protected information; or
(ii) a document that contains protected information;
in the course of performing duties or functions, or exercising powers, under this Act.

Disclosure of protected information to a court or tribunal

(2) The person must not, except for the purposes of this Act, be required:
(a) to disclose the protected information to a court or tribunal; or
(b) to produce the document in a court or tribunal.
**Part 5** Disclosure of protected information  
**Division 3** Offences relating to the disclosure etc. of protected information

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**Section 43**

**Division 3— Offences relating to the disclosure etc. of protected information**

**43 Offence— disclosure of protected information obtained in the public interest**

A person commits an offence if:

(a) the person obtains protected information; and  
(b) the person does so by way of an authorised disclosure under section 36; and  
(c) the person discloses the protected information; and  
(d) the disclosure by the person is not an authorised disclosure.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

**44 Offence— soliciting disclosure of protected information**

A person commits an offence if:

(a) the person solicits the disclosure of information from another person; and  
(b) the information is protected information; and  
(c) the disclosure would constitute a contravention of section 34 or 43.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

**45 Offence— use etc. of protected information**

A person commits an offence if:

(a) information is disclosed to the person; and  
(b) the information is protected information; and  
(c) the disclosure to the person constitutes a contravention of section 34 or 43; and  
(d) any of the following apply:  
   (i) the person solicited the disclosure of the information;  
   (ii) the person subsequently discloses the information;
(iii) the person uses the information.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

46 Offence—offering to supply protected information

A person commits an offence if:

(a) the person:
   (i) offers; or
   (ii) holds himself or herself out as being able;
        to supply (whether or not to a particular person) information
        about another person; and
   (b) the person knows that the information is protected
       information; and
   (c) the supply would constitute a contravention of section 34 or 43.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.
Part 6—General offences and recovery provisions

Division 1—Introduction

47 Simplified outline

The following is a simplified outline of this Part:

- Divisions 2 and 3 of this Part set out a number of offences relating to assignment agreements and the giving of information.
- Division 4 of this Part deals with the recovery of amounts paid because of false or misleading statements.
Division 2— Offences relating to assignment agreements

48 Strict liability offence— particulars not set out in assignment agreement

(1) A dental provider commits an offence if:
   (a) the dental provider, or a person acting on his or her behalf, enters into an agreement under subsection 12(2) with another person; and
   (b) particulars relating to the dental service are required, by the approved form, to be set out in the agreement; and
   (c) the dental provider has not caused the particulars to be set out in the agreement before the other person signs the agreement.

Penalty: 10 penalty units.

(2) An offence under subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

(3) In this section:

approved form means the form approved for the purposes of subsection 12(2).

49 Strict liability offence— copy of assignment agreement not given

(1) A dental provider commits an offence if:
   (a) the dental provider, or a person acting on his or her behalf, enters into an agreement under subsection 12(2) with another person; and
   (b) the dental provider does not cause a copy of the agreement to be given to the other person as soon as practicable after the other person signed the agreement.

Penalty: 10 penalty units.

(2) An offence under subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.
**Division 3— Offences relating to the giving of information**

**50 Strict liability offence— false or misleading statements relating to dental benefit**

Offence

(1) A person commits an offence if:

(a) the person makes, or authorises the making of, an oral or written statement; and

(b) the statement is false or misleading in a material particular; and

(c) the statement is capable of being used in connection with a claim for dental benefit.

Penalty: 20 penalty units.

Strict liability

(2) An offence under subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

Prosecution— time limit

(3) Despite section 15B of the Crimes Act 1914, a prosecution for an offence under subsection (1) must be instituted within 3 years after the time at which the statement is alleged to have been made.

