STATES OF JERSEY

HEALTH INSURANCE FUND: TRANSFER TO HEALTH AND SOCIAL SERVICES DEPARTMENT FOR 2012

Lodged au Greffe on 29th November 2011
by the Minister for Social Security

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 18th November 2010 in which they adopted, subject to the sanction of Her Most Excellent Majesty in Council, the Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 201- and to their Act dated 15th September 2011 in which they adopted the Annual Business Plan 2012 and agreed, *inter alia*, that there should be a transfer of £6,131,000 from the Health Insurance Fund in 2012; and

to agree, in accordance with the provisions of Article 2 of the Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 2011, that there shall be withdrawn from the Health Insurance Fund and credited to the Consolidated Fund, for the purpose of funding primary care services in 2012, the sum of £6,131,000 with the sum to be treated as income of the Health and Social Services Department in accordance with the provisions of Article 2.

MINISTER FOR SOCIAL SECURITY

REPORT

This proposition arises from 2 previous States decisions:

On 18th November 2010, the States Assembly adopted P.125/2010. This proposition created a standalone piece of legislation (the Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 2011) to provide for up to 2 transfers from the Health Insurance Fund to the Consolidated Fund. The first transfer of £6,131,000 was included within the primary legislation and applied to the year 2011.

This legislation was registered in the Royal Court on 21st October 2011. A copy of the original proposition is included as an Appendix to this report.

On 15th September 2011, the States Assembly agreed the Draft Annual Business Plan 2012 (P.123/2011). This proposition identified the value of a second transfer in 2012 under the legislation, equal to £6,131,000. The proposition included the following section –

> *"to receive the draft Annual Business Plan 2012 and –*
>
> *to approve the summary set out in Summary Table A, page 69, being the gross revenue expenditure of each States funded body, including depreciation, a proposed transfer from the Health Insurance Fund of £6,131,000, and the additional provisions of net revenue expenditure for central reserves of £12,485,000 and restructuring costs of £10,000,000 as part of the total net revenue expenditure of the Treasury and Resources Department and, having taken into account any income due to each of the States funded bodies, the total net revenue expenditure of £655,920,000,to be withdrawn from the consolidated fund in 2012; with any increase above this figure compensated by appropriate measures within the draft Budget 2012 to enable the Minister for Treasury and Resources to present a draft Budget which forecasts a return to balanced budgets by 2013 as set out in Figure 4.6."*.

This proposition is needed to bring together these 2 existing decisions and to specify the value to be transferred in 2012. Article 2 of the Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 2011 is in the following terms –

"**2 Authority to withdraw money from Health Insurance Fund for 2012**

(1) Notwithstanding Article 21(1) of the Health Insurance (Jersey) Law 1967, there shall be withdrawn from the Health Insurance Fund and credited to the consolidated fund, for the purpose of funding primary care services in 2012, such sum (if any) as is specified in a proposition lodged by the Minister for Social Security and adopted by the States.

(2) Money credited to the consolidated fund pursuant to paragraph (1) is, for the purposes of the Public Finances (Jersey) Law 2005, to be treated as income of, and paid into the consolidated fund by, the Health and Social Services Department.".

This proposition is brought forward by the Minister in accordance with the above Article to give legal effect to the transfer of £6,131,000 as agreed in the Annual Business Plan. As can be seen, the Article requires the transferred sum to be used for the purpose of funding primary care and the transfer is treated as income of the Health and Social Services Department [HSSD] when it is credited to the Consolidated Fund.

The release of the £6,131,000 to HSSD in 2012 will follow the same process as in 2011. It will be tightly controlled by the Minister for Treasury and Resources. The Minister for Treasury and Resources will only sanction the release of funding upon receipt of evidence from HSSD confirming expenditure in respect of primary care services. The balance of the cost of primary care services administered through HSSD will continue to be funded directly from the HSSD revenue budget.

Financial and manpower implications

There are no manpower implications for the States arising from this proposition.

The financial implications for the year 2012 will be met from within the accumulated surplus within the Health Insurance Fund, which amounted to £83 million as at 31st December 2010.

STATES OF JERSEY

DRAFT HEALTH INSURANCE FUND (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-

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Lodged au Greffe on 13th September 2010
by the Minister for Social Security

STATES GREFFE

2010 Price code: C P.125

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Jersey

DRAFT HEALTH INSURANCE FUND (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Social Security has made the following statement –

In the view of the Minister for Social Security the provisions of the Draft Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Deputy I.J. Gorst of St. Clement**

REPORT

Background

The Health Insurance Fund (the "Fund") was established when the Health Insurance (Jersey) Law 1967 (the "Law") came into force on 4th December 1967. The Fund receives a set percentage allocation of all social security contributions collected under the Social Security Law, which is currently 2% (made up of a 0.8% contribution from employees and a 1.2% contribution from employers) of the 12.5% total contributions collected.

