

SuperGold Health Check Bill

27 November 2013

Attorney-General

Legal Advice

Consistency with the New Zealand Bill of Rights Act 1990:

SuperGold Health Check Bill

1. We have considered whether the SuperGold Health Check Bill ('the Bill') is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act'). The Bill is a Member's Bill in the name of Barbara Stewart MP. The Bill was introduced into the House of Representatives on 14 November 2013 and is awaiting its first reading. We understand that the next Members' Day is scheduled for Wednesday, 4 December 2013.

2. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act. In reaching that conclusion, we have considered a possible inconsistency with s 19 (freedom from discrimination).

3. The Bill provides SuperGold cardholders with an entitlement to three free doctor's visits per year. A person is eligible for a SuperGold card if they are:

- 65 years or over and legally and ordinarily resident in New Zealand; or
- under 65 years and receive the veteran's pension, or non-qualified spouse or partner rate of New Zealand superannuation or veteran's pension.

4. The Bill makes a distinction on the basis of age and marital status. The extent of any disadvantage to those who do not have a SuperGold card would depend on the person's eligibility for other forms of social welfare, their health, and their socio-economic position.

5. We consider that any discrimination in the Bill is justified under s 5 of the Bill of Rights Act. The primary objective of the Bill is to prevent hospitalisation of older people to save health system costs and improve the emotional, physical and psychological wellbeing of older people. We consider this objective to be sufficiently important to justify some limitation on the right to be free from discrimination. There is a rational connection between providing free doctor's visits and minimising hospitalisation. Free doctor's visits are likely to remove some of the disincentives to seeking early intervention, and this may prevent minor ailments from becoming more serious.

6. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

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