

# **Health Insurance Commission Amendment Regulations 2003 (No. 1)**

## **2003 No. 161**

### **EXPLANATORY STATEMENT**

#### **STATUTORY RULES 2003 No. 161**

Issued by the Authority of the Minister for Health and Ageing

*Health Insurance Act 1973*

*Health Insurance Commission Amendment Regulations 2003 (No. 1)*

Section 44 of the *Health Insurance Commission Act 1973* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act establishes the Health Insurance Commission (the Commission) as a statutory authority and provides for the functions, powers, governance and other necessary provisions relating to the operation of the Commission.

Section 8AA of the Act provides that additional functions to those specified in sections 6, 7 and 8 may be conferred on the Commission by regulations.

The *Health Insurance Amendment (Diagnostic Imaging, Radiation Oncology and Other Measures) Act 2003* (the Amending Act) makes a number of amendments to the *Health Insurance Act 1973* in relation to the payment of Medicare benefits for diagnostic imaging and radiation oncology services. The relevant amendments for the purposes of the regulations are: to require the registration of diagnostic imaging and radiation oncology practice sites and the allocation of Location Specific Practice Numbers (LSPNs) to these practices in order for Medicare benefits to be payable; and to implement recommendations of the Diagnostic Imaging Referral Arrangements Review in relation to the referral arrangements for diagnostic imaging services

The Commission will be administering the provisions of the Amending Act.

The purpose of the regulations is to confer the necessary powers on the Commission to administer the provisions established by the Amending Act on behalf of the Minister. These powers and functions are to:

- make directions on behalf of the Minister to pay a Medicare benefit in respect of diagnostic imaging and radiation oncology services rendered in respect of unregistered diagnostic imaging or radiation oncology practices;
- to carry out the functions conferred on the Minister in relation to administering the Diagnostic Imaging and Radiation Oncology Registers; and
- to carry out the functions conferred on the Minister in relation to administering the remote area exemption provisions of the Act.

Details of the regulations and the functions of the Minister to be conferred on the Commission are set out in the Attachment.

The regulations commenced on gazettal.

## ATTACHMENT

### **DETAILS OF THE HEALTH INSURANCE COMMISSION AMENDMENT REGULATIONS 2003 (No. 1)**

Regulation 1 provides that the name of the Regulations is the *Health Insurance Commission Amendment Regulations 2003 (No. 1)*.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that the *Health Insurance Commission Regulations 1975* are to be amended by the provisions in Schedule 1 of the Regulations.

#### **Schedule 1**

The Schedule inserts three new Regulations.

Regulation 3U confers the necessary power on the Commission to administer the provisions relating to the Diagnostic Imaging Register established by the Amending Act.

Paragraph 3U(a) allows the Commission to make discretionary decisions on behalf of the Minister to pay a Medicare benefit where the diagnostic imaging procedure was undertaken at or from an unregistered diagnostic imaging practice, including practices whose registration has been cancelled.

Paragraph 3U(b) allows the Commission to carry out the functions conferred on the Minister under Division 4 of Part IIB of the Health Insurance Act, introduced by the Amending Act. These functions are to:

- make discretionary decisions relating to the payment of Medicare benefits in respect of unregistered diagnostic imaging practices;
- keep a register of diagnostic imaging practices;
- accept registration applications from practices;
- approve the registration forms;
- allocate Location Specific Practice Numbers;
- accept and issue notifications in relation to the Register;
- suspend or cancel registrations as required by the Act and noting such on the Register;
- make decisions to cancel registrations as required by the Act;
- make decisions to accept applications from practices whose registration has been cancelled within the previous 12 months; and
- make extracts of the Register available to the public.

Regulation 3V mirrors regulation 3U in respect of radiation oncology practices.

That is, paragraph 3V(a) allows the Commission to make discretionary decisions on behalf of the Minister to pay a Medicare benefit where the radiation oncology service was undertaken at or

from an unregistered radiation oncology practice, including practices whose registration has been cancelled.

## ATTACHMENT

Paragraph 3V(b) allows the Commission to carry out the functions conferred on the Minister under Division 4 of Part IIB of the Health Insurance Act, introduced by the Amending Act. These are to:

- make discretionary decisions relating to the payment of Medicare benefits in respect of unregistered radiation oncology practices;
- keep a register of radiation oncology practices;
- accept registration applications from practices;
- approve the registration forms;
- allocate Location Specific Practice Numbers;
- accept and issue notifications in relation to the Register;
- suspend or cancel registrations as required by the Act and noting such on the Register;
- make decisions to cancel registrations as required by the Act;
- make decisions to accept applications from practices whose registration has been cancelled within the previous 12 months; and
- make extracts of the Register available to the public.

Regulation 3W confers on the Commission the power to carry out the functions conferred on the Minister in relation to the administration of the remote area exemption provisions in Division 2 of Part IIB of the Health Insurance Act.

The Amending Act introduced remote area exemption provisions for the otherwise prohibited diagnostic imaging practice of a diagnostic imaging provider stationing employees or equipment at the place of another practitioner under paragraph 23DZG(g) of the Health Insurance Act.

In developing regulation 3W to confer on the Commission functions relating to the administration of the remote area exemption provisions introduced by the Amending Act, it came to notice that the functions relating to the administration of the existing remote area exemption provisions in Division 2 of Part IIB of the Health Insurance Act had not been formally conferred on the Commission through the *Health Insurance Commission Regulations 1975*.

Accordingly, regulation 3W was developed to formally confer on the Commission all functions conferred on the Minister relating to the administration of Division 2 of Part IIB of the *Health Insurance Act 1973*. These functions are to:

- make determinations as to which areas in Australia are to be regarded as remote areas;
- approve remote area exemption application forms;
- assess remote area exemption applications;

- grant, restrict, refuse, renew or revoke remote area exemptions; and
- issue notices in relation to remote area exemptions.