

EXPLANATORY STATEMENT

Veterans' Affairs (Treatment Principles – Lodgment of Claims by Providers) Amendment Instrument 2016 (Instrument 2016 No. R3/MRCC3)

EMPOWERING PROVISIONS

For Schedule 1 of the attached instrument — subsection 90(4) of the *Veterans' Entitlements Act 1986* (the VEA).

For Schedule 2 of the attached instrument — subsection 286(2) of the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

PURPOSE

The attached instrument (2016 No.R3/MRCC3) varies the legislative instruments known as the *Treatment Principles* (VEA Treatment Principles) and the *MRCA Treatment Principles* (hereinafter collectively referred to as the Treatment Principles).

The Treatment Principles set out the circumstances in which treatment may be provided to clients of the Department of Veterans' Affairs (DVA).

The purpose of the variations to the Treatment Principles made by the attached instrument is to reduce, from 5 years to 2 years, the period a health care provider has to lodge a claim for payment from the date they render the service, and to remove a redundant provision of the VEA Treatment Principles.

Part 3 of the Treatment Principles sets out, amongst other matters, the circumstances in which the Repatriation Commission or the Military Rehabilitation and Compensation Commission as applicable will accept financial responsibility for the treatment of DVA clients by health care providers. These circumstances apply to the types of treatment covered by the Treatment Principles including medical and allied health treatment.

Currently, paragraph 3.5.2 of the Treatment Principles allows a period of five years, from the date the service was provided, for health care providers to lodge a claim for the relevant Commission to accept financial responsibility for the treatment costs. The Department of Human Services (DHS) rules require providers to submit Medicare claims within two years from the date of service. The current DVA time frame for health care providers to lodge claims is inconsistent with DHS time frame and places an unnecessary burden on DVA to store data and manage late lodged claims.

Accordingly, the amendments will align the DVA claiming rules with that of DHS and standardise service provision in line with a whole-of-government approach.

The Treatment Principles provide discretion for the Commissions to assess a claim outside the lodgment period where there are adequate grounds including any hardship likely to be caused to the claimant if the claim is not assessed.

The amendments to the VEA Treatment Principles made by the attached instrument will automatically apply to the Treatment Principles in place under the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (Instrument 2006 No. 54) without the need for separate amendment, by virtue of that Act.

Further details of the attached instrument are set out in Attachment A.

CONSULTATION

Yes. The Department of Human Services has been consulted on an ongoing basis.

Health care providers have been advised of the change via their professional peak bodies and advisory representatives prior to implementation. Health care providers will be further informed by way of information published on the DHS and DVA websites and disseminated via industry conferences and meetings.

The nature of the consultation included formal email advice dispatched to provider peak bodies, dissemination of information via departmental website postings, and distribution of information at industry conferences.

RETROSPECTIVITY

No.

DOCUMENTS INCORPORATED BY REFERENCE

No.

REGULATORY IMPACT

None.

HUMAN RIGHTS STATEMENT

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

The attached instrument does not engage a human right or freedom recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

The instrument aligns the timeframe for health care providers to lodge claims for payment of services rendered to DVA clients with the timeframes in place for lodgment of claims with the Department of Human Services (Medicare). It is an

administrative step designed to streamline and standardise payment processes. The instrument does not impact on the rights of veterans or other DVA clients.

Conclusion

The instrument is compatible with human rights as it does not engage with any human rights issues.

Dan Tehan
Minister for Veterans' Affairs
Rule-Maker

FURTHER EXPLANATION OF PROVISIONS

See Attachment A.

Attachment A

FURTHER EXPLANATION OF PROVISIONS

Section 1

This section sets out the name of the instrument - *Veterans' Affairs (Treatment Principles – Lodgment of Claims by Providers) Amendment Instrument 2016*.

Section 2

This section provides that the instrument commences on 31 March 2016.

Section 3

This section sets out the primary legislation that authorises the making of the instrument, namely the *Veterans' Entitlements Act 1986* (in respect of the amendments to the Treatment Principles under that Act) and the *Military Rehabilitation and Compensation Act 2004* (in respect of the amendments to the MRCA Treatment Principles).

Section 4

This is a transitional provision which provides that claims lodged before the commencement date of the attached instrument (31 March 2016) are to be processed in accordance with the provisions of the Treatment Principles as they stood immediately before that commencement date. This ensures that health care providers who have lodged claims before the commencement date of this instrument continue to have the benefit of the 5 year lodgment period in respect of those claims.

Section 5

This section provides for the variations to Treatment Principles and the MRCA Treatment Principles set out in the Schedules to have effect.

Schedule 1 - Variations to the Treatment Principles (Instrument 2013 No. R52)

Item 1

This item reduces the claim period, in paragraph 3.5.2, from 5 years to 2 years. Paragraph 3.5.2, amongst other things, sets out the period within which a health care provider is to lodge a claim for payment in respect of treatment. The time period runs from the date the health care provider renders the service to which the claim relates.

Item 2

This item makes a corresponding change to paragraph 3.5.2A to amend the reference to the claim period from 5 years to 2 years. Paragraph 3.5.2A gives the Commission discretion to allow a longer period for lodging a claim.

Item 3

This item omits paragraph 3.5.2C which deals with the procedure for lodgment of claims in respect of treatment provided before 1 July 1999. The provision is redundant given the passage of time and can safely be omitted.

Schedule 2 - Variations to the MRCA Treatment Principles (Instrument 2013 No. MRCC53)

Item 1

This item reduces the claim period, in paragraph 3.5.2, from 5 years to 2 years. Paragraph 3.5.2, amongst other things, sets out the period within which a health care provider is to lodge a claim for payment in respect of treatment. The time period runs from the date the health care provider renders the service to which the claim relates.

Item 2

This item makes a corresponding change to paragraph 3.5.2A to amend the reference to the claim period from 5 years to 2 years. Paragraph 3.5.2A gives the Commission discretion to allow a longer period for lodging a claim.