The Law specifies that the Fund is to use the contributions received to meet primary health care costs, which are currently limited to medical and pharmaceutical benefits. The level of medical benefit is set by the States by Regulation and was increased this May to assist in establishing General Practitioner governance arrangements. Currently the Fund subsidises patients to the tune of £19 for each G.P. visit and also covers the cost prescriptions dispensed by Community Pharmacists.

Since 1967, the scope of primary care has expanded greatly and many different healthcare professions are now involved in first-line medical and healthcare treatment and care. Typically, primary care is provided in a community setting, such as a G.P. surgery or a health centre. In Jersey, some primary care services are delivered from the General Hospital.

The Health and Social Services Department (HSSD) funds a number of primary care services, some of which are provided directly and some through third-party organisations, in particular Family Nursing and Home Care.

Transfer of funds

This proposition would bring into effect the funding arrangement set out in the 2011 Business Plan, to be debated in September 2010. In order to provide the Health and Social Services Department with the full value of its proposed budget for 2011, it is necessary to bring a proposition to draw on funds currently held in the Health Insurance Fund.

The Draft Business Plan 2011 identifies a £4.9 million contribution from the Health Insurance Fund to fund growth in Health and Social Services expenditure and a further £930,000 primary care service costs transfer from the Fund as part of the Health and Social Services 2% Comprehensive Spending Review (CSR) proposals. It is further proposed that an additional £301,000 should be met by a transfer from the Health Insurance Fund to partially fund diabetic supplies and dietary, oxygen and continence products. This would remove these "user pays" elements from within CSR 2011 proposals (Ref HSS-UP 1/2 in the 2011 Business Plan P99/2010).

The draft Law provides for a transfer of funds in 2011 in the total sum of £6.131 million. Article 2 of the draft Law allows the Minister to return to the States and seek a similar transfer in 2012. The value of this transfer will be determined during 2011 and will need to be approved by the States before it can take place.

There is no provision made for any further transfers; and the Minister for Health and Social Services has made a clear commitment to address the issue of primary care health services within this 2 year period. Legislation to replace or substantially revise

the current Health Insurance Law will be brought forward before 2013. Given the continuing pressures on health services, this is likely to include the requirement for increased contributions to fund a modern primary care health service.

The ring-fencing of Social Security and Health Insurance Funds is of paramount importance, and the agreement with the Minister for Health and Social Services to propose this draft Law has not been undertaken lightly. However, given the ongoing requirement for additional funding across primary and secondary health care, the transfer of agreed sums to be allocated to the funding of specific primary health care services, currently funded by HSSD, is considered to be reasonable in the circumstances. It will allow funds to be released from existing HSSD budgets to meet the cost of essential growth in HSSD funded areas, as set out in the 2011 Business Plan.

The release of the £6.131 million to the Health and Social Services Department in 2011 will be tightly controlled by the Minister for Treasury and Resources. The Minister for Treasury and Resources will only sanction the release of funding upon receipt of evidence from the Health and Social Services Department confirming expenditure in respect of primary care services. The balance of the cost of primary care services administered through HSSD will continue to be funded directly from the HSSD revenue budget.

Primary Care Services

Whilst the intent of the 1967 Law has generally served the Island well, it is increasingly recognised that there is now a need, some 43 years later, to review and revise aspects of the Law. New primary care legislation needs to support a contemporary range of primary care services and to establish a rigorous local governance framework as required by U.K. primary care regulators. The attached draft Law (Article 3) provides funding for the introduction of new arrangements for the delivery and regulation of primary care.

Primary care services are the first point of contact that individuals and their families have with health and social care services. Currently in Jersey, many different health professionals working for a range of private and public sector organisations are involved in providing these services.

The Minster for Health and Social Services is responsible for the development of primary health care policy in Jersey; and the Minster for Health and Social Services is aiming to achieve primary health care services that include –

- universal basic health care and the first point of contact that individuals and families normally have with health services;
- services delivered to individuals and families in non-hospital settings, for example, health visiting services from Family Nursing and Home Care;
- preventative services to help people before they get ill, for example, breast and cervical cancer screening and the avoidance of heart disease;
- programmes of care for the improved management of chronic diseases such as diabetes, chronic obstructive pulmonary disease and depression.

In the U.K., longstanding policy has been to strengthen the role of primary care services through a strategy of shifting the balance of care away from hospitals. To date, this trend has not been seen in Jersey. This must, at least in part, be due to the

inflexibility of the 1967 Health Insurance Law in which medical benefit is linked exclusively to services provided personally by G.P.s. There has been a tendency to develop and fund separate primary care services from within the Health and Social Services Department.

