How the Pharmaceutical Benefits Scheme began

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Summary

- Seventy years ago, the Curtin wartime government introduced legislation for a Pharmaceutical Benefits Scheme (PBS). It was a response to the need to provide access to a wave of antibiotic drugs — sulfonamides, streptomycin, penicillin — to the whole population, not only to the minority able to afford them.
- The scheme was immediately and successfully opposed by doctors and the conservative opposition, which saw in universal health care an underhand plan to nationalise medicine.
- There were two High Court challenges, two referendums and a constitutional amendment; but it was not until 1960 that Australians had the comprehensive PBS envisaged by Curtin in 1944.

This is the story of how governments came to see the health of citizens as a public matter of importance to the nation, rather than as a private affair of concern only to the patient. It is the story of how Australia, a nation that had begun its life in the forefront of individual rights and social progress, came to be one of the last developed countries to make effective health care available to all. And it is the story of how momentous developments in medical science forced politicians eventually to act, only to be thwarted by doctors who, for 40 years, denied patients access to universal health care.

Bismarck and the welfare state

Although Otto von Bismarck, chancellor of the newly unified Germany in 1871, can justly be credited with the invention of modern health and social welfare laws, he built on Prussian concepts of the relationship between the individual and the state that can be traced back to Frederick the Great and the 18th century Enlightenment: the idea that the state exists for the whole people, not just for the glory of the king.

In 1883, Bismarck introduced the world's first government health insurance scheme. Relief was restricted to those members of the working classes in employment. Generally, the employer paid two-thirds of the premium and the worker one-third. Those covered were entitled to free medicine, treatment by a general practitioner, bandages and spectacles. People unable to work though illness or accident were entitled to half their wages, and could be treated free in hospital.[1] For the first time in history, the great mass of ordinary working people of a great nation could afford to be sick.[2]

Limited health insurance schemes were established in France, Britain and even the United States. The schemes of this time shared common elements. They saw the public provision of health care not as a universal right but as a charity for the deserving, industrious poor.

The antibiotic revolution

Patterns of coverage were determined, inevitably, by the continuing evolution of medical and surgical care. Until after the Second World War, the greatest advances had been in surgery and in public health. It is perhaps not surprising, then, that when governments in Australia attempted to introduce national health measures to include acute health care and medicines, among the major arguments in opposition was that the money would be better spent on surgery and public health. This position was strengthened by the feeble state of pharmaceutical development and how far the world of physicians had fallen behind the world of surgeons.

On 4 May 1938, the conservative United Australia Party government introduced the National Health and Pensions Insurance Bill to Parliament. This attempt to bring a more unified general practice and pharmaceutical scheme to Australia, based largely on the British example, failed under the weight of its inadequacies and opposition from doctors, trade unions, the Labor opposition, the Country Party, farmers and small business.[3] The Bill was passed by Parliament but never proclaimed.

In Germany, another phase in the slow progress of medicine was underway which, eventually, was to lead on to a revolution in the way medicine was provided and financed. In 1932, at the IG Farben laboratories, a bacteriologist, Gerhard Domagk, was working with a team of chemists on a new red textile dye. They found that its molecule had two parts; when separated, one of these parts proved to be an effective chemotherapeutic agent, sulfanilamide. Scientists in various countries then produced improved variants. Together, these compounds formed the group of sulfonamides — the "sulfa drugs" — that began the antibiotic revolution. They were introduced to clinical practice in the late 1930s and were active against the bacteria that caused pneumonia, meningitis, dysentery, gonorrhoea and the various streptococcal infections.[4]

Many doctors were lukewarm about the sulfonamides and their role in treating gonorrhoea, the disease most sensitive to the new drugs. They warned that some patients did not benefit, though this may have been due to incorrect diagnosis, or the Sydney physicians' practice of administering the drug for 4 days, discontinuing it for 8 days, then resuming for a further 8 days — an invitation to the development of bacterial resistance. They also complained, with justice, about serious side effects.

As a result of the federal government establishing the Commonwealth Serum Laboratories in 1916, Australia was among the first countries in the world to manufacture the new drugs. In 1920, diphtheria antitoxin was made, and insulin production began in 1923, only a year after Frederick Banting and his team had isolated the substance in Toronto. In 1944, a staff scientist, Captain Percival (Val) Bazeley, was recalled from army duty as a tank commander to take charge of penicillin production in Australia.[5] By the end of December 1943, only weeks after Bazeley returned

from the US, the first ampoules of freeze-dried penicillin were being shipped to Australian troops in New Guinea.

