



**AN BILLE SLÁINTE (CRITÉIR LE hAGHAIDH
INCHÁILITHEACHTA A ATHRÚ), 2013
HEALTH (ALTERATION OF CRITERIA FOR ELIGIBILITY)
BILL 2013**

EXPLANATORY MEMORANDUM

Purpose of Bill

The purpose of the Bill is to amend the Health Act 1970 (as amended) to change the eligibility rules for medical cards for persons aged 70 years and over. The date the changes come into effect will be by order or orders made by the Minister.

The Bill will:

- Allow for the reduction of the gross income threshold for assessment for an over 70s medical card from €700 per week to €600 per week in the case of a single person and from €1,400 per week to €1,200 per week in the case of couples;
- Allow for the assessment for an over 70s GP visit card on gross income of more than €600 per week but less than €700 per week in the case of single persons and more than €1,200 per week but less than €1,400 per week in the case of couples.

The Bill will also:

- Amend the Act with respect to cohabitants in order to be in accordance with the provisions of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;
- Provide for the furnishing of personal data to and by the HSE in certain circumstances; and
- Make a number of technical amendments to the Act.

Provisions of the Bill

PART 1

Section 1 provides, among other matters, that the legislation shall come into operation on such days as the Minister may appoint by order or orders.

Section 2 provides that references to “Minister” means the Minister for Health.

PART 2

Amendment of the Health Act 1970

Section 3 provides for the amendment of section 45A of the Health Act:

- Paragraph (b) of subsection 45A(1) will be deleted and will be provided for in section 45A(1A).
- Subsection 45A(1A) will be inserted and will provide for those addressed in the deleted paragraph (b) of Section 45A(1). This subsection will also incorporate cohabitants, as well as married persons, in order to be in accordance with the provisions of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.
- Subsection 45A(3) will be amended with substituted text to set out (i) the extant income thresholds up to 4th April 2013 and (ii) the revised income thresholds that will apply from 5th April 2013.
- Subsection 45A(4) will be amended to provide for a decrease in gross income limits in addition to the existing provision to increase gross income limits. The limits are reviewed annually by the Minister for Health and may now be increased or decreased with the consent of the Minister for Public Expenditure and Reform to reflect increases or decreases in the consumer price index.
- Subsection 45A(8) will be inserted defining the meaning of “civil partner” as that in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

Section 4 provides for the amendment of section 47 with substituted text to provide that the current HSE appeals process that applies to decisions regarding medical cards is extended to the operation of the new over-70s GP visit cards under section 58A.

Section 5 provides for the amendment of section 47A with substituted text to provide that the provision for the Minister to issue guidelines to the HSE in relation to deciding if a person is ordinarily resident in the State will extend to the new provisions for granting over-70s GP visit cards under section 58A.

Section 6 provides for the insertion of section 48A to provide for the review of eligibility in certain circumstances:

- *Subsection (1)* sets down a requirement that a person, already with full eligibility (holding a medical card) before the legislation comes into effect, will be obliged to provide information on income and assets when so requested by the HSE. The HSE can then determine if a person would continue to qualify for a medical card or would now qualify for a GP visit card.
- *Subsection (2)* provides that the HSE may suspend or cancel a person’s medical card if he/she does not provide such requested information.
- *Subsection (3)* provides for a transitional phase to ensure that all persons currently holding a medical card prior to the legislation taking effect will have their medical card eligibility

temporarily extended, irrespective of their income, until the end of May 2013.

