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HEALTH SERVICES AMENDMENT (AMBULANCE FEES) BILL 2014

Second Reading

The Hon. CATHERINE CUSACK (Parliamentary Secretary) [12.19 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

I move that this bill be now read a second time.

The Health Services Amendment (Ambulance Fees) Bill 2014 amends the Health Services Act 1997 to facilitate the more effective recovery of unpaid debts to NSW Ambulance for services that it provides to the public.

Both historically, and continuing until the present time, ambulance services in New South Wales have not been provided free of charge. The Commonwealth Government does not make any contribution to the cost of State ambulance services, as it does for public hospital services.

In New South Wales the most any New South Wales resident will need to pay for ambulance transport is 51 per cent of the cost as the State Government subsidises almost half—or 49 per cent—of the cost.

New South Wales residents who hold private health insurance are exempt from payment as they have already made a contribution through their health fund under the Health Insurance Levies Act 1982.

NSW Ambulance does not charge fees for ambulance services provided to pensioners or government concession card holders. NSW Ambulance also has a Hardship Policy in place under which individuals can apply for waiver of fees, deferral of payment or a payment plan on a case by case basis on grounds of hardship, both financial and non-financial.

Unfortunately there are people who may have financial capacity to pay for services provided by NSW Ambulance but who decline to do so. This results in NSW Ambulance having to "write off" significant amounts as unpaid debt each year.

The value of the debt owed by each individual to NSW Ambulance is, on average, relatively modest. In 2011-12 the average debt owed by individuals for a NSW Ambulance Service was approximately \$400. However, cumulatively the unpaid debt is substantial—in the 2011-12 financial year alone it amounted to approximately \$26 million in debt. This represented an increase from \$21 million in 2008-9 and \$22 million in 2009-10.

These substantial unpaid amounts impact on NSW Ambulance's ability to continue to provide a world class ambulance service to the people of New South Wales.

Given the large number of individual debtors and the relatively modest amount owed on average by those debtors, taking the usual court-based steps to recover the debt is simply not cost effective or practicable, as court and administration costs and legal fees will quickly exceed the value of each debt.

I reiterate that most users of the NSW Ambulance Service do not pay any fee through a wide range of exemptions including pensioners, concession card holders and those with private health insurance.

The bill proposes providing the Commissioner of Fines Administration with similar civil enforcement powers to those the commissioner has under the Fines Act. These powers allow recovery of a debt by garnisheeing wages, making a property seizure order, or placing a charge on land. The power to recover debts using these civil enforcement powers is broadly modelled on the Intoxicated Persons (Sobering Up Centres Trial) Act passed by Parliament last year.

Like that Act, this bill proposes to give the commissioner only limited civil enforcement powers. The bill does not give the commissioner a range of other powers the commissioner has under the Fines Act in relation to fine defaulters, such as the power to suspend or cancel individuals' driver licences or vehicle registration, impose community service orders, or imprison individuals. Further, recovery of ambulance fees by the commissioner will not result in a criminal conviction being recorded or impact on the credit profile of affected individuals.

The proposed amendments include a range of privacy and procedural protections to ensure that information is used appropriately, and that individuals against whom fee recovery action is taken have ample opportunity to demonstrate that they are excused from payment, including access to review processes.

The new powers proposed to be given to the commissioner in this bill will only impact on the approximately 7 per cent of occasions of service provided by NSW Ambulance at the present time that result in an unpaid debt where none of the available exemptions apply. Transferring responsibility for the recovery of unpaid fees owing to NSW Ambulance in these circumstances to the Office of State Revenue is expected to result in an improvement in the debt recovery rate and result in an increase in revenue for NSW Ambulance.

I reiterate that this bill does not involve any increase in ambulance service costs or change to services for patients. However, it is in the interests of equity that all New South Wales residents who can meet the costs associated with use of the service, and who are not otherwise exempt or excused from payment, do so and that there are appropriate mechanisms in place to seek recovery of these amounts where necessary.

I turn now to the detailed provisions of the bill.

Schedule 1 to the bill proposes amendments to Chapter 5A of the Health Services Act to make changes to the provisions of the Act that allow NSW Ambulance to recover fees for its services. There is currently a provision in section 67D of the Act that permits the Minister for Health to fix a scale of fees for ambulance services, and this power will be retained in the new section 67L.

