

Commonwealth Child Dental Benefits Schedule and NSW Health Representative Public Dentists

Summary To advise of the Commonwealths Child Dental Benefits Schedule and arrangements for Representative Public Dentists.

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Commonwealth Child Dental Benefits Schedule and NSW Health Representative Public Dentists

PURPOSE

This Information Bulletin provides an update to the Commonwealth's Child Dental Benefits Schedule (CDBS), the associated arrangements for Representative Public Dentists participating in the CDBS and related taxation measures.

KEY INFORMATION

The CDBS is a program for eligible children that provides benefits for basic dental services. A child is eligible if they are:

- eligible for Medicare, and
- aged 0-17 years at any point in the calendar year, and
- receive a relevant Australian government payment, such as Family Tax Benefit Part A, at any point in the calendar year.

Further information on the CDBS is available on the Department of Health and Aged Care website [Child Dental Benefits Schedule](#) and [Guide to the Child Dental Benefits Schedule \(CDBS\)](#).

NSW Health participants in the CDBS must be Representative Public Dentists. Determination No. 5 of 2014 (attached) sets out the arrangements for Representative Public Dentists, including remuneration.

Related taxation arrangements for Representative Public Dentists are set out in the Corporate Fact Sheet (attached).

ATTACHMENTS

1. *Determination No. 5 of 2014 - Representative Public Dentists*
2. *Corporate Factsheet - Child Dental Benefits Schedule & NSW Health Representative Public*

**Determination No 5 of 2014
Representative Public Dentists**

In accordance with the provisions of section 116A(1) of the *Health Services Act 1997* and Delegation S117 of the Ministry of Health's Combined Administrative Financial Staff Delegations Manual, I, Trevor Craft, Deputy Director, Workplace Relations Branch of the Ministry of Health, determine that:

1. The arrangements, terms and conditions set out in this Determination and the separate advice from the Chief Financial Officer (attached) shall apply to a maximum of one officer in each Local Health District employed in the classifications of Area Clinical Director of Oral Health Services or Dental Officer under the *Health Employees Dental Officers (State) Award*; who is nominated to fulfil the role of the Representative Public Dentist (RPD) for the purpose of the Medicare Child Dental Benefits Schedule (CDBS).
2. The role of RPD should firstly be offered to the Area Clinical Director of Oral Health Services and if this is not acceptable, to Dental Officers via expressions of interest.
3. Each Local Health District shall decide whether or not to participate in CDBS and whether a RPD is required. Districts should in part base this consideration on the threshold level of earnings that make CDBS viable, having regard to the allowance to be paid to the RPD.
4. Local Health Districts and RPDs can elect by 30 April each year whether to continue to participate in the CDBS in the next financial year.
5. The RPD shall be paid an allowance of 20 per cent of annual base salary in return for the assignment of billings from the CDBS to the Local Health District. The RPD allowance shall be paid fortnightly with the RPD's salary. This allowance is in lieu of any private practice arrangements that may have otherwise been available to the Area Director of Oral Health Services or Dental Officer fulfilling the role of RPD.
6. Receipt of the RPD allowance requires the Dentist to have signed an undertaking to be named as the Representative Public Dentist for the Local Health District and to allow the billings from the CDBS to be assigned to the Local Health District.
7. Payment of the RPD allowance can only occur whilst the CDBS is in place and the Local Health District participates in the CDBS.

This Determination will have immediate application.

Signed at Sydney this *eleventh* day of April 2014.



Trevor Craft
Deputy Director, Workplace Relations

Child Dental Benefits Schedule & NSW Health Representative Public Dentists

Corporate Factsheet

What is the purpose of this Corporate Factsheet?

The purpose of this Corporate Factsheet is to set out the tax implications in relation to the payments made to Representative Public Dentists ("RPD") associated with the Commonwealth's Child Dental Benefits Schedule ("CDBS").

If you have any questions from a review of this factsheet, email them to MOH-Tax@health.nsw.gov.au.

Who does this Corporate Factsheet apply to?

This document and its contents apply to RPDs participating in the CDBS.

What are the relevant facts?

- The CDBS was established in 2014 as a national, means-tested program. It provides eligible children aged 0-17 years with a capped benefit for basic dental services.
- The CDBS is administered under the *Dental Benefits Act 2008* and the *Dental Benefits Rules 2014*.
- Each Local Health District ("LHD") that participates in the CDBS will nominate individual/s to fulfil the role of a RPD for that LHD.
- The nominated RPD is paid an allowance as a percentage of their base salary in return for the assignment of billings from the CDBS to their LHD.
- Payment of this allowance can only occur while the CDBS is in place and the LHD participates in the CDBS.
- Under the CDBS:
 - a dental benefit is payable if dental expenses are incurred in respect of an eligible dental service rendered to an eligible dental patient
 - the bulk billing arrangement works as follows - the eligible dental patient enters into an agreement with the RPD, whereby the patient assigns their right to the payment of the dental benefit to the RPD and the RPD accepts the assignment in full payment of the dental expenses incurred by the patient

- if a dental benefit is payable, it is payable by the Chief Executive Medicare to the person who incurs the dental expenses in respect of the dental service
- the dental benefits are paid to the relevant LHD, that is, the RPD does not receive any of the dental benefits payable for the dental services.
- The tax consequences of payments made to RPDs is considered in Class Ruling 2022/100.
- For Class Ruling 2022/100 to apply, the RPD must be a 'dental provider' within the meaning of the *Dental Benefits Act 2008* and the *Dental Benefits Rules 2014*, who:
 - has been allocated a public Medicare Provider Number by the Chief Executive Medicare, and
 - is assigned dental benefits by patients under the CDBS.
- Dental providers under the Dental Benefits Rules 2014 include the following classes of persons:
 - dental hygienists
 - dental therapists
 - oral health therapists, and
 - registered dentists.

