

Health Insurance (Professional Services Review Scheme) Regulations 2019

made under the

Health Insurance Act 1973

**Compilation No. 1**

**Compilation date:** 1 January 2022

**Includes amendments up to:** F2021L01815

**Registered:** 21 January 2022

**About this compilation**

**This compilation**

This is a compilation of the *Health Insurance (Professional Services Review Scheme) Regulations 2019* that shows the text of the law as amended and in force on 1 January 2022 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This instrument is the *Health Insurance (Professional Services Review Scheme) Regulations 2019*.

3 Authority

This instrument is made under the *Health Insurance Act 1973*.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

(a) general medical services table;

(b) general practitioner;

(c) Human Services Department;

(d) medical practitioner;

(e) professional service.

In this instrument:

***Act*** means the *Health Insurance Act 1973*.

***practitioner*** has the same meaning as in Part VAA of the Act.

***relevant phone service*** means a service specified in any of the following items of the general medical services table:

(a) an item in any of the following Subgroups of Group A40:

(i) Subgroup 2;

(ii) Subgroup 8;

(iii) Subgroup 10;

(iv) Subgroup 16;

(v) Subgroup 20;

(vi) Subgroup 28;

(vii) Subgroup 40;

(viii) Subgroup 41;

(b) an item in Subgroup 3 of Group A45;

(c) an item listed in the following table.

| Relevant phone services—individual items | | |
| --- | --- | --- |
| Item | Column 1  Group or Subgroup | Column 2  Items of the general medical services table |
| 1 | Subgroup 26 of Group A40 | 92176, 92177 |
| 2 | Subgroup 1 of Group A41 | 93302, 93305 |
| 3 | Subgroup 2 of Group A41 | 93308, 93311 |
| 4 | Subgroup 2 of Group A42 | 93423 |
| 5 | Subgroup 4 of Group A42 | 93453 |

Note: Some services are specified in items set out in determinations under subsection 3C(1) of the Act.

***relevant service*** means a service specified in any of the following items of the general medical services table:

(a) an item in Group A1, A2, A5, A6, A7, A9, A11, A13, A14, A15, A17, A18, A19, A20, A21, A22, A23, A27, A35, A39, A41, A42, A43 or A45;

(b) an item in Subgroup 1 or 4 of Group A36;

(c) an item in any of the following Subgroups of Group A40:

(i) Subgroup 1;

(ii) Subgroup 2;

(iii) Subgroup 3;

(iv) Subgroup 10;

(v) Subgroup 11;

(vi) Subgroup 13;

(vii) Subgroup 15;

(viii) Subgroup 16;

(ix) Subgroup 19;

(x) Subgroup 20;

(xi) Subgroup 21;

(xii) Subgroup 27;

(xiii) Subgroup 28;

(xiv) Subgroup 29;

(xv) Subgroup 39;

(xvi) Subgroup 40;

(xvii) Subgroup 41;

(d) an item listed in the following table.

| Relevant services—individual items | | |
| --- | --- | --- |
| Item | Column 1  Group or Subgroup | Column 2  Items of the general medical services table |
| 1 | A29 | 139 |
| 2 | A36 | 90264, 90265 |
| 3 | Subgroup 17 of Group A40 | 92142 |
| 4 | Subgroup 25 of Group A40 | 92170, 92171 |
| 5 | Subgroup 26 of Group A40 | 92176, 92177 |

Note: Some services are specified in items set out in determinations under subsection 3C(1) of the Act.

***service*** has the same meaning as in Part VAA of the Act.

Part 2—Prescribed matters for definitions

6 Standards for adequate and contemporaneous records

For the purposes of the definition of ***adequate and contemporaneous records*** in subsection 81(1) of the Act, the standards for a record of the rendering or initiation of services to a patient by a practitioner are that:

(a) the record must include the name of the patient; and

(b) the record must contain a separate entry for each attendance by the patient for a service; and

(c) each separate entry for a service must:

(i) include the date on which the service was rendered or initiated; and

(ii) provide sufficient clinical information to explain the service; and

(iii) be completed at the time, or as soon as practicable after, the service was rendered or initiated; and

(d) the record must be sufficiently comprehensible to enable another practitioner to effectively undertake the patient’s ongoing care in reliance on the record.

7 Exceptional circumstances in relation to inappropriate practice

For the purposes of subsection 82(1D) of the Act, each of the following circumstances are exceptional circumstances for a particular day for a practitioner:

(a) an unusual occurrence causing an unusual level of need for relevant services on the day;

(b) an absence, on the day, of other medical services for the practitioner’s patients, having regard to:

(i) the location of the practitioner’s practice; and

(ii) the characteristics of the practitioner’s patients.

8 Circumstances for medical practitioners for prescribed pattern of services

For the purposes of section 82A of the Act, circumstances in which services rendered or initiated by a medical practitioner constitute a ***prescribed pattern of services*** are that:

(a) the medical practitioner renders or initiates 80 or more relevant services on each of 20 or more days in a 12 month period; or

(b) the medical practitioner renders or initiates 30 or more relevant phone services on each of 20 or more days in a 12 month period.

Part 3—Professional Services Review Committees

9 Allowances for witnesses at hearings

(1) This section is made for the purposes of subsection 106C(1) of the Act and deals with allowances for expenses in respect of attendance by a person summoned to appear as a witness at a hearing before a Professional Services Review Committee.

Kinds of allowances

(2) The allowances for a witness are the following:

(a) attendance allowance in accordance with subsection (3) or (4) as applicable;

(b) travel allowance in accordance with subsection (5).

