

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2009 No. 286**

#### *Health Insurance Act 1973*

#### *Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2009 (No. 4)*

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.

Subsection 4AA(1) 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 2009* (the Principal Regulations) prescribes such a table.

The purpose of the Regulations is to amend the Principal Regulations to enable Medicare benefits to be paid for magnetic resonance imaging (MRI) services conducted using specified equipment located at Bankstown Hospital, New South Wales.

The Regulations also amend the 'manufacturer and scanner model' of the specified MRI equipment located at the Monash Medical Centre, Clayton, Victoria, due to the replacement of the existing specified equipment with a new model.

The Regulations further makes a technical amendment to one Rule to remove the ambiguity of the current wording and clarify the eligibility criteria for one existing breast MRI item.

Details of the Regulations are set out in the Attachment.

The Department of Health and Ageing undertook a competitive application process to select the specified equipment being granted Medicare-eligibility at Bankstown Hospital. The Department then consulted with the successful applicant about the process for the MRI unit to be granted Medicare-eligibility.

Due to the replacement of the existing specified equipment at Monash Medical Centre, Clayton, it was also necessary for the Department to consult with the service operator about the process for the transfer of Medicare-eligibility from the existing MRI unit to the replacement MRI unit.

Prior to the introduction of Medicare benefits for breast MRI services for certain women from 1 February 2009, the Department consulted with the Royal Australian and New Zealand College of Radiologists, the Australian Diagnostic Imaging Association, and the National Breast and Ovarian Cancer Centre regarding the patient eligibility criteria. No further consultations were required for the clarifying amendment to the eligibility criteria, nor for the technical amendment to Rule 31 which removes ambiguity in the wording.

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

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

Most of the provisions in the Regulations commence on 9 November 2009. The amendment clarifying the eligibility criteria for the existing item commences on 1 January 2010, to allow the change to be incorporated into bulk changes to the Medicare Benefits Schedule, but the existing intention of the item are not affected by the amendment.

**Details of the Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2009 (No. 4)**

**Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2009 (No. 4)*.

**Regulation 2 - Commencement**

This regulation provides for amendment items [1] to [4] of Schedule 1 to commence on 9 November 2009 and amendment item [1] of Schedule 2 to commence on 1 January 2010.

**Regulation 3 – Amendment of the Health Insurance (Diagnostic Imaging Services Table) Regulations 2009**

This regulation provides that the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2009* (the Principal Regulations) are amended as set out in Schedules 1 and 2.

**Schedule 1 – Amendments commencing on 9 November 2009**

**Item [1]**

This item substitutes the current wording of Schedule 1, Part 2, subrule 31(1)(a) with new wording that removes current ambiguity and requires that Medicare-eligible MRI scans must be at the request of a specialist or consultant physician.

**Item [2]**

This item inserts terms of agreement details for the new specified equipment at the Bankstown Hospital, New South Wales, into Schedule 1, Part 2, paragraph 31(2B)(b).

**Item [3]**

This item substitutes the description of the ‘manufacturer and scanner model’ of the specified equipment located at the Monash Medical Centre, Clayton, Victoria, in Schedule 1, Part 2, Table 3 - Eligible equipment in paragraph 36(1)(f) of the Principal Regulations.

**Item [4]**

This item inserts the details of the new MRI unit at the Bankstown Hospital, New South Wales into Schedule 1, Part 2, Table 3 - Eligible equipment in paragraph 36(1)(f) of the Principal Regulations.

**Schedule 2 – Amendments commencing on 1 January 2010**

**Item [1]**

This item substitutes the wording of the patient eligibility criteria for Medicare Benefits Schedule item 63464 to remove current ambiguity and clarify eligibility requirements for this service.