What are the tax implications?

There are three transactions occurring under this scheme that have tax implications.

These are:

1. The payment of the allowance to the RPD
2. The assignment of the dental benefits by patients to the RPD (as income to the RPD)
3. The payment of the assigned dental benefits by patients to the LHD from the Chief Executive Medicare (as a deduction for the RPD)

Allowance paid to RPD

The allowance paid to a RPD is assessable income under section 6-5 of the *Income Tax Assessment Act 1997* ("ITAA 1997").

This amount would be classified as ordinary income as the nexus between the income and the earning activity has been satisfied, that is, it is income from rendering personal services.

Pay As You Go ("PAYG") Withholding

The allowance is subject to PAYG withholding.

Superannuation

Superannuation is payable on the allowance paid to a RPD.

Dental benefits by patients assigned to a RPD under the CDBS

The dental benefits assigned by a patient to a RPD under the CDBS is income according to ordinary concepts and is assessable income of the RPD under section 6-5 of *ITAA 1997*.

This derivation of income is despite the fact that the RPD does not actually receive the money paid out as assigned dental benefits.

The statutory provisions of this scheme are such that the dental benefits can only be assigned to the person (dental provider) who provides or supervised the provision of the dental services. The LHD is not a party to the agreement the RPD has with the patient for the assigning of benefits.

A reward for the performance of personal services in the form of the assigned benefits is income according to ordinary concepts. The fact of non-receipt does not alter this conclusion.

Pay As You Go ("PAYG") Withholding

PAYG withholding does not apply to these payments.

Superannuation

Superannuation does not apply to these payments.

Goods and Services Tax ("GST")

The amount included in the assessable income of a RPD excludes any GST component.

Section 17-5 of the *ITAA 1997* ensures that an amount is treated as not being assessable income (or exempt income) to the extent that it consists of an amount relating to:

- GST payable on a taxable supply
- An increasing adjustment in the GST that relates to a supply, or

An increasing adjustment that relates to an acquisition and arises in circumstances that give rise to a recoupment that is included in assessable income.

Amounts paid by the Chief Executive Medicare to the LHD

The amount paid by the Chief Executive Medicare to an LHD bank account in respect of the bulk-billed dental benefits assigned to a RPD is an allowable deduction to the RPD under section 8-1 of the *ITAA 1997*.

Section 8-1 of the *ITAA 1997* provides that you can deduct from your assessable income any loss or outgoing to the extent that it is incurred in gaining or producing assessable income and is not:

- Capital, private, or domestic in nature
- Incurred in gaining or producing exempt income, or
- Prevented from being deductible by any other provision in the *ITAA 1997*.

In *Service v Commissioner of Taxation [2000] FCA 188*, the taxpayer was allowed a deduction for fees obtained from acting as director of other companies and as a member of various governmental bodies which he paid over to his employer company under his employment agreement. The Full Federal Court held that the directors' fees paid to the company were outgoings incurred by the taxpayer in gaining or producing his assessable income from the employer.

Under the contract between the dental provider and the LHD, all the claimed assigned dental benefits are paid by the Chief Executive Medicare directly to the LHD. Performing dental services under the

contract gives rise to assessable income to the RPD and the payment by the Chief Executive Medicare of the claimed assigned dental benefits to the relevant LHD is incurred in gaining or producing the RPD's assessable income.

The payment of the claimed assigned dental benefits by the Chief Executive Medicare to the relevant LHD is therefore an allowable deduction to the RPD pursuant to Section 8-1 of the *ITAA 1997*.

Pay As You Go ("PAYG") Withholding

PAYG withholding does not apply to these amounts.

Superannuation

Superannuation does not apply to these payments.

Other Tax Matters

For further information on how the above transactions may impact your tax affairs, including Business Activity Statement calculations, PAYG instalment calculations and other ATO reporting requirement, RPDs should seek individual advice from their accountant and/or tax agent as individual circumstances vary.

Relevant Rulings, Legislation & Associated Documents

The most relevant legislative reference and associated documents are listed below.

Section 6-5 of ITAA 1997

Section 8-1 of ITAA 1997

Section 17-5 of ITAA 1997

Class Ruling 2022/100

Service v Commissioner of Taxation [2000] FCA 188; 97 FCR 265; 2000 ATC 4176; 171 ALR 248; 44 ATR 71

Note – earlier relevant class rulings in relation to the CDBS were CR 2009/16 & CR 2014/7