**51 Strict liability offence— false or misleading statements by employees etc.**

Offence

(1) A person (the **first person**) commits an offence if:

(a) the first person is an employee, associate or agent of another person (the **second person**); and

(b) the second person makes an oral or written statement (the **claim statement**); and
General offences and recovery provisions  **Part 6**
Offences relating to the giving of information  **Division 3**

Section 52

(c) the claim statement is false or misleading in a material particular; and
(d) the claim statement is capable of being used in connection with a claim for dental benefit; and
(e) the material particular in respect of which the claim statement is false or misleading is substantially based upon another statement (the **employee statement**); and
(f) the employee statement was made by the first person:
   (i) to the second person; or
   (ii) to an agent of the second person; and
(g) the employee statement was false or misleading in a material particular.

Penalty: 20 penalty units.

Strict liability

(2) An offence under subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

Prosecution—time limit

(3) Despite section 15B of the Crimes Act 1914, a prosecution for an offence under this section must be instituted within 3 years after the time at which the claim statement is alleged to have been made.

52 Offence—statement that person knows is false or misleading

A person commits an offence if:

(a) the person makes, or authorises the making of, an oral or written statement; and
(b) the person knows:
   (i) that the statement is false or misleading in a material particular; and
   (ii) that the statement is capable of being used in connection with a claim for dental benefit.

Penalty: Imprisonment for 5 years or 100 penalty units, or both.
53 Offence—statement based on statement that employee etc. knows is false or misleading

A person (the first person) commits an offence if:
(a) the first person is an employee, associate or agent of another person (the second person); and
(b) the second person makes an oral or written statement (the claim statement); and
(c) the claim statement is false or misleading in a material particular; and
(d) the claim statement is capable of being used in connection with a claim for dental benefit; and
(e) the material particular in respect of which the claim statement is false or misleading is substantially based upon another statement (the employee statement); and
(f) the employee statement was made by the first person:
(i) to the second person; or
(ii) to an agent of the second person; and
(g) the first person knew that the employee statement was false or misleading in a material particular; and
(h) the first person knew, or was reckless as to whether, the employee statement would be used in the preparation of the claim statement.

Penalty: Imprisonment for 5 years or 100 penalty units, or both.

54 False statements etc.

A person commits an offence if:
(a) the person gives information under or for the purposes of this Act; and
(b) the person knows that the information is false or misleading in a material particular.

Penalty: Imprisonment for 5 years or 100 penalty units.

55 Prosecution of certain offences

(1) An offence against section 52, 53 or 54 is an indictable offence.
(2) Despite subsection (1), a court of summary jurisdiction may hear and determine proceedings in respect of an offence referred to in that subsection if:
   (a) the court is satisfied that it is proper to do so; and
   (b) the defendant and the prosecutor consent.

(3) If, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence referred to in subsection (1), the penalty that the court may impose is:
   (a) imprisonment for a period not exceeding 6 months; or
   (b) a fine not exceeding 10 penalty units.
Division 4—Recovery of amounts paid because of false or misleading statements

56 Recovery of amounts paid because of false or misleading statements

Scope

(1) This section applies if:
(a) an amount is paid purportedly by way of a payment of dental benefit; and
(b) as a result of the making of a false or misleading statement, the amount paid exceeds the amount (if any) that should have been paid.

Debt due to the Commonwealth

(2) The amount of the excess is recoverable as a debt due to the Commonwealth from:
(a) the person by or on behalf of whom the statement was made; or
(b) the estate of that person.

(3) Subsection (2) applies:
(a) whether or not the amount was paid to the person by or on behalf of whom the statement was made; and
(b) whether or not any person has been convicted of an offence in relation to the making of the statement.

57 Interest payable on amounts paid because of false or misleading statements

Scope

(1) This section applies if:
(a) an amount (the principal sum) is recoverable as a debt due to the Commonwealth from a person or estate under section 56; and
(b) the Medicare Australia CEO has given a written notice to the person or estate claiming the amount as a debt due to the Commonwealth.

Interest payable

(2) Interest is payable on the amount of the principal sum that remains unpaid from time to time if:

(a) a repayment arrangement in relation to the principal sum was entered into during the relevant period and there is a default (whether before or after the end of the relevant period) in repaying all or part of the principal sum as required by the arrangement; or

(b) at the end of the relevant period, a repayment arrangement has not been entered into and all or part of the principal sum remains unpaid.

