

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health

Health Insurance Act 1973

Health Insurance (Allied Health Services) Amendment (Psychological Telehealth Services) Determination 2017

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 the purpose of specified statutory provisions, be treated as if it were specified in the Table. This Table is set out in the *Health Insurance (General Medical Services Table) Regulation*, which is re-made each year.

The purpose of the *Health Insurance (Allied Health Services) Amendment (Psychological Telehealth Services) Determination 2017* (the Amendment Determination) is to amend the *Health Insurance (Allied Health Services) Determination 2014* (the Principal Determination). The Principal Determination sets out items that may be provided as Medicare-eligible services by appropriately qualified allied health professionals, including but not limited to psychologists, occupational therapists and social workers.

The Principal Determination is being amended to implement the Telehealth Access to Psychological Services 2017-18 Budget measure which will commence from 1 November 2017. The Amendment Determination creates 12 new MBS items to allow allied health professionals to provide Medicare-eligible services via video conference.

The Better Access initiative was originally established in November 2006 and aims to improve outcomes for people with a clinically diagnosed mental disorder through evidence-based treatment. Under Better Access, a patient with a GP Mental Health Treatment Plan, shared care plan or as part of a psychiatrist assessment and management plan, is eligible for Medicare rebates for selected mental health services.

In the 2017-18 Budget, the Government announced funding of \$9.1 million over four years to enable Australians who live in rural and regional Australia to access the Medicare Better Access services via video conferencing.

The Amendment Determination expands the current Better Access items to allow people in Modified Monash Model regions four to seven to access up to seven of 10 consultations through video conferencing. Relevant services can be delivered by clinical psychologists, registered psychologists, occupational therapists and social workers. The availability of services to patients in Modified Monash Model regions four to seven will ensure that the services go to areas with the biggest access challenges.

Mental health professionals will be able to provide psychological services from their resident location, whether it be in an urban or a larger regional centre, to patients in rural and remote communities.

Details of the Amendment Determination are set out in the Attachment.

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

This Amendment Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

This Amendment Determination commences on 1 November 2017.

Consultation

Consultation since the announcement by the Government in May 2017 has been undertaken with key stakeholders and has included Primary Health Networks, professional associations, rural and digital services and consumer groups. A comprehensive list of stakeholders consulted is provided below.

Primary Health Networks (PHNs) with MMM4-7 within their catchment areas

- Central Queensland, Wide Bay, Sunshine Coast PHN
- Country SA PHN
- Country WA PHN
- Gippsland PHN
- Hunter New England Central Coast PHN
- Murray PHN
- Northern Queensland PHN
- Northern Territory PHN
- Tasmania PHN
- Western NSW PHN

Professional Associations

- Australian Psychological Society (APS)
- Australian Association of Social Workers (AASW)
- Occupational Therapy Australia (OTA)
- The Royal Australian College of General Practitioners (RACGP)
- The Royal Australian and New Zealand College of Psychiatrists (RANZCP)
- Australian Medical Association
- NSW Rural Doctors Network
- Indigenous Allied Health Australia
- Services for Australian Rural & Remote Allied Health (SARRAH)
- Council of Remote Area Nurses of Australia (CRANApplus)
- National Rural Health Alliance

Rural and Digital Services

- Royal Flying Doctor Service (RFDS)
- Centre for Biopsychosocial and eHealth Research and Innovation (CBeRI)
- E-Mental Health in Practice (eMHPrac)

Consumers / Carers / Advocates

- Private Mental health Consumer Carer Network
- National Mental Health Consumer and Carer Forum
- The Australian Association of Mental Health Consumers

Details of the *Health Insurance (Allied Health Services) Amendment (Psychological Telehealth Services) Determination 2017*

Section 1 – Name of Determination

Section 1 provides that the name of the Determination is the *Health Insurance (Allied Health Services) Amendment (Psychological Telehealth Services) Determination 2017* (the Amendment Determination).

Section 2 – Commencement

Section 2 provides that the Amendment Determination commences on 1 November 2017.

Section 3 – Authority

Section 3 provides that the Amendment Determination is made under section 3C of the *Health Insurance Act 1973*.

Section 4 – Schedules

Section 4 provides that the Schedule to the Amendment Determination amends or repeals each instrument specified in the Schedule. The Schedule specifies the *Health Insurance (Allied Health Services) Determination 2014* (the Principal Determination).

Schedule 1 – Amendments

Item 1 – Subsection 4(1)

Item 1 inserts a new definition into the Principal Determination to support the amendments. Specifically, it inserts a definition for the telehealth eligible area.

