

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health
Health Insurance Act 1973

Health Insurance (Allied Health Services) Amendment Determination 2014 (No. 1)

Subsection 3C(1) of the *Health Insurance Act 1973* (the Act) provides that the Minister may determine in writing that a health service not specified in an item in the General Medical Services Table (the Table) shall, in specified circumstances and for specified statutory provisions, be treated as if it were so specified. The Table is set out in the *Health Insurance (General Medical Services Table) Regulations* (the Regulations), which are re-made each year.

Purpose

The purpose of the *Health Insurance (Allied Health Services) Amendment Determination 2014 (No. 1)* (the Determination) is to amend the *Health Insurance (Allied Health Services) Determination 2014* (the Principal Determination) to add Rett's disorder as an eligible disability for which Medicare-eligible allied health services may be provided through the Better Start for Children with Disability initiative. The Determination also removes redundant provisions and corrects minor errors.

Medicare benefits are payable for a number of allied health services, including psychology, speech pathology, occupational therapy and audiology health services, for children under 13 years (for diagnostic services) and under 15 years (for treatment services) with 'autism or another pervasive developmental disorder' or an 'eligible disability'.

Under the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM-4) Rett's disorder was considered a pervasive developmental disorder. However under DSM-5, published in 2013, Rett's disorder is no longer considered a pervasive developmental disorder. To ensure that children with Rett's disorder are not disadvantaged by the removal of Rett's disorder as a pervasive developmental disorder in DSM-5, from 1 March 2014 the list of eligible disabilities will expand to include Rett's disorder. The addition of Rett's disorder as an 'eligible disability' will ensure that eligible children diagnosed with Rett's disorder will continue to be able to access the relevant Medicare items by virtue of having an 'eligible disability'.

The Determination also amends item 18 of Schedule 1 to the Principal Determination, which specifies qualification requirements for speech pathologists to be eligible to provide Medicare services. The Principal Determination previously provided that a Queensland speech pathologist who had been eligible to provide Medicare services because they were registered under the (now repealed) *Speech Pathologists Registration Act 2001* (Qld) on 30 April 2013 would continue to be eligible until 31 August 2013.

From 1 September 2013 all speech pathologists in Australia have been required to hold membership of Speech Pathology Australia to be eligible to provide Medicare services. The Determination removes the redundant grandfathering provision.

The Determination also corrects an erroneous reference in the item descriptors of items 82000 to 82035, omitting references to the Department of Human Resources and replacing with reference to the Department of Human Services.

Consultation

The Department of Social Services (DSS) is the lead agency for the Better Start for Children with Disabilities initiative. In June and July 2013 the (then) Department of Families, Housing, Community Services and Indigenous Affairs (now DSS) held consultations in all capital cities on the impact of the adoption of DSM-5 in Australia.

Attendees at the consultations include representatives from:

- Children with Disability Australia
- Carers NSW and Carers NT
- Mental Health Council Australia
- the allied health peak bodies of Speech Pathology Australia
- Occupational Therapy Australia
- the Australian Psychological Society
- The Royal Australian and New Zealand College of Psychiatrists
- The Royal Australasian College of Physicians
- State and territory education
- National Disability Insurance Agency (NDIA)
- State and National Offices of the Department of Social Services
- a range of allied health professionals from government and non-government organisations.

A national workshop of key experts was also held on 30 July by the then Department of Families, Housing, Community Services and Indigenous Affairs.

The finding of the consultation process was support for Rett's disorder to be included separately as an eligible diagnosis under the Better Start for Children with Disability initiative.

The determination commences on 1 March 2014.

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

Statement of Compatibility with Human Rights

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

Health Insurance (Allied Health Services) Amendment Determination 2014 (No. 1)

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 *Health Insurance (Allied Health Services) Amendment Determination 2014 (No. 1)* (the Determination):

- adds Rett's disorder as an eligible childhood development disability for which Medicare-eligible allied health services may be provided through the Better Start for Children with Disability initiative;
- removes a grandfathering provision in relation to qualifications required for Queensland speech pathologists to provide Medicare funded services, as the provision ceased to have effect on 1 September 2013 and is now redundant; and
- corrects a number of erroneous references to the Department of Human Resources, replacing these with reference to Department of Human Services.

Human Rights Implications

This Legislative Instrument engages the following human rights:

Right to health and social security

This Legislative Instrument facilitates ongoing access to Medicare funded health care services for children with Rett's disorder.

Medicare benefits are payable for a number of allied health services, including psychology, speech pathology, occupational therapy and audiology health services, for children under 13 years (for diagnostic services) and under 15 years (for treatment services) with 'autism or another pervasive developmental disorder' or an 'eligible disability'.

Under the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM-4) Rett's disorder was considered a pervasive developmental disorder. However under DSM-5, published in 2013, Rett's disorder is no longer considered a pervasive developmental disorder.

To ensure that children with Rett's disorder are not disadvantaged by the removal of Rett's disorder as a pervasive developmental disorder in DSM-5, from 1 March 2014 the list of eligible disabilities will expand to include Rett's disorder. The addition of Rett's disorder as an 'eligible disability' will ensure that eligible children diagnosed with Rett's disorder will continue to be able to access the relevant Medicare items by virtue of having an 'eligible disability'.

This amendment promotes the rights of children with Rett's disorder in terms of access to affordable health services.

There are no human rights implications in relation to the removal of the grandfathering provisions for speech pathologists, or the correction of minor errors in terminology.

Conclusion

This Legislative Instrument is compatible with human rights.

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