(3) For the purposes of subsection (2), the relevant period is:

(a) the period of 3 months beginning on the day after the written notice is given to the person or estate under paragraph (1)(b); or

(b) such longer period as the Medicare Australia CEO allows.

(4) Interest under subsection (2) is payable from:

(a) the day after the end of the relevant period; or

(b) such later day ordered by a court in any proceedings instituted by the Commonwealth to recover an amount due under this section.

(5) Interest under subsection (2):

(a) is payable at the rate prescribed from time to time for the purposes of subsection 129AC(2) of the Health Insurance Act 1973; and

(b) is recoverable as a debt due to the Commonwealth from the person or estate.

Definition

(6) In this section:
Part 6 General offences and recovery provisions
Division 4 Recovery of amounts paid because of false or misleading statements

Section 58

**repayment arrangement**, in relation to a principal sum, means an arrangement entered into by the Medicare Australia CEO and a person, or the person’s estate, for the repayment of the principal sum.

58 Reduction in dental benefit payments because of previous overpayments

(1) The Medicare Australia CEO may reduce one or more amounts of dental benefit payable to a person if:
   (a) an amount or amounts have previously been paid under this Act to the person purportedly by way of dental benefit; and
   (b) the amount or amounts referred to in paragraph (a) exceed the amount (if any) that should have been paid to the person.

(2) The amount of the excess referred to in paragraph (1)(b) is the **overpayment amount**.

Amount of reduction—no previous recovery or reduction

(3) If subsection (4) does not apply, the amount of a reduction under subsection (1) must not exceed the overpayment amount.

Amount of reduction—previous recovery or reduction

(4) If either or both of the following have occurred:
   (a) the Medicare Australia CEO has previously reduced, under this section, one or more amounts (the **reduced amounts**) of dental benefit payable to the person;
   (b) one or more amounts (the **recovered amounts**) have been previously recovered from the person under section 56;

the amount of a reduction under subsection (1) must not exceed the amount by which the overpayment amount exceeds the sum of the reduced amounts (if any) and the recovered amounts (if any).

Reduction to nil

(5) A reduction under subsection (1) may result in one or more amounts of dental benefit being reduced to nil.
Part 7—Dental Benefits Rules

59 Simplified outline

The following is a simplified outline of this Part:

- The Minister may make Dental Benefits Rules.
- The Dental Benefits Rules may provide for a Dental Benefits Schedule that sets out:
  - items specifying dental services; and
  - the amount of dental benefit payable, or a method for determining the amount of dental benefit payable, in respect of a dental service.
- The specification of a dental service in an item in the Dental Benefits Schedule may be unconditional or subject to specified conditions, limitations or restrictions.

60 Minister may make Dental Benefits Rules

Dental Benefits Rules

(1) The Minister may, by legislative instrument, make Dental Benefits Rules providing for matters:
   - required or permitted by this Act to be provided; or
   - necessary or convenient to be provided in order to carry out or give effect to this Act.

Dental Benefits Rules may confer power

(2) The Dental Benefits Rules may make provision for or in relation to a matter by conferring a power on the Minister or on the Medicare Australia CEO.
Dental Benefits Rules may incorporate material

(3) The Dental Benefits Rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing:
   (a) as in force or existing at a particular time; or
   (b) as in force or existing from time to time.

(4) Subsection (3) has effect despite anything in the Legislative Instruments Act 2003.

Dental Benefits Schedule

(1) The Dental Benefits Rules may provide for a Dental Benefits Schedule that sets out the following:
   (a) items specifying dental services;
   (b) the amount of dental benefit payable, or a method for the determining the amount of dental benefit payable, in respect of a dental service.

Note: The amount of dental benefit payable in respect of a dental service must not exceed the dental expenses incurred in respect of the dental service: see subsection 9(3).

(2) The Dental Benefits Rules may sets out rules for interpretation of the Dental Benefits Schedule.

