Premium Support Scheme Amendment 2013

I, TANYA JOAN PLIBERSEK, Minister for Health, make this instrument under subsection 43 (1) of the *Medical Indemnity Act 2002*.

Dated 1 July 2013

Tanya Plibersek

Minister for Health

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Part 1 Preliminary

# 1. Name of instrument

This instrument is the *Premium Support Scheme Amendment 2013*.

# 2. Commencement

This instrument commences on 1 July 2013.

# 3. Authority

This instrument is made under the *Medical Indemnity Act 2002*.

# 4. Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms*.*

Schedule 1 - Amendments

Part 1 - Amendments

*Premium Support Scheme 2004*

1 Part 3, subsection 11(4)

Repeal the subsection.

2 Part 3, paragraph 12(2)(b)

Omit “an authorised officer under the MISS:”, substitute “a responsible officer:”.

3 Part 3, paragraph 13(1)(c)

Repeal the paragraph.

4 Part 3, paragraph 13(1)(d)

Repeal the paragraph.

5 Part 3, paragraph 13(1)(f)

Omit “period; and”, substitute “period.”

6 Part 3, paragraph 13(1)(g)

Repeal the paragraph.

7 Part 3, subsection 13(2)

Repeal the subsection (including the note).

8 Part 3, subsection 13(3)

Repeal the subsection.

9 Part 3, section 13A

Repeal the section.

10 Part 4, paragraph 24(1)(c)

Repeal the paragraph.

**11 Part 8**

Repeal the part, substitute:

**Part 8 Administration fee**

**41. Eligibility**

A contractor is eligible to be paid a subsidy under this Scheme calculated in accordance with section 43 (the administration fee) to help the contractor meet the cost of administering this Scheme for a premium period, if the contractor complies with the conditions for payment of an administration fee in this Scheme and the PSS contract.

**43. Calculation**

(1) Subject to subsection 6, the administration fee payable to a contractor for the financial year commencing 1 July 2013, whether or not paid proportionally over that year, is the sum of:

(a) the base fee; and

(b) an additional amount determined to be reasonable by a responsible officer, having regard to the number of the contractor’s members in respect of whom a run-off cover support payment is attributable as at 31 May 2013 as a proportion of the total number of all contracted insurers’ members in respect of whom a run-off cover support payment is attributable as at 31 May 2013.

(2) The administration fee payable to a contractor in respect of each financial year commencing on or after 1 July 2014 is the administration fee payable to that contractor in the immediately previous financial year plus an indexation amount for the current financial year, where indexation amount means an amount determined by a responsible officer, having regard to indices in respect of the current financial year that are provided by the Department of Finance and Deregulation to the Department for the purposes of funding increases.

(3) A responsible officer may consult with the Chief Executive Medicare and any other relevant person or agency when calculating an amount under this Part.

(4) An administration fee payable in accordance with this Part constitutes a payment in respect of all costs, including any expenses, disbursements, levies and taxes (including GST), incurred by the contractor in carrying out its obligations under this Scheme for the financial year to which the payment relates.

(5) In this section, run-off cover support payment has the same meaning as in the *Medical Indemnity (Run-off Cover Support Payment) Act 2004*.

(6) Where a medical indemnity insurer and an MDO are both parties to the same PSS contract, for the purposes of calculating the administration fee under subsection 43(1) the insurer is taken to be the only contractor.

**44 Determination**

Where the responsible officer determines an additional amount under paragraph 43(1)(b) in respect of a contractor, the responsible officer must notify the Chief Executive Medicare as soon as practicable of that amount.

**45 Payment**

The Chief Executive Medicare must pay to the contractor, in accordance with the requirements of the PSS contract, the amount of the administration fee calculated in accordance with this Part within the timeframe set out in the PSS contract.

**46 Non-compliance with conditions**

(1) If a responsible officer becomes aware, after an administration fee has been paid to a contractor, that the contractor has not complied with the conditions for the payment of the administration fee for the period to which the administration fee relates, a responsible officer may determine that the fee was incorrectly paid.

(2) If a responsible officer makes a determination referred to in subsection (1), the amount of the fee paid is a debt due to the Commonwealth from the contractor.

12 Part 9, paragraph 47(1)(c)

Repeal the paragraph, substitute:

(c) a determination of a responsible officer under Part 8.

13 Part 9, paragraph 47(1)(d)

Repeal the paragraph.

14 Part 9, subsection 47(2)

Omit “(1)(a), (b) or (d)”, substitute “(1)(a) or (b)”.

15 Part 9, paragraph 47(3)(b)

Repeal the paragraph, substitute:

(b) for a decision referred to in paragraph (1)(a) made by the Chief Executive Medicare or a decision referred to in paragraph 1(c) made by a person mentioned in paragraph (a) of the definition of ***responsible officer***, a person mentioned in paragraph (b) of that definition (the ***reviewing officer***); or

(c) for a decision referred to in paragraph (1)(c) made by a person mentioned in paragraph (b) of the definition of ***responsible officer***, a Deputy Secretary of the Department (the ***reviewing officer***).

16 Part 9, subsection 47(4)

Substitute:

(4) A Departmental employee (within the meaning of the *Human Services (Medicare) Act 1973*) must not be authorised as a reviewing officer unless the employee has a classification higher than the classification of the official who made the original decision.

17 Part 9, section 48

Omit “an authorised officer”, substitute “a responsible officer”.

18 Part 10, section 52, definition of *authorised officer*

Repeal definition.

19 Part 10, section 52

Insert:

***base fee*** means a fee of $250,000 paid to a contractor in respect of meeting the obligations imposed on it by this Scheme.

20 Part 10, section 52

Insert:

***responsible officer*** means a person for the time being holding or occupying the position of:

(a) the Assistant Secretary of the Branch of the Department which has responsibility for administering the Scheme; or

(b) the First Assistant Secretary of the Division of the Department which has responsibility for administering the Scheme.

21 Part 10, section 52, definition of *UMP support payment*

Repeal the definition.

22 Part 10, section 52, at the end of the definition of *non-therapeutic cosmetic procedure*

Omit “*1973.*” and substitute “*1973* or a health service specified in a determination made under subsection 3C(1) of that Act.”

23 Part 10, section 52, definition of *procedural general practitioner*

Omit:

one or more of the following professional services mentioned in the general medical services table, as amended from time to time, under the *Health Insurance Act 1973*:

Substitute:

professional services mentioned in the general medical services table under the *Health Insurance Act 1973*, or health services specified in a determination made under subsection 3C(1) of the *Health Insurance Act 1973*, of one or more of the following types:

Part 2 – Transitional provisions

24 Application

If, prior to the amendments made by this Schedule:

(a) an authorised officer has made a determination under Part 8 of the Scheme; or

(b) the Chief Executive Medicare has made a decision under paragraph 13(2)(b) not to approve a later date,

Part 9 of the Scheme applies in relation to that determination or decision as if the amendments made by this Schedule had not been made.