The bill proposes to amend the Act to permit the Health Secretary to charge a fee for ambulance services, which is modelled on the current provision permitting fees to be charged by public health organisations for hospital services in section 70 of the Act.

Under section 67M, the person who is liable to pay the ambulance fee is the person who received the service. However, there are important exceptions to this principle included in the bill. First, the bill excludes children from personal liability to pay for an ambulance service provided to a child. Under the provisions contained in the bill, liability to pay for an ambulance service provided to a child, and potential subsequent fee recovery action by the Office of State Revenue, applies to the parents or legal guardian of the child.

Secondly, the bill recognises current categories of persons who are exempt from payment of ambulance fees. These include:

- Persons who hold or are covered by private health insurance that includes ambulance services or ambulance only cover, which also includes family members covered by family membership; and
- Persons who hold a government concession card of a kind prescribed by the regulations, which includes pensioners.

Section 67O of the Act allows the Health Secretary to make payment rules. Under the payment rules, which must be published in the *Government Gazette*, the Secretary may determine:

- additional categories of exempt persons, and
- grounds for waiver or reduction of ambulance fees, extension of time to pay, payment by instalments and fee reviews.

I am advised that NSW Ambulance intends to consult widely with affected stakeholders in the development of the payment rules so as to consider whether there are any additional categories of exempt persons who should be considered, or any modifications to NSW Ambulance's current Hardship Policy that should be implemented under the payment rules.

In order to ensure appropriate procedural protections for persons who are liable for ambulance fees, the bill provides for two distinct steps that must be taken to seek payment of a fee owed to NSW Ambulance prior to referral of the debt to the Commissioner of Fines Administration for fee recovery action.

First, the Secretary must issue an invoice, called a fee invoice. Under new section 67P a fee invoice must contain certain required information about the ambulance service provided and the basis for the fee, and must also be in the prescribed form, if any.

Secondly, if a fee invoice is not paid at least 28 days after the date on which the invoice is served, the Secretary may issue a debt notice. A debt notice must also contain certain required information, and be in the prescribed form, if any. A debt notice must include information about the consequences of non-payment, including that the debt may be referred to the commissioner for fee recovery action.

Under the new section 67V of the Act, if a debt notice is not paid within 28 days of the debt notice being served, the Secretary may refer the fee to the commissioner for the making of a fee recovery order.

When referring an unpaid fee to the commissioner, section 67W (1) of the bill permits the Secretary to disclose only limited categories of information about the ambulance service giving rise to the fee. The intention of this restriction is to limit the kind of information that may be disclosed by NSW Ambulance to the commissioner for the purpose of fee recovery action to information that is reasonably necessary for the purpose of recovery of the outstanding fee. It does not permit the disclosure of any health information of a clinical nature.

The categories of information that may be provided by the Secretary to the commissioner were compiled in consultation with the NSW Privacy Commissioner. Additional categories to those listed in the Act may be prescribed by regulation, however, any such regulation may only be made with the agreement of the Attorney-General and following consultation with the Privacy Commissioner.

The bill proposes inserting a new part 6 into chapter 5 to provide persons who are charged with an ambulance fee a right to request review of the fee by the Secretary. During the period in which a review application is being considered, fee recovery action is effectively stayed. The Secretary may take a range of actions following a fee review, including revoking the decision to charge the fee, waiving the fee, confirming the decision to charge the fee, or issuing a new fee invoice.

The bill contains transitional provisions permitting the recovery of ambulance fees incurred before commencement of the bill. Where it is intended to refer a pre-existing ambulance fee debt for recovery action by the commissioner, the bill requires the Health Secretary to first issue a debt notice to the person who incurred the debt in accordance with the provisions in the bill. The bill provides that the capacity to recover pre-existing debts using the powers under the bill is subject to the Limitation Act 1969. Pre-existing debts in relation to services provided to children cannot be recovered.

The bill inserts a new schedule into the Health Services Act, which confers powers on the Commissioner of Fines Administration to take action to recover ambulance fees. These provisions broadly mirror the civil enforcement powers of the commissioner under the Fines Act 1996.

Following a referral of an ambulance fee to the commissioner by the Secretary, the commissioner may make a fee recovery order. The commissioner must serve notice of the fee recovery order on the debtor who has 28 days within which to pay the fee, following which the commissioner may take fee recovery action. Fee recovery action may be taken by anyone or a combination of:

- a garnishee order which may be issued to a debtor's bank or employer,
- a property seizure order to allow goods and other property belonging to a debtor to be seized and sold, or
- registration of a charge on land owned by a debtor.

