

EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance (General Medical Services Table) Amendment (Medication Reviews) Regulations 2017

Subsection 133(1) of the *Health Insurance Act 1973* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Part II of the Act provides for the payment of Medicare benefits for professional services rendered to eligible persons. Section 9 of the Act provides that Medicare benefits be calculated by reference to the fees for medical services set out in prescribed tables.

Subsection 4(1) of the Act provides that regulations may prescribe a table of medical services which set out items of services, the fees applicable for each item, and rules for interpreting the tables. The *Health Insurance (General Medical Services Table) Regulations 2017* (GMST) prescribes such a table.

Purpose

The purpose of the *Health Insurance (General Medical Services Table) Amendment (Medication Reviews) Regulations 2017* (the Regulations) is to amend item 900 in the GMST from 1 February 2018. This is to reflect changes to the Home Medicines Review (HMR) program, which was announced in the 2017-18 Budget as part of the *Improving Access to Medicines — support for community pharmacies* measure.

The intent of this change is to ensure alignment of the eligibility criteria for the targeted group across the Medicare item and related community pharmacy Home Medicines Review program, and supports the ongoing collaboration of a patient's General Practitioner (GP) and community pharmacist in the implementation of the resulting Medication Management plan.

Item 900 has been amended to make it mandatory for GPs to provide the patient's Domiciliary Medication Management plan to the patient's choice of Community Pharmacy, subject to the patient's consent. This will work to ensure that the patient's usual pharmacist is better informed to provide appropriate ongoing assistance to patients with their complex medication management needs, enhancing the quality use of medicines and reduce the number of adverse medicines events, in line with the plan that has been formulated by the GP for this purpose.

Consultation

Consultation with the Pharmacy Guild of Australia has been undertaken to support the alignment of the Medicare item with the program eligibility requirements under the Home Medicines Review. The Royal Australian College of General Practitioners and Australian Medical Association have been advised in writing of these changes.

Details of the Regulations are set out in the [Attachment](#).

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

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 1 February 2018.

Authority: Subsection 133(1) of the
Health Insurance Act 1973

ATTACHMENT

Details of the *Health Insurance (General Medical Services Table) Amendment (Medication Reviews) Regulations 2017***Section 1 – Name**

This section provides for the Regulations to be referred to as the *Health Insurance (General Medical Services Table) Amendment (Medication Reviews) Regulations 2017*.

Section 2 – Commencement

This section provides that the Regulations commence on 1 February 2018.

Section 3 – Authority

This section provides that the Regulations are made under the *Health Insurance Act 1973*.

Section 4 – Schedule(s)

This section provides that 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***Health Insurance (General Medical Services Table) Regulations 2017*****Item 1 - Schedule 1 (cell at item 900, column headed “Description”)**

This item repeals and substitutes the current item descriptor for item 900 to clarify the requirements of GPs when billing this item. Further information on this change can be found in the front of the explanatory statement.

Statement of Compatibility with Human Rights

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

Health Insurance (General Medical Services Table) Amendment (Medication Reviews) Regulations 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 purpose of the *Health Insurance (General Medical Services Table) Amendment (Medication Reviews) Regulations 2017* (the Regulations) is to amend item 900 in the GMST from 1 February 2018. This is to reflect changes to the Home Medicines Review (HMR) program, which was announced in the 2017-18 Budget as part of the *Improving Access to Medicines — support for community pharmacies* measure.

The intent of this change is to ensure alignment of the eligibility criteria for the targeted group across the Medicare item and related community pharmacy Home Medicines Review program, and supports the ongoing collaboration of a patient's General Practitioner (GP) and community pharmacist in the implementation of the resulting Medication Management plan.

Item 900 has been amended to make it mandatory for GPs to provide the patient's Domiciliary Medication Management plan to the patient's choice of Community Pharmacy, subject to the patient's consent. This will work to ensure that the patient's usual pharmacist is better informed to provide appropriate ongoing assistance to patients with their complex medication management needs, enhancing the quality use of medicines and reduce the number of adverse medicines events, in line with the plan that has been formulated by the GP for this purpose.

Human rights implications

The Regulations engage Articles 9 and 12 of the International Covenant on Economic Social and Cultural Rights (ICESCR), specifically the rights to health and social security.

The Right to Health

The right to the enjoyment of the highest attainable standard of physical and mental health is contained in Article 12(1) of the ICESCR. The UN Committee on Economic Social and Cultural Rights (the Committee) has stated that the right to health is not a right for each individual to be healthy, but is a right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

The Committee reports that the '*highest attainable standard of health*' takes into account the country's available resources. This right may be understood as a right of access to a variety of public health and health care facilities, goods, services, programs, and conditions necessary for the realisation of the highest attainable standard of health.

The Right to Social Security

The right to social security is contained in Article 9 of the ICESCR. It requires that a country must, within its maximum available resources, ensure access to a social security scheme that

provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care. Countries are obliged to demonstrate that every effort has been made to use all resources that are at their disposal in an effort to satisfy, as a matter of priority, this minimum obligation.

The Committee reports that there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under ICESCR. In this context, a retrogressive measure would be one taken without adequate justification that had the effect of reducing existing levels of social security benefits, or of denying benefits to persons or groups previously entitled to them. However, it is legitimate for a Government to re-direct its limited resources in ways that it considers to be more effective at meeting the general health needs of all society, particularly the needs of the more disadvantaged members of society.

Analysis

The Regulations will maintain rights to health and social security by ensuring access to publicly subsidised health services which are clinically effective and cost-effective.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Greg Hunt

Minister for Health