This has meant that care provided by G.P.s and other community-based services have evolved in entirely separate ways and remain poorly-integrated, despite similarities in the services they provide. This lack of integration has hindered improved outcomes for patients in a number of areas, including that of disease prevention.

The Health and Social Services Department has produced a list of primary care services that it currently funds and this appears as an Appendix to this Report. The list identifies a total cost in excess of £6.9 million of primary care services based in the community and/or community and hospital settings.

Review

In the longer term, and in the interests of delivering more fully-integrated services, there will need to be significant structural changes to the way primary care services are funded and delivered. This is to be the subject of a detailed review that will form part of the Comprehensive Spending Review and parallel work in relation to implementing the Fiscal Strategy.

The review will consider how those services are best delivered in the future to achieve the maximum health benefit for the population whilst delivering value for money. Hence the options of continuing to deliver them through the hospital or through primary care providers will form a key part of the review. Revised legislation will substantially amend or replace the current 1967 Law.

Regulation and quality standards in Primary Care

In unanimously agreeing to an increase in the Medical Benefit from £15 to £19 in May 2010 (P.36/2010), the States Assembly took the very important first step towards establishing a framework for the improvement of health and primary care for the community, developed in partnership between the States and G.P.s.

A cornerstone of these improvements will be the introduction of primary care governance, quality standards and the ability to collect vital information relating to the health of the Island's population.

All doctors wishing to practise medicine in Jersey need to meet the requirements of the U.K. General Medical Council (GMC). To establish a framework of local accountability required by the GMC, "Performers List" legislation will need to be drafted. This will require G.P.s in Jersey to participate in –

- annual appraisal;
- local clinical governance, audit and complaints processes.

They must also be in good standing with the GMC.

These Regulations will form part of the updated primary care law and will be brought to the States in due course for the consideration of the Assembly. The Regulations will establish a small team led by a Primary Care Responsible Officer (employed by the States) with associated administration and support. This will allow arrangements to be put in place consistent with those used for G.P.s in the U.K.

The Performers List legislation will establish the role of this governance team and its powers and will also establish from where the costs will be met. As explained in P.36/2010, the expectation is that the costs, which will not exceed £200,000 per annum, will be met from the Health Insurance Fund.

However, ahead of bringing forward that legislation, funding is needed to develop the systems and arrangements to introduce governance locally. This proposition proposes that it be made explicit that the associated development costs will be met from the Health Insurance Fund.

The Report within P.36/2010 not only laid out the high-level plans for introducing improved governance of general practice in Jersey, but also a framework for improved and demonstrable quality of primary care through the introduction of payments dependent upon performance against a set of Clinical and Organisational Quality Standards.

The Jersey Quality Improvement Framework will promote and incentivise consistency of care by G.P.s for a number of common medical conditions, such as heart disease, diabetes, stroke, asthma and chronic lung disease, that otherwise have the potential to cause significant ill-health, hospital admissions or early death.

To provide modern primary care services it is also important to establish a new central repository of patient records. The advantages of such a system include –

- compiling health records and disease registers at a single location;
- providing robust data to guide the future development of health strategy and policy; and
- allowing patient records to be accessed electronically by the G.P. out-of-hours co-operative and therefore delivering a significant improvement in the quality of care that can be delivered by the G.P. out-of-hours co-op.

It is anticipated that such a system will be integrated with the new Health and Social Services computer system. The stated intent of P.36/2010 was that such a system would also be funded from the Health Insurance Fund.

Clearly the establishment of such a central repository of sensitive personal data will require very careful design and strong safeguards to ensure that information is only accessed with the agreement of the patient concerned. A key part of the project will be to protect sensitive data and the rights of those who do not wish that data to be accessed by anyone other than their own G.P.

An exercise in respect of the scope and feasibility of such a project is currently underway. However, the costs of implementation are not expected to exceed £1 million.

Article 3 of the Proposition seeks to provide clarity within current legislation, such that ahead of the drafting of new primary care legislation to include performers list Regulations, the costs of essential work to advance the new information system, quality framework, the necessary commissioning underpinning payments arising from performance against standards and the Primary Care governance team, are funded from the Health Insurance Fund.

Financial and manpower implications

There are no permanent additional manpower implications arising directly from this proposition; any short-term manpower implications arising from Article 3 will be managed from within existing manpower budgets.

The financial implications are for the years 2011 and 2012 only and will be met from within the accumulated surplus within the Health Insurance Fund, which amounted to £77 million as at 31st December 2009.

The accumulated surplus within the Health Insurance Fund is designed to provide for the increasing cost of current medical and pharmaceutical benefits as the proportion of elderly people increases significantly over the next 20 to 30 years. Drawing funds down now and extending the scope of the Law to fund a modern primary care health service will require additional contributions to be levied in coming years.