In 1944 a new agent, streptomycin, was refined from a soil fungus; in time, it would revolutionise tuberculosis treatment. The press ran many heartbreaking stories of people unable to afford the new "miracle drug".[6]

As the public demanded access to this new era of medicine, the three preconditions for universal health care aligned for the first time: new ideas on the function of the state, the medical tools to save millions of lives and a government with the political will to act.

National reconstruction

From the worst days of the war, the government, under Prime Minister John Curtin, and key advisers like H C "Nugget" Coombs had stressed the need to repair, once peace came, the damage war had caused the nation. A Department of Post-War Reconstruction was set up, with Treasurer Ben Chifley as its minister and Coombs as director-general. The political ideals were among the highest ever seen from an Australian government: its aim was to give a postwar nation a society that was better, fairer and more efficient than anything it had known.[7]

The scope of this program was immense, including health but reaching far beyond it, but there was doubt that the Commonwealth had the constitutional power to institute such a plan. An attempt was made to convince the states to refer the necessary powers to the Commonwealth, but they did not do so. Instead, after a crushing victory in the 1943 election, the government introduced another bill, this time for a referendum to ask the electorate for power to implement its program.

Meanwhile, the government was pressing ahead. On 11 February 1943, in the House of Representatives, Chifley introduced the government's financial statement for 1942–43. The main item was a national welfare scheme, to be funded through a tax increase, which was to be a central element of the postwar reconstruction program. The scheme, Chifley said, would be developed in stages and would reach its fulfilment after the war. Money would be put in a National Welfare Fund. It was the most ambitious welfare program to be introduced by any Australian government. The welfare state had arrived.

The conservative opposition had a problem. They were against the notion of universal welfare, as classic liberals had been in Germany in the 1880s, because they believed it contradicted the central tenet of 19th century liberalism — the supremacy of the individual. But the welfare measures, introduced into a community traumatised by 15 years of economic depression and war, were overwhelmingly popular with the electorate. The October 1943 Morgan Gallup poll showed 76% supported universal health care.[8]

In 1942, a Constitutional Convention had endorsed the government's plan to ask the electorate for more powers for the duration of the war and for 5 years afterwards, to allow its postwar reconstruction program to be implemented. But despite a substantial level of agreement at the convention, the campaign was hard fought and sometimes bitter. As the 1944 referendum vote drew nearer, it became obvious that Labor would lose. And they did.

> "It was the most ambitious welfare program to be introduced by any Australian government"

Politicians and voters alike were acutely aware of the revolution in pharmaceuticals that was underway. So in February 1944, the Pharmaceutical Benefits Bill was introduced in the Senate. Any Australian resident would be entitled, on presenting a doctor's prescription to a pharmacist, to be given the medicine at no charge: the pharmacist would be reimbursed by the government. There would be a formulary, or list, of approved medications to ensure quality and effectiveness; this would be drawn up by an expert committee.

A medical insurrection

At once, the British Medical Association (BMA) opposed the proposed Pharmaceutical Benefit Scheme (PBS) with an unrelenting vigour. A meeting of the association's Federal Council in July 1944 decided on a policy of non-cooperation; in the end, less than 2% of doctors collaborated with the scheme.

The historian Thelma Hunter has argued that their main concern was not with the PBS at all, but with the rest of the government's health program, which they regarded as socialistic. The BMA's underlying fear was of government interference in their conditions of work and their pricing power. This period saw the BMA exercise raw power as a unique and devastatingly effective pressure group.[9]

The doctors had to represent to the public a scheme that had little practical impact on doctors' incomes, their capacity to run their practices as they wished and their relationship with their patients, as one which struck at the heart of free and ethical medicine. But while the Labor government lasted, Australia's doctors in pursuit of industrial goals were prepared to deny their patients access to free medicines. In effect, there was a 6-year medical strike.

The *Pharmaceutical Benefits Act 1944* was passed and the formulary printed. Then, in 1945, the BMA dropped its bombshell: the Medical Society of Victoria — in effect, the Association's Victorian branch — brought a case before the High Court claiming the Commonwealth lacked the constitutional power to make such a law.