Specification of items in Dental Benefits Schedule may be conditional

(1) The specification of a dental service in an item in the Dental Benefits Schedule may be:
   (a) unconditional; or
   (b) subject to such conditions, limitations or restrictions as are specified in the Dental Benefits Rules (including the Dental Benefits Schedule).

(2) Conditions, limitations or restrictions specified in the Dental Benefits Rules may include, but are not limited to, imposing a
monetary limit on the amount of dental benefit payable in respect of:
(a) a specified dental service; or
(b) dental services provided to an eligible dental patient; or
(c) dental services provided to an eligible dental patient during a specified period.
63 Simplified outline

The following is a simplified outline of this Part:

• This Part makes provision in relation to:
  (a) the functions of the Medicare Australia CEO; and
  (b) the appropriation of the Consolidated Revenue Fund; and
  (c) the delegation of the Secretary’s functions or powers under this Act; and
  (d) the making of regulations for the purposes of this Act.

64 Additional functions of the Medicare Australia CEO

(1) In addition to the functions of the Medicare Australia CEO under the Medicare Australia Act 1973, the Medicare Australia CEO has such additional functions as are conferred on the Medicare Australia CEO by or under this Act.

(2) Anything done by or on behalf of the Medicare Australia CEO in the performance of such additional functions is taken, for all purposes, to have been done in the performance of his or her functions under the Medicare Australia Act 1973.

65 Appropriation

Amounts of dental benefit payable under this Act are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.
66 Delegation

(1) The Secretary may, by writing, delegate any or all of his or her functions or powers under this Act to an SES employee, or acting SES employee, in the Department.

Note: The expressions SES employee and acting SES employee are defined in section 17AA of the Acts Interpretation Act 1901.

(2) In exercising powers or performing functions delegated under subsection (1), the delegate must comply with any directions of the Secretary.

67 Regulations

The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

68 Review of operation of Act

(1) The Minister must cause an independent review of the operation of this Act to be undertaken as soon as possible after the first anniversary of the commencement of this Act.

(2) Further independent reviews of the operation of this Act must be made as soon as practicable after the third anniversary of the commencement of this Act and at three yearly intervals thereafter.

(3) The Minister must cause a copy of the report of each review mentioned in subsection (1) and (2) to be tabled in each House of the Parliament within 15 sitting days of the day on which the report is given to the Minister.

(4) The review must be conducted by a panel which must comprise not less than five persons, including:

(a) a person occupying the position of Commonwealth Chief Medical Officer;

(b) a person nominated by the Australian Dental Association;

(c) a person nominated by the Consumers’ Health Forum of Australia;
Part 8  Other matters

Section 68

(d) two other persons nominated by the Minister, at least one of whom must have qualifications in medicine or dentistry.

[Minister’s second reading speech made in—
House of Representatives on 29 May 2008
Senate on 18 June 2008]

(100/08)
Appendix 2
Dental Benefits Rules 2008
Dental Benefits Rules 2008

As amended


This compilation was prepared on 2 February 2009 taking into account amendments up to the Dental Benefits Amendment Rules 2008 (No. 3).

Prepared by the Department of Health and Ageing, Canberra
Name of Rules

These Rules are the Dental Benefits Rules 2008.

Commencement

These Rules commence on 1 July 2008.

Definitions

In these Rules:

- **carer payment** has the meaning given by Part 2.5 of the Social Security Act 1991.
- **dental hygienist** means a person who is registered or entitled to practice as a dental hygienist under a law of a State or Territory.
- **dental provider** has the meaning given in rule 5.
- **dental therapist** means a person who is registered or entitled to practice as a dental therapist under a law of a State or Territory.
- **disability support pension** has the meaning given by Part 2.3 of the Social Security Act 1991.
- **double orphan pension** has the meaning given by Part 2.20 of the Social Security Act 1991.
**Rule 4**

FTB(A) teenager has the same meaning as in section 24 of the Act.

FTB recipient has the same meaning as in section 24 of the Act.

medicare number has the same meaning as in section 84 of the National Health Act 1953.

