EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 85

Minute No. 8 of 2006 – Minister for Health and Ageing

Subject: *Health Insurance Act 1973*

Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2006 (No. 2)

Subsection 133(1) of the *Health Insurance 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 provides, in part, for payments of Medicare benefits in respect of professional services rendered to eligible persons. Section 9 of the Act provides that Medicare benefits shall be calculated by reference to the fees for medical services, including diagnostic imaging services, set out in prescribed tables.

Section 4AA of the Act provides that the regulations may prescribe a table of diagnostic imaging services, the amount of fees applicable in respect of each item and the rules for interpretation of the table. Schedule 1 to the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2005* (the Principal Regulations) prescribes such a table.

The purpose of the Regulations is to:
- provide Medicare eligibility for diagnostic Computed Tomography (CT) scans performed on a dual purpose (hybrid) machine;
- ensure consistency with the reporting requirements for CT and Magnetic Resonance Imaging (MRI) scans;
- omit an obsolete rule of interpretation for MRI; and
- specify that certain CT items of service are not to be claimed if performed to image the coronary arteries.

The Australian Government (as represented by the Department of Health and Ageing) manages Medicare funding for diagnostic imaging services through four agreements known as the "2003-2008 Quality and Outlays Memoranda of Understanding (MoUs)". The MoUs cover radiology, cardiac imaging, nuclear medicine imaging and obstetric and gynaecological ultrasound services.

The amendments to the Principal Regulations affect only those services covered by the Radiology MoU. They were developed in consultation with the Radiology MoU Management Committee which includes representatives from the Royal Australian and New Zealand College of Radiologists, the Australian Diagnostic Imaging Association and Medicare Australia.

Details of the Regulations are provided in the Attachment.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations would commence on 1 May 2006.

Authority: Subsection 133(1) of the *Health Insurance Act 1973*

ATTACHMENT

DETAILS OF THE PROPOSED *HEALTH INSURANCE (DIAGNOSTIC IMAGING SERVICES TABLE) AMENDMENT REGULATIONS 2006 (No. 2)*

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2006 (No. 2)*.

Regulation 2 - Commencement

This regulation provides for the amendment regulations to commence on 1 May 2006.

Regulation 3 – Amendments

This regulation provides that the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2005* (the Principal Regulations) are amended as set out in the attached Schedule.

Schedule - Amendments

Part 2 - Rules of interpretation

Item [1] – rules of interpretation 19 and 20

Rule of interpretation 20 in Part 2 to Schedule 1 to the Principal Regulations precludes payment of a Medicare benefit if a scan is performed using a Hybrid Positron Emission Tomography/Computed Tomography (PET/CT) scanner. This is because previous hybrid machine models have not been capable of producing scans of the same quality as those performed on a stand-alone CT machine. However, current evidence suggests that modern hybrid machines are capable of producing the same quality scans as those provided on a stand-alone CT machine.

Rules of interpretation 19 and 20, as substituted, would provide for a CT scan performed on a stand-alone or hybrid machine to be Medicare-eligible only if performed for diagnostic purposes by a specialist radiologist:

- rule of interpretation 19 would be amended to prescribe in paragraph 19(1)(b) that in addition to the service being provided under the professional supervision of a specialist radiologist, the CT scan must also be reported by a specialist radiologist, and
- rule of interpretation 20 would prescribe that a CT service is not an eligible service if performed as part of another diagnostic imaging procedure which uses CT to enhance the image (attenuation correction) or provide detailed information about the location, size and shape of lesions in the body (anatomical correlation).

Item [2] – Rule of interpretation 33

Rule of interpretation 33 is substituted to provide in paragraph 33(1)(b) that a Magnetic Resonance Imaging (MRI) or Magnetic Resonance Angiography (MRA) service is to be reported by an eligible provider as described in rule of interpretation 34. This amendment is

to ensure consistency of the rules of interpretation for reporting requirements for CT scans and MRI/MRA scans.

Item [3] – Rule of interpretation 34

Paragraphs (1) and (2) of rule of interpretation 34 are amended by omitting reference to "rule 33" and inserting "subrule 33(1)" to reflect the proposed amendment to rule of interpretation 33.

Item [4] – Rule of interpretation 39

Paragraph 3 of rule of interpretation 39 prescribes that one fee applies if two or more MRI musculoskeletal services are provided to a person on a single occasion. It was introduced in the Principal Regulations from 1 August 2004 as part of a major restructure of MRI services from 1 August 2004.

The Principal Regulations were further amended from 1 November 2004 to provide in paragraphs 2 and 3 of rule of interpretation 38 for a discounted fee model to apply when two or more MRI musculoskeletal services are provided to the same patient on the same day. Paragraph 3 of rule of interpretation 39 no longer applied but was not omitted from the Principal Regulations at that time.

Paragraph 3 of rule of interpretation 39 is omitted from the Principal Regulations as it has been superseded by paragraphs 2 and 3 of rule of interpretation 38.

Part 3 - Services and Fees

Items [5] to [9]

When CT items of service were introduced in the Principal Regulations in 1996, CT equipment was incapable of performing scans of the coronary arteries. However, with advances in CT technology, scanning of the coronary arteries is now possible.

Items of service 56301 to 56347, 56801 to 57047, 57350, 57351, 57355 and 57356 would be amended to clarify that a CT scan for the purpose of imaging the coronary arteries is currently not eligible for a Medicare benefit. However, this is being reviewed by the Medical Services Advisory Committee to determine its safety, efficacy and cost effectiveness for possible inclusion in the MBS.