



Health Insurance (Professional Services Review — Sampling Methodology) Determination 2017

Health Insurance Act 1973

I, GREG HUNT, Minister for Health, make this Determination under subsection 106K (3) of the *Health Insurance Act 1973*.

Dated 15 March 2017

GREG HUNT
Minister for Health

Contents

| | | |
|---------------|---|----------|
| Part 1 | Preliminary | 3 |
| 1 | Name of Determination | 3 |
| 2 | Commencement | 3 |
| 3 | Authority | 3 |
| 4 | Schedules | 3 |
| 5 | Definitions | 3 |
| Part 2 | Sampling methodology | 4 |
| 6 | Purpose | 4 |
| 7 | Application of sampling methodology | 4 |
| 8 | Sample | 4 |
| 9 | Determining percentage of inappropriate practice in sample | 5 |
| 10 | Disregarding sample results less than 10% | 5 |
| Part 3 | Transitional | 6 |
| 11 | Definitions | 6 |
| 12 | Continued operation of the previous determination to certain investigations | 6 |
| | Schedule 1—Repeals | 7 |
| 1 | The whole of the Determination | 7 |

Part 1 Preliminary

1 Name of Determination

This Determination is the *Health Insurance (Professional Services Review – Sampling Methodology) Determination 2017*.

2 Commencement

This Determination commences on the day after it is registered.

3 Authority

This Determination is made under section 106K of the *Health Insurance Act 1973*.

4 Schedules

Each instrument that is specified in a Schedule to this Determination is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this Determination:

Act means the *Health Insurance Act 1973*.

final report means:

- (a) a final report prepared under section 106L of the Act; or
- (b) a draft report prepared under section 106KD of the Act that is, because of the operation of section 106KE of the Act, also a final report.

Note 1 The following terms that are used in this Determination are defined in subsection 3 (1) of the Act:

- initiate
- item.

Note 2 The following terms that are used in this Determination are defined in subsection 81 (1) of the Act:

- class of services
- Committee
- inappropriate practice
- person under review
- referred services
- service.

Part 2 Sampling methodology

6 Purpose

This Part specifies the content and form of a sampling methodology that may be used by a Committee in investigating the provision of services included in a particular class of referred services, where regard is to be had only to a sample of the services included in the class.

7 Application of sampling methodology

The sampling methodology specified in this Part is applicable to services provided, within the meaning given by subsection 81 (2) of the Act, that are:

- (a) individual items; or
- (b) multiple items for the same patient on 1 occasion; in a particular class of referred services.

8 Sample

- (1) Under this methodology, the Committee must have regard to a sample of no fewer than 25 provided services randomly drawn from a class of referred services being investigated.
- (2) The Committee may:
 - (a) omit a service from the sample; and
 - (b) include another provided service, randomly drawn from the same class, in its place.
- (3) If the Committee omits a service and includes another provided service in its place under subsection (2), the Committee must state its reasons for doing so in the draft report and final report it prepares in respect of the person under review to whom the sample relates.

Note The Committee must prepare a draft report under section 106KD of the Act, and a final report under section 106L of the Act, in relation to its findings. The draft report may also constitute a final report, where all or a majority of the Committee do not find the person under review engaged in inappropriate practice (see section 106KE of the Act).

Section 10

9 Determining percentage of inappropriate practice in sample

- (1) A Committee relying on subsection 106K (1) of the Act must work out, in accordance with subsection (2), the proportion of services in the sample in relation to the provision of which the person under review engaged in inappropriate practice.
- (2) For subsection (1), the proportion is to be expressed as a percentage, as follows:

$$100 \times \left(d - \sqrt{\frac{4d \times (1-d) \times (N-s)}{N \times (s-1)}} \right)$$

where:

d is the number of services in the sample that the Committee has determined are services in relation to the provision of which the person under review engaged in inappropriate practice, divided by *s*.

s is the number of services in the sample.

N is the number of services in the class.

- (3) If the percentage worked out under subsection (2) is not a whole percentage, it is to be rounded down to the nearest whole percentage.

10 Disregarding sample results less than 10%

For the purpose of subsection 106K (1) of the Act, the methodology specified in this Determination may be used by a Committee only if the percentage worked out under section 9 is equal to, or greater than, 10% of the sample of the particular class of referred services under investigation.

Note 1 It is considered that no conclusion can be drawn from a result less than 10%, because the result may not be statistically valid.

Note 2 Information about a service may be considered under section 106H of the Act even if, because of this section, a sample including that service cannot be considered under section 106K of the Act.

Part 3 Transitional

11 Definitions

In this Part:

commencement time means the commencement of this Determination.

previous determination means *Health Insurance (Professional Services Review — Sampling Methodology) Determination 2006* as in force immediately before the commencement time.

12 Continued operation of the previous determination to certain investigations

- (1) This section applies if:
 - (a) before the commencement time a referral has been made to a Committee under section 93 of the Act to investigate the provision of services by a person under review; and
 - (b) a final report has not been made in relation to the investigation at the commencement time.
- (2) Despite the repeal of the previous determination, it continues to apply to the investigation of the provision of services after the commencement time as if the repeal had not happened.

Schedule 1—Repeals

Health Insurance (Professional Services Review – Sampling Methodology) Determination 2006

1 The whole of the Determination

Repeal the Determination.