MRCAETS means the Military Rehabilitation and Compensation Act Education and Training Scheme.

Note Military Rehabilitation and Compensation Act Education and Training Scheme is a legislative instrument.

parenting payment has the meaning given by the definition of parenting payment in section 18 of the Social Security Act 1991.

partner has the same meaning as in the Social Security Act 1991.

provider number has the same meaning as in the Health Insurance Regulations 1975.

public sector dental provider means:
(a) a dental provider employed by, contracted to, or providing dental services under an arrangement with:
   (i) the Commonwealth; or
   (ii) a State; or
   (iii) an internal Territory; or
   (iv) a local governing body; or
   (v) an authority established by a law of the Commonwealth, a law of a State or a law of an internal Territory; or
(b) a dental provider on whose behalf another dental provider provides dental services under an arrangement with a body mentioned in subparagraph (a) (i), (ii), (iii), (iv) or (v).

receive, for disability support pension, parenting payment, special benefit, carer payment and double orphan pension, has the meaning given by section 23 of the Social Security Act 1991.

special benefit has the meaning given by Part 2.15 of the Social Security Act 1991.

VCES means the Veterans’ Children Education Scheme.

Note 1 Veterans’ Children Education Scheme is a legislative instrument.

Note 2 For the definitions of other expressions used in these Rules, see Part 1 of the Act.

4 Dental Benefits Schedule

For subsection 61 (1) of the Act, the Dental Benefits Schedule is set out in Schedule 1.
Rule 5

5 Dental providers (Act, s 6 (1) (b))
For item 88000 of the Dental Benefits Schedule, the following classes of persons are dental providers:
(a) dentists who are registered or licensed to practice as dentists under a law of a state or territory and who are registered with Medicare Australia;
(b) dental specialists who are registered or licensed to practice as dental specialists under a law of a state or territory and who are registered with Medicare Australia.

6 Persons eligible to render services on behalf of dental providers (Act, s 7 (a))
For item 88000 of the Dental Benefits Schedule:
(a) a dental service may be rendered on behalf of a dental provider by the following classes of persons:
   (i) dental hygienists;
   (ii) dental therapists; and
(b) a dental service may be rendered on behalf of a public sector dental provider by another public sector dental provider.

7 Particulars to be recorded (Act, s 17 (2))
Patient billed services
(1) For the payment of dental benefits for item 88000 of the Dental Benefits Schedule, the following particulars must be recorded on the account or receipt:
(a) the patient’s name;
(b) the date of the service;
(c) either:
   (i) the item number in the Dental Benefits Schedule that corresponds to the service; or
   (ii) a description of the service;
(d) either:
   (i) the dental provider’s name and provider number; or
   (ii) the dental provider’s name and address;
(e) the amount charged for the service, total amount paid, and any amount outstanding for the service.
Bulk billed services

(2) If there is an assignment of dental benefits for item 88000 of the Dental Benefits Schedule, the following particulars must be recorded on the assignment of benefit form:
(a) the patient’s name;
(b) the date of the service;
(c) either:
   (i) the item number in the Dental Benefits Schedule that corresponds to the service; or
   (ii) a description of the service;
(d) either:
   (i) the dental provider’s name and provider number; or
   (ii) the dental provider’s name and address;
(e) the amount of the dental benefit being assigned to the dental provider.

7A Classes of persons who satisfy the means test (Act, s 24 (1) (d))

For paragraph 24 (1) (d) of the Act, a person satisfies the means test, in a calendar year, if in the calendar year:
(a) both:
   (i) section 23 of the Act applies to the person; and
   (ii) the person is receiving any of the following payments:
       (A) disability support pension;
       (B) parenting payment;
       (C) special benefit;
       (D) carer payment;
       (E) payments made under VCES or MRCAETS, if the person is a person mentioned in paragraph (c), in column 3, of item 2 of the table in subsection 22A (1) of A New Tax System (Family Assistance) Act 1999; or
(b) both:
   (i) section 23 of the Act applies to the person; and
   (ii) the person’s parent, carer or guardian is receiving parenting payment or double orphan pension for the person; or
(c) both:
   (i) section 23 of the Act applies to the person; and
   (ii) the person’s partner is receiving parenting payment; or
(d) both:
   (i) section 23 of the Act applies to the person; and
   (ii) another person is receiving payments under VCES or MRCAETS on behalf of the person.
8 **Issuing more than 1 voucher for a person for a calendar year (Act, s 27 (5))**