Amount of attendance allowance

(3) For a witness attending because of the witness’ professional, scientific or other special skill or knowledge, the amount of attendance allowance is equal to the witness’ actual fees for preparing to give evidence and of attending to give evidence.

(4) For a witness other than a witness mentioned in subsection (3), the amount of attendance allowance is equal to:

(a) if the witness is paid by salary—any salary actually lost because of the attendance; or

(b) if the witness is paid by wages—any wages actually lost because of the attendance; or

(c) if the witness is paid by fees—any fees actually lost because of the attendance;

up to a maximum of $527 per day.

Amount of travel allowance

(5) The amount of travel allowance for a witness is a reasonable amount, determined in relation to the witness by the Professional Services Review Committee, for:

(a) transport to and from the hearing; and

(b) if the witness is required to be absent overnight from the witness’ usual place of residence—meals and accommodation during the absence.

Part 4—Referral of professional issues to regulatory and other bodies

10 Specified persons and bodies—significant threat to life or health

(1) For the purposes of paragraph 106XA(4)(a) of the Act, this section specifies persons and bodies for persons who render professional services.

General practitioners

(2) The following persons and bodies are specified for a person who renders professional services who is a general practitioner:

(a) the Australian College of Rural and Remote Medicine;

(b) Australian General Practice Accreditation Limited;

(c) the Australian Health Practitioner Regulation Agency;

(d) the Health Care Complaints Commission of New South Wales;

(e) the Health Ombudsman of Queensland;

(f) the Medical Board of Australia;

(g) the Medical Council of New South Wales;

(h) Quality Practice Accreditation Pty Ltd;

(i) the Royal Australian College of General Practitioners.

Persons who are not general practitioners

(3) The following persons and bodies are specified for a person who renders professional services who is not a general practitioner:

(a) the Aboriginal and Torres Strait Islander Health Practice Board of Australia;

(b) the Australian Health Practitioner Regulation Agency;

(c) the Chinese Medicine Board of Australia;

(d) the Chiropractic Board of Australia;

(e) the Dental Board of Australia;

(f) the Department;

(g) the Health Ombudsman of Queensland;

(h) the Human Services Department;

(i) the Medical Board of Australia;

(j) the Medical Council of New South Wales;

(k) the Medical Radiation Practice Board of Australia;

(l) the Nursing and Midwifery Board of Australia;

(m) the Optometry Board of Australia;

(n) the Osteopathy Board of Australia;

(o) the Paramedicine Board of Australia;

(p) the Pharmacy Board of Australia;

(q) the Physiotherapy Board of Australia;

(r) the Podiatry Board of Australia;

(s) the Psychology Board of Australia.

11 Specified bodies—non‑compliance with professional standards

General practitioners

(1) For the purposes of subsection 106XB(3) of the Act, a body is specified in relation to a practitioner who is a general practitioner if:

(a) the body:

(i) is specified in subsection 10(2) of this instrument; and

(ii) has the power to take action against the practitioner if the practitioner has failed to comply with professional standards; or

(b) the body has the function of assisting a person who:

(i) is specified in subsection 10(2) of this instrument; and

(ii) has the power to take action against the practitioner if the practitioner has failed to comply with professional standards.

Practitioners who are not general practitioners

(2) For the purposes of subsection 106XB(3) of the Act, a body is specified in relation to a practitioner who is not a general practitioner if:

(a) the body:

(i) is specified in subsection 10(3) of this instrument; and

(ii) has the power to take action against the practitioner if the practitioner has failed to comply with professional standards; or

(b) the body has the function of assisting a person who:

(i) is specified in subsection 10(3) of this instrument; and

(ii) has the power to take action against the practitioner if the practitioner has failed to comply with professional standards.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) |
| C[x] = Compilation No. x | /sub‑subparagraph(s) |
| Ch = Chapter(s) | pres = present |
| def = definition(s) | prev = previous |
| Dict = Dictionary | (prev…) = previously |
| disallowed = disallowed by Parliament | Pt = Part(s) |
| Div = Division(s) | r = regulation(s)/rule(s) |
| ed = editorial change | reloc = relocated |
| exp = expires/expired or ceases/ceased to have | renum = renumbered |
| effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = *Legislation Act 2003* | Sch = Schedule(s) |
| LIA = *Legislative Instruments Act 2003* | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given | SLI = Select Legislative Instrument |
| effect | SR = Statutory Rules |
| (md not incorp) = misdescribed amendment | Sub‑Ch = Sub‑Chapter(s) |
| cannot be given effect | SubPt = Subpart(s) |
| mod = modified/modification | underlining = whole or part not |
| No. = Number(s) | commenced or to be commenced |

Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Health Insurance (Professional Services Review Scheme) Regulations 2019 | 22 Feb 2019 (F2019L00180) | 23 Feb 2019 (s 2(1) item 1) |  |
| Health Insurance (Professional Services Review Scheme) Amendment (Prescribed Pattern of Services) Regulations 2021 | 17 Dec 2021 (F2021L01815) | 1 Jan 2022 (s 2(1) item 1) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| **Part 1** |  |
| s 2 | rep LA s 48D |
| s 4 | rep LA s 48C |
| s 5 | am F2021L01815 |
| **Part 2** |  |
| s 8 | rs F2021L01815 |
| **Part 4** |  |
| s 11 | am F2021L01815 |
| Schedule 1 | rep LA s 48C |