The court agreed with the doctors. The High Court defeat threatened not only the government's health reforms but much of its social program, including even widows' pensions. The war was over; Curtin was dead and Chifley was Prime Minister. But the need for constitutional change had become more urgent.

The government had learnt from its mistakes in the previous referendum campaign. Robert Menzies, the leader of the opposition, agreed to support the government's case but at a price. The BMA's federal president, Sir Henry Newland, suggested to Menzies that a clause should be inserted in the referendum question to make socialised medicine forever impossible. It is likely that Menzies, a lawyer, formulated the words: "but not so as to authorise any form of civil conscription".[10-12]

On 19 December 1946, the Governor-General gave assent to the *Constitution Alteration (Social Services) Act*, which added a single paragraph to Section 51:

> The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorise any form

of civil conscription), benefits to students and family allowances.[13]

Back in Parliament with the Constitution and the voters on its side — the 1946 election had been won decisively by Labor — the government tried again. The *Pharmaceutical Benefits Act 1947*, with some changes, was re-enacted and, again, the BMA — despite the civil conscription clause outlawing nationalisation — continued its campaign of opposition and non-cooperation. But their stance was politically and ethically problematic, because poorer patients could not adequately be treated. In 1947, the BMA changed tack. Instead of objecting to the PBS formulary as too broad, they now said it was too narrow; they made an offer to the government to allow a limited range of drugs to be prescribed under the PBS, including penicillin, the sulfa drugs, vaccines, serums, diphtheria antitoxin and insulin.[14]

But the old combination of political ideals and party hatreds intervened. The government rejected the BMA's offer and continued with its own program. Relations deteriorated further when the government gazetted new penalties: doctors had to use the official government prescription form or face a fine of £50.[3] Patients continued to be denied access to free drugs. And the BMA went back to the High Court, using the Menzies and Newland civil conscription clause in an attempt to strike down the Act.

The court held that Section 7A of the Act, requiring doctors to use a special prescription form and imposing a penalty if it was not used, constituted civil conscription and was therefore unconstitutional.[11,15] The Act was amended and the scheme went ahead. But by the time writs were issued for the 1949 election, Labor's PBS was essentially a dead letter. A tiny proportion of doctors were prescribing under the scheme and, despite 6 years of hard fighting, it was having no significant effect on the delivery of health care in Australia. John Hunter, the BMA's federal secretary, claimed that only 157 out of 7000 practising doctors ever cooperated, and probably no more than 70 at any one time.[16]

A safety-net PBS

At the election in December 1949, Labor was crushed. On the morning of 9 January 1950, Sir Earle Page was sworn in as health minister in the new Menzies government. That afternoon he sent telegrams to the leaders of the BMA, the Pharmacy Guild and the friendly societies calling joint and separate conferences. And he wrote a memorandum to the Cabinet outlining what would become Australia's new PBS.

Labor's comprehensive and universal PBS was being reduced to a safety net. There was strong resistance from hospitals, which had been prescribing under the more comprehensive Labor scheme for some years; Page wanted to take away that right and had the power to do so.

Page's safety-net PBS continued under Labor legislation until 1953, when the government was sufficiently secure to pass its own *National Health Act*, under which the scheme has operated ever since. A Pharmaceutical Benefits Advisory Committee, to be nominated by the BMA, was set up to recommend which drugs should be included in the formulary — now called the Schedule of Pharmaceutical Benefits.

But as scientists and manufacturers continued the race to develop new drugs, Page's limited list became increasingly inadequate. Finally, in 1960, the PBS list became a comprehensive scheme at last, no longer limited to a small number of "expensive and life-saving" drugs.[17] The realities of scientific progress and the basic sense of social fairness, shared in different ways by both sides of politics, had combined. Under a conservative government, with the friends of the BMA and the enemies of socialism on the Treasury benches, the comprehensive and universal scheme for which the Curtin and Chifley governments had fought for so long and with such little success became a reality. By then Curtin and Chifley were dead, but their dreams for the health of Australians were coming true. The Liberals realised a Labor drug scheme, but it would be left to later Labor governments — Whitlam's with Medibank and Hawke's with Medicare — to complete the task of providing health care to all. There were many battles yet to come.

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