(1) For item 88000 of the Dental Benefits Schedule, more than 1 voucher may be issued for a person for a calendar year if:

(a) the person is an FTB(A) teenager for whom there is more than 1 FTB recipient; or

(b) the person’s voucher has been lost or destroyed, or the person has not received it.

(2) For paragraph (1) (a), the Medicare Australia CEO may issue a voucher to 2 FTB recipients for the FTB(A) teenager.

(3) For paragraph (1) (b), the Medicare Australia CEO may issue a replacement voucher if the person:

(a) asks Medicare Australia for a replacement voucher, stating whether the voucher was lost, destroyed or not received; and

(b) has not already received a dental benefit under item 88000 of the Dental Benefits Schedule in the current calendar year.

9 **When vouchers are not required to be issued (Act, s 29)**

The Medicare Australia CEO is not required to issue a voucher for an eligible person if:

(a) the person has not been assigned a medicare number; or

(b) both:

(i) written consent has not been provided by a person mentioned in sub-subparagraph (ii) (A) or (B) for the Department of Veterans' Affairs to provide his or her personal information to Medicare Australia for use in the administration of the Medicare Teen Dental Plan; and

(ii) either:

(A) the person is eligible for payments under VCES or MRCAETS; or

(B) another person is receiving payments under VCES or MRCAETS on behalf of the person.

9A **Period of effect of voucher (Act, s 31)**

For item 88000 of the Dental Benefits Schedule:

(a) a voucher for the calendar year commencing on 1 January 2008 takes effect at the beginning of 1 July 2008 and remains in effect until the end of 31 December 2008; and

(b) a voucher for a calendar year commencing on 1 January of a subsequent year takes effect at the beginning of 1 January of that year and remains in effect until the end of 31 December of that year.
Note. Paragraph (a) applies to all vouchers issued in the calendar year commencing on 1 January 2008, including vouchers issued before the commencement of these Rules.

10 **Persons to whom the vouchers are to be issued (Act, s 32 (c))**

For item 88000 of the Dental Benefits Schedule, a voucher is to be issued:

(a) if an eligible dental patient is receiving Youth Allowance — to the eligible dental patient; or

(b) if an eligible dental patient is receiving an ABSTUDY payment — to the eligible dental patient; or

(c) if a person is receiving an ABSTUDY payment for an eligible dental patient — to the person receiving the payment; or

(d) if an eligible dental patient is an FTB(A) teenager:
   (i) if there is 1 FTB recipient for the teenager — to the FTB recipient for the teenager; or
   (ii) if there is more than 1 FTB recipient for the teenager — to the FTB recipient with the highest percentage of care arrangements for the teenager; or
   (iii) if there is more than 1 FTB recipient for the teenager and the FTB recipients have equal care arrangements for the teenager — to a maximum of 2 FTB recipients with the most current records of entitlement; or

(e) if an eligible dental patient is receiving a payment mentioned in subparagraph 7A (a) (ii) — to the eligible dental patient; or

(f) if an eligible dental patient is a person mentioned in paragraph 7A (b) — to the parent, carer or guardian receiving the payment; or

(g) if an eligible dental patient is a person mentioned in paragraph 7A (c) — to the partner receiving the payment; or

(h) if an eligible dental patient is a person mentioned in paragraph 7A (d) — to the person receiving the payment on behalf of the eligible dental patient.
### Schedule 1   Dental Benefits Schedule  
(rule 4)

