

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 245

Health Insurance Act 1973

Health Insurance (General Medical Services Table) Amendment Regulation 2012 (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.

Part II of the Act provides for the payment of Medicare benefits for professional services rendered to eligible persons. Section 9 of the Act provides that Medicare benefits be calculated by reference to the fees for medical services set out in prescribed tables.

Subsection 4(1) of the Act provides that the regulations may prescribe a table of medical services (other than diagnostic imaging services and pathology services) which sets out items of medical services, the fees applicable for each item, and rules for interpreting the table. The *Health Insurance (General Medical Services Table) Regulation 2012* (the Principal Regulations) currently prescribes such a table.

The regulation amends the Principal Regulations to ensure that the medical services funded through the Medicare Benefits Schedule continue to be up-to-date and representative of best medical practice.

Schedule 1 to the regulation includes a number of minor changes to implement Government policies in relation to Medicare. This includes a new criterion to apply to 20 telehealth items to impose a requirement that the specialist is located at least 15 kilometres from the patient at the time of the video consultation. This ensures that the items target services to patients for whom distance is a genuine barrier to accessing specialist services. It also includes amendments to 28 ophthalmology items and the deletion of seven ophthalmology items to implement the outcomes of a whole-of-specialty review of ophthalmology. This review identified a number of items that required an amendment to ensure that the item descriptor reflected current clinical best practice.

Details of the regulation are set out in the [Attachment](#).

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

The regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The regulation commences on 1 November 2012.

Consultation

Hyperbaric Oxygen Therapy

Consultation in relation to items 1 and 39 involved the Australian Health and Hospitals Association, the Australian Society of Anaesthetists and the South Pacific Underwater Medicine Society.

Telehealth

No consultation was undertaken in relation to items 2 to 38, 44 to 48 and 94 as this decision was included as part of the 2012-13 Budget.

Ophthalmology

Consultation in relation to items 55 to 85 and 88 involved the Royal Australian and New Zealand College of Ophthalmologists.

Ultrasound imaging in the practice of anaesthesia

Consultation in relation to item 49 involved the Australian Society of Anaesthetists.

Barrett's Oesophagus

Consultation in relation to item 50 involved the Gastroenterological Society of Australia and the Australian and New Zealand Gastric and Oesophageal Surgery Association.

Amendments to items 31527 and 45585

Consultation in relation to items 51 and 86 involved the Australian Society of Plastic Surgeons and the Royal Australasian College of Surgeons.

Transanal Endoscopic Microsurgery

Consultation in relation to items 52 to 54 involved the Colorectal Surgical Society of Australia.

Artificial Intervertebral Disc Replacement

Consultation in relation to item 87 involved the Spine Society of Australia.

Cleft Lip and Cleft Palate

No specific consultation was undertaken in relation to items 89 to 93. These services are to be recreated in a section 3C Determination to simplify practitioner eligibility requirements associated with accessing these items.

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

ATTACHMENT

Details of the *Health Insurance (General Medical Services Table) Amendment Regulation 2012 (No. 4)***Section 1 – Name of regulation**

This section provides for the regulation to be referred to as the *Health Insurance (General Medical Services Table) Amendment Regulation 2012 (No. 4)*.

Section 2 – Commencement

This section provides for the regulation to commence on 1 November 2012.

Section 3 – Amendment of *Health Insurance (General Medical Services Table) Regulation 2012*

This section amends the *Health Insurance (General Medical Services Table) Regulation 2012*.

Schedule 1 – Amendments**Items [1] and [39] – Amendment to Hyperbaric Oxygen Therapy item**

These items implement a recommendation of the Medical Services Advisory Committee (MSAC) to remove Medicare rebates for the treatment of chronic non-diabetic wounds using hyperbaric oxygen therapy. After considering the strength of the available evidence in relation to the safety, effectiveness and cost-effectiveness of HBOT for this indication, MSAC advised that there was insufficient evidence that HBOT is a more effective treatment when compared to usual wound care for non-diabetic chronic wounds without HBOT.

Items [2] to [38] and [44] to [48] and [94] – Implementation of telehealth Budget measure

These items implement a 2012-13 Budget measure by introducing a new restriction for 20 telehealth items. The restriction will impose a requirement that the practitioner be located 15 or more kilometres apart (by the most direct route by road) from the patient at the time of the consultation.

Item [49] – Schedule 1, after subclause 2.43.5(3)

This item restricts items in Group T10 (Relative Value Guide for Anaesthesia) from being claimed in association with Category 5 (Diagnostic Imaging Services Table) item 55054 (ultrasound imaging). The decision to restrict this claiming is due to safety concerns related to the use of ultrasound imaging in the practice of anaesthesia. The practice is the subject of an MSAC application into its safety, effectiveness and cost-effectiveness after which a final decision will be made on the appropriateness of permitting Medicare funding for this practice.

Item [50] – Schedule 1, after item 30686

This item implements a recommendation of the MSAC to provide Medicare rebates for the treatment of Barrett's Oesophagus with high grade dysplasia using radiofrequency ablation (RFA) treatment.

Item [51] – Schedule 1, item 31527

This item amends item 31527 to allow for Medicare benefits to be payable for liposuction as part of a subcutaneous mastectomy if required.

Items [52] to [54] – Transanal endoscopic microsurgery

These items amend three items (32103, 32104 and 32106) for transanal endoscopic microsurgery to allow for the use of monocular equipment with 2D optic capacity in addition to equipment with 3D stereoscopic optic capacity for transanal endoscopic microsurgery.

Items [55] to [85] and [88] – Ophthalmology

These items implement outcomes arising from a whole-of-specialty review of ophthalmology.

Item [86] – Schedule 1, item 45585

This item limits Medicare funding under item 45585, which provides for liposuction for certain conditions, to the treatment of Barraquer-Simon's Syndrome, lymphoedema and macrodystopia lipomatosa and prevent the item being used for cosmetic purposes.

Item [87] – Schedule 1, item 48693

This item implements an MSAC recommendation by introducing a new item for artificial intervertebral disc replacement in patients with degenerative disease of the cervical spine.

Items [89] to [93] – Removal of Cleft Lip and Cleft Palate items

These items delete Divisions 2.58 to 2.61 (inclusive) which relate to the treatment of cleft lip and cleft palate conditions. These services are to be recreated in a section 3C Determination to simplify practitioner eligibility requirements associated with accessing these items.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Health Insurance (General Medical Services Table) Amendment Regulation 2012 (No. 4)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The instrument will amend the *Health Insurance (General Medical Services Table) Regulation 2012* to ensure that the medical services funded through the Medicare Benefits Schedule continue to be up-to-date and representative of best medical practice.

The *Health Insurance (General Medical Services Table) Amendment Regulation 2012 (No. 3)* will include a number of minor changes to implement Government policies in relation to Medicare. This includes a new criterion to apply to a number of telehealth items to impose a requirement that the specialist is located at least 15 kilometres from the patient at the time of the video consultation. This ensure that the items target services to patients for whom distance is a genuine barrier to accessing specialist services. It also includes amendments to 28 ophthalmology items and the deletion of seven ophthalmology items to implement the outcomes of a whole-of-specialty review of ophthalmology. This review identified a number of items that required an amendment to ensure that the item descriptor reflected current clinical best practice.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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