The bill also incorporates by reference the corresponding machinery and administrative provisions relating to these civil enforcement measures under the Fines Act.

Clause 22 of schedule 9 allows the commissioner to suspend fee recovery action and to refer a matter back to the Secretary where the commissioner is satisfied the person may be exempt or for some other reason. This may include, for example, where the commissioner considers the person may satisfy the criteria for waiver of payment on the basis of financial hardship or similar grounds. Suspension of the fee recovery action will be revoked and fee recovery resumed only if requested by the Secretary.

The commissioner may withdraw a fee recovery order in a range of circumstances, including where the commissioner is satisfied:

- the person is exempt from payment
- the person was not aware the debt notice had been issued
- the person was otherwise hindered by accident, illness or misadventure or other cause from taking action in relation to the debt notice, or
- the order was made in error, such as where the person named in the order is not the person who incurred the liability to pay for the ambulance service, or the amount of the ambulance fee has been incorrectly calculated.

The commissioner must withdraw a fee recovery order if the Secretary revokes the referral of the ambulance fee to the commissioner.

Under clause 24 the commissioner may cancel a property seizure order, garnishee order or charge on land. This would generally occur where the fee recovery order has been withdrawn.

Under clauses 10 to 12 the commissioner will have similar powers to those under the Fines Act to recover the prescribed fee recovery costs as well as Sheriff's costs where applicable. These amounts will be in addition to the amount of the ambulance fee.

The commissioner will also have a power to cancel fee recovery action in whole or part if the commissioner is satisfied that due to the financial, medical or personal circumstances of the debtor:

- the debtor does not have sufficient means to pay the ambulance fee, and
- fee recovery action is not likely to be successful.

This clause mirrors provisions in the Fines Act in relation to the commissioner's own review powers in respect of fines.

Under clause 27 the Hardship Board is given the same functions with respect to ambulance fees as it has with respect to fines under the Fines Act.

As under the Fines Act, the commissioner can grant a debtor additional time to pay.

Under clause 29 the commissioner and the Health Secretary may enter into arrangements for the payment to the Secretary of ambulance fees that are recovered by the commissioner under the schedule. This may include provision for the commissioner to retain an amount for services provided in relation to ambulance fee recovery.

Clause 32 allows disclosure of personal information by the commissioner to the Secretary, including disclosure:

- in connection with the administration or execution of the commissioner's functions under schedule 9, and
- in connection with the Secretary's functions under chapter 5A of the Act.

Clause 32 places restrictions on the disclosure by the commissioner of information supplied in relation to ambulance fee recovery. The bill prevents the commissioner from sharing this information with other government agencies or external bodies without the consent of the person to whom the information relates, except in connection with the administration of chapter 5A of the Health Services Act, unless it is required or permitted by legislation such as for Hardship Board applications, or if required to be produced by a law enforcement agency such as the NSW Crime Commission.

The Office of State Revenue advises that it will be quarantining information supplied by NSW Ambulance from the rest of the operational areas within the Office of State Revenue and will maintain it exclusively for the use of the collection team allocated to the New South Wales Ambulance debt process. This means that the Office of State Revenue will not be able to use personal information regarding ambulance fees for the purposes of enforcement functions or other functions administration or First Home Owner Grants.

In conclusion, NSW Ambulance provides a vital essential service to the New South Wales public. In order for it to be able to continue to effectively provide that service it is essential that all users of the service with financial means to pay meet their obligation to contribute towards the cost of the service. Many individuals and families do this already via the private health insurance or ambulance-only cover for which they pay insurance premiums noting that such cover is commercially available for as little as \$1 per week or \$45 per year. For those users of NSW Ambulance who choose not to take out insurance, or who are not exempt or excused from payment, the proposals contained in this bill permit a more efficient and effective process for recovery of the debts owed by those individuals, whilst ensuring appropriate protection of privacy and procedural fairness. The powers to be given to the commissioner are limited to its civil enforcement powers, with mechanisms in place to quarantine information about ambulance services from the other activities of the Office of State Revenue including its administration of fines, taxes and grants legislation.

I commend the bill to the House.