<table>
<thead>
<tr>
<th>Item</th>
<th>Service</th>
<th>Benefit ($)</th>
</tr>
</thead>
</table>
| 88000 | Preventative dental check, provided to an eligible dental patient by, or on behalf of, a dental provider, consisting of an oral examination and, if clinically necessary, any of the following services:  
  (a) radiological examination and interpretation;  
  (b) removal of plaque or stain;  
  (c) removal of calculus;  
  (d) topical application of re-mineralising agent;  
  (e) dietary advice;  
  (f) oral hygiene instruction;  
  (g) fissure sealing;  
 Limit of 1 preventative dental check for an eligible dental patient each calendar year | 153.45      |
Notes
The Dental Benefits Rules 2008 as shown in this compilation are amended as indicated in the Tables below.

Table of Instruments

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Date of FRLI registration</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dental Benefits Rules 2008</td>
<td>29 June 2008 (see F2008L02338)</td>
<td>1 July 2008</td>
<td></td>
</tr>
<tr>
<td>Dental Benefits Amendment Rules 2008 (No. 1)</td>
<td>10 September 2008 (see F2008L03453)</td>
<td>11 September 2008</td>
<td></td>
</tr>
<tr>
<td>Dental Benefits Amendment Rules 2008 (No. 2)</td>
<td>19 December 2008 (see F2008L04734)</td>
<td>1 January 2009</td>
<td></td>
</tr>
<tr>
<td>Dental Benefits Amendment Rules 2008 (No. 3)</td>
<td>14 January 2009 (see F2009L00071)</td>
<td>1 January 2009</td>
<td></td>
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</tbody>
</table>
## Table of Amendments

<table>
<thead>
<tr>
<th>Provision affected</th>
<th>How affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rule 3</td>
<td>am. 2008 No. F2009L00071</td>
</tr>
<tr>
<td>Rule 7A</td>
<td>ad. 2008 No. F2009L00071</td>
</tr>
<tr>
<td>Rule 9</td>
<td>am. 2008 No. F2009L00071</td>
</tr>
<tr>
<td>Rule 9A</td>
<td>ad. 2008 No. F2008L03453</td>
</tr>
<tr>
<td>Rule 10</td>
<td>am. 2008 No. F2009L00071</td>
</tr>
<tr>
<td>Schedule 1</td>
<td>am. 2008 No. F2008L04734</td>
</tr>
</tbody>
</table>

ad. = added or inserted  
am. = amended  
rep. = repealed  
rs. = repealed and substituted
Appendix 3
Medicare Teen Dental Plan Voucher 2009
This voucher is valid between 1 January and 31 December 2009

This voucher entitles [insert first name] to claim a dental benefit from Medicare Australia for one preventative dental check this calendar year, as long as all eligibility requirements of the service are met. The service is as described below.

<table>
<thead>
<tr>
<th>Dental Benefits Schedule (DBS)</th>
<th>Description of eligible service:</th>
<th>Maximum Benefit Payable By Medicare Australia</th>
</tr>
</thead>
<tbody>
<tr>
<td>88000</td>
<td>Preventative dental check</td>
<td>$153.45</td>
</tr>
</tbody>
</table>

The preventative dental check can be provided by a dentist who is registered with Medicare Australia. A dental hygienist or dental therapist may also provide services under the supervision or oversight of a dentist.

You can use your voucher at a private dental practice. You need to present this voucher when you have your dental check.

If your dentist bulk bills you, they will keep the voucher and you will need to sign a form. The dentist will also need your Medicare number.

If the dentist charges less than $153.45, Medicare Australia will pay the amount you have been charged. If the dentist charges more than $153.45, Medicare Australia will pay $153.45 towards the total cost of the service and you will need to pay the additional amount.

You cannot claim a benefit for your preventative dental check from both Medicare Australia and your private health insurer.

You may also be able to use the voucher at a public dental clinic (including a school-based clinic). You should contact your local public dental clinic or state or territory health department for further information and to find out when it may be possible to schedule an appointment.

For queries about the Medicare Teen Dental Plan, please call Medicare Australia on 132 011*.

*Call charges apply. 24 hour servi