Section 7 provides for the insertion of a new section 58A in the Health Act 1970 for general practitioner medical and surgical service for certain persons over 70 years of age:

- *Subsection (1)* deals with the eligibility of persons aged 70 years and over and their dependants for a GP visit card from 5th April 2013.
- *Subsection (2)* provides that relevant gross income limits will be €700 per week in the case of a single person, excluding any income from savings or similar investments whose principal value is €36,000 or less; and €1,400 per week in the case of a couple, excluding any income from savings or similar investments whose principal value is €72,000 or less. This section will also incorporate cohabitants, as well as married persons, in order to be in accordance with the provisions of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.
- *Subsection (3)* makes provision for the surviving member of a couple when the death of the 70 year old member occurs on or after 5th April 2013. The survivor, who must be 70 at the time of the death, will retain his/her GP visit card for 3 years even if his/ her income exceeds the income threshold for a single person, but remains below the income threshold of a couple.
- *Subsection (4)* makes provision for the HSE to provide support to anyone who seeks help in making an application due to any incapacity.
- *Subsection (5)* provides for the gross income limits to be reviewed annually by the Minister for Health and that those limits may be increased or decreased, with the consent of the Minister for Public Expenditure and Reform to reflect increases or decreases in the consumer price index.
- *Subsection (6)* excludes specific compensation/redress awards and payments from the calculation of gross income for the purposes of the legislation.
- *Subsection (7)* provides that, in calculating gross income, only net rental income from property will be included, calculated as gross rental income less any necessarily incurred associated costs.
- *Subsection (8)* provides that the Minister may, by regulations, prescribe other payments made for a similar purpose as the compensation/redress payments which may be excluded as income under this section.
- *Subsection (9)* provides that the HSE will offer the choice of a GP for services available under this section, as is considered practicable.
- *Subsection (10)* defines the meaning of “civil partner” as that in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

Section 8 provides for the furnishing of personal data to and by the HSE in certain circumstances.

- *Subsection (1)* provides that the HSE may request the Minister for Social Protection or the Revenue Commissioners to furnish it with personal data held by that Minister or by the Commissioners when the HSE requires the personal data for the purpose of assessing or reviewing the eligibility of persons for services provided under the Health Acts 1970 to 2013.
- *Subsection (2)* provides that the Minister for Social Protection may request the HSE to furnish to him or her personal data held by the HSE when that Minister requires the personal data for the purpose of calculating the means of persons to assess or review entitlements to the receipt of benefits and services provided under the Social Welfare Acts.
- *Subsection (3)* provides that the Revenue Commissioners may request the HSE to provide personal data held by the HSE when the Revenue Commissioners require the personal data for the purpose of assessing or collecting any tax, duty or other charge payable to the Commissioners.
- *Subsection (4)* provides that notwithstanding anything contained in the Data Protection Acts 1988 and 2003, but subject to this section, a person who receives a request made in accordance with *subsection (1), (2) or (3)* must comply with that request and must do so in accordance with an agreement entered into under *subsection (5)* between the person and the person who made the request.
- *Subsection (5)* provides that for the purposes of this section, the HSE shall enter into a “data exchange agreement” with the Minister for Social Protection. *Subsection (5)* also provides that the HSE shall enter into a “data exchange agreement” with the Revenue Commissioners. These data exchange agreements shall specify the procedures to be followed by each party to the agreement with respect to the furnishing of personal data in compliance with a request made under *subsection (1), (2) or (3)*.
- *Subsection (6)* provides that a data exchange agreement may be varied by the parties to the agreement while *subsection (7)* requires the HSE to consult with the Data Protection Commissioner in relation to such an agreement before it is entered into or varied.
- *Subsection (8)* provides that the Data Protection Acts 1988 and 2003 apply to any personal data furnished to a person under this section.
- *Subsection (9)*, references in this section to personal data shall include references to sensitive personal data. Under *subsection (10)*, “personal data” and “sensitive personal data” have the meanings assigned to them under the Data Protection Act 1988 as amended by the Data Protection (Amendment) Act 2003.
- *Subsection (11)* provides that nothing in this section shall affect the operation of section 261 (Exchange of Information) or section 265 (Sharing of Information) of the Social Welfare Consolidation Act 2005.

*Department of Health,
March, 2013.*

Wt. —. 622. 3/13. Clondalkin. (35901). Gr. 30-15.