Item 2 – Subsection 6(2)

Item 2 repeals Subsection 6(2) which relates to exceptional circumstances allowing additional items to be claimed in a calendar year, during the limited time from 1 March 2012 until midnight 31 December 2012. The exceptional circumstances are no longer in place and Subsection 6(2) is therefore repealed.

Item 3 – Subsection 6(3)

Item 3 omits “From 1 January 2013, for” and substitutes that with “For”. With the repeal of Subsection 6(2) as outlined in Item 2, there is no longer a need to refer to a specific date from which the items apply.

Item 4 – Subsection 6(4)

Item 4 repeals the subsection and substitutes it with the text below to remove the definition ‘exceptional circumstances’ as per the repeal of ‘exceptional circumstances’ outlined in Item 2:

- (4) In this section *relevant service* means a service to which any of items 2721 to 2727 of the general medical services table, or items 80000 to 80015, 80100 to 80115, 80125 to 80140, or 80150 to 80165 in Schedule 2, apply.

Item 5 – Subsection 6A(2)

Item 5 repeals the subsection and substitutes it with the text below to incorporate the new items in the subsection:

- (2) The items are items 80020, 80021, 80120, 80121, 80145, 80146, 80170 and 80171 in Schedule 2.

Item 6 – After Section 6A

Item 6 inserts new sections 6B, 6C and 6 D into the Principal Determination. Sections 6B and 6C specify the limitation on certain individual psychological telehealth items (6B) and certain group psychological telehealth items (6C). These limitations are:

- people in Modified Monash Model regions four to seven may access up to seven of 10 Better Access consultations through video conferencing, with one of the first four consultations to be conducted face-to-face; and
- the specified telehealth item may only apply if the service described in the item is:
 - (a) by video conference; and
 - (b) delivered to a patient that is not an admitted patient; and
 - (c) delivered to a patient that is located within a telehealth eligible area; and
 - (d) delivered to a patient that is, at the time of the attendance, at least 15 kilometres by road from the treating psychologist, occupational therapist or social worker.

Section 6D defines a telehealth eligible area for the purposes of the new items. These eligible areas are Modified Monash Model areas four to seven.

Item 7 – Section 7, Subsection (1)

Section 7 imposes certain conditions on the referral of a patient for psychological therapy and focussed psychological strategies items. Subsection 7(1) lists the range of items to which the conditions in section 7 apply.

Item 7 replaces Subsection 7(1) to substitute the item range of 80000 to 80170 with 80000 to 80171.

Item 8 – Schedule 2, Part 2

Part 2 within Schedule 2 outlines the psychological therapy and focussed psychological strategies items.

Item 3 replaces all of Part 2. While all of Part 2 is being repealed and substituted for administrative simplicity, not all items within of Part 2 are being amended.

There are no changes to items 80005, 80015, 80105, 80115, 80130, 80140, 80155 and 80165.

Items 80000, 80010, 80100, 80110, 80125, 80135, 80150 and 80160 changes are limited to replacing “(aa) (b) (c) (d)” with “(b) (c) (d) (e)”.

Items 80020, 80120, 80145 and 80170 changes are limited to replacing “(aa) (b)” with “(b) (c)”.

Items 80001, 80011, 80021, 80101, 80111, 80121, 80126, 80136, 80146, 80151, 80161 and 80171 are new and each specify the requirements the service must satisfy in order to be Medicare-eligible for telehealth psychological therapy and focussed psychological strategies.

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 (Psychological Telehealth Services) Determination 2017

This Disallowable 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 Disallowable Legislative Instrument

The Disallowable Legislative Instrument amends the *Health Insurance (Allied Health Services) Determination 2014* to ensure that Medicare-eligible telehealth psychological therapy and focussed psychological strategies services are accessible for patients located in Modified Monash Model regions four to seven.

A telehealth service is a service delivered via video conference where both a visual and audio link has been established between provider and patient. The patient must be located in an area within Modified Monash Model regions four to seven and, at the time of consultation, be at least 15 kilometres by road from the treating psychologist, occupational therapist or social worker.

Human rights implications

The Disallowable Legislative Instrument engages Articles 9 and 12 of the International Covenant on Economic Social and Cultural Rights (ICESCR), specifically the right to social security, including social insurance, and the right to the enjoyment of the highest attainable standard of physical and mental health.

The Disallowable Legislative Instrument ensures that subsidised psychological therapy and focussed psychological strategies services are available for a person who is located in Modified Monash Model regions four to seven.

Conclusion

The Disallowable Legislative Instrument is compatible with human rights because it ensures that people who need mental health services, but who might otherwise not have been able to access these services because of where they live, will have access to mental health services from their home location via video conference. Mental health services via video conference will be available for patients from smaller country towns where the biggest access challenges are faced.

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