The effect of these proposals will be to place the Fund into "in-year" deficits for 2011 and 2012. If funding for the proposed initiatives was to continue on this basis in the medium term, then the accumulated surplus would very quickly be exhausted.

The primary Health Care Strategy, when presented, will include proposals for the sustainability of funding.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 9th September 2010 the Minister for Social Security made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Social Security the provisions of the Draft Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 201- are compatible with the Convention Rights.

APPENDIX

Primary care services currently funded by Health and Social Services

Primary Care Services	Directorate	H&SS FTE	Budget 2011	Comments
G.P. Out-of-Hours Service	Medical Services	2.30	80,000	G.P. Out-of-Hours Service
Smoking Cessation	Public Health	5.00	420,000	Nursing costs, drugs and other non-pay costs
Childhood Immunisations	Public Health	4.93	480,000	
Diabetic supplies and subsidised products	Medical Services		301,000	Includes diabetic testing strips, dietary, oxygen and continence products
FNHC District Nursing	Third Sector		1,840,000	Family Nursing and Home Care
FNHC Child and Family	Third Sector		1,100,000	
FNHC Home Care	Third Sector		1,920,000	
Clinics run by Public Health	Public Health	5.69	290,000	Sexual Health Advisors, Nurses, support staff, drugs and non-pay costs
Brook Advisory Services	Third Sector		260,000	Grant paid to Brook Advisory
Ante-Natal Services	Surgical Services	4.80	280,000	Nursing staff and medical supplies costs

Explanatory Note

The principal purpose of this draft Law is to pave the way for the introduction of new arrangements for the delivery and regulation of primary care.

Article 1 directs that £6.131 million shall be transferred from the Health Insurance Fund to the consolidated fund. The money transferred is to be used to fund primary care services in 2011.

Article 2 enables the States to make a further transfer from the Health Insurance Fund to the consolidated fund, to fund primary care services in 2012. Only the Minister for Social Security may lodge a proposition proposing the transfer.

Article 3 widens the powers of the Minister for Social Security to pay expenses out of the Health Insurance Fund. The expenses authorized are the one-off costs associated with developing and setting up the primary care governance systems for performance monitoring that were described in the Report that accompanied the Draft Health Insurance (Medical Benefit) (Amendment No. 3) (Jersey) Regulations 201- (P.36/2010, adopted by the States on 12th May 2010).

Article 4 provides for the citation of the draft Law. If adopted, the Law would commence on the day it is registered in the Royal Court.

DRAFT HEALTH INSURANCE FUND (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-

Arrangement

Article

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DRAFT HEALTH INSURANCE FUND (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 201-

A LAW to withdraw money from the Health Insurance Fund for 2011, to enable the withdrawal of money from that Fund for 2012 and to authorize the withdrawal of certain expenses from that Fund.

Adopted by the States	*[date to be inserted]*
Sanctioned by Order of Her Majesty in Council	*[date to be inserted]*
Registered by the Royal Court	*[date to be inserted]*

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Withdrawal of money from Health Insurance Fund for 2011

(1) Notwithstanding Article 21(1) of the Health Insurance (Jersey) Law 1967[1], there shall be withdrawn from the Health Insurance Fund and credited to the consolidated fund the sum of £6,131,100, for the purpose of funding primary care services in 2011.

(2) Money credited to the consolidated fund pursuant to paragraph (1) is, for the purposes of the Public Finances (Jersey) Law 2005[2], to be treated as income of, and paid into the consolidated fund by, the Health and Social Services Department.

2 Authority to withdraw money from Health Insurance Fund for 2012

(1) Notwithstanding Article 21(1) of the Health Insurance (Jersey) Law 1967, there shall be withdrawn from the Health Insurance Fund and credited to the consolidated fund, for the purpose of funding primary care services in 2012, such sum (if any) as is specified in a proposition lodged by the Minister for Social Security and adopted by the States.

(2) Money credited to the consolidated fund pursuant to paragraph (1) is, for the purposes of the Public Finances (Jersey) Law 2005, to be treated as income of, and paid into the consolidated fund by, the Health and Social Services Department.

3 Authority for Minister to withdraw expenses from Health Insurance Fund

Notwithstanding Article 21(1) of the Health Insurance (Jersey) Law 1967, the Minister for Social Security may pay out of the Health Insurance Fund expenses incurred in developing an infrastructure (to include a system for data-gathering) and establishing arrangements for –

(a) primary care governance; and

(b) the assessment and monitoring of primary care standards.

4 Citation

This Law may be cited as the Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 201-.

[1] *chapter 26.500*
[2] *chapter 24.900*