

EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance (General Medical Services Table) Amendment (Indexation) Regulations 2019

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 sets out items of medical services, the fees applicable for each item, and rules for interpreting the table. The table made under this subsection is referred to as the General Medical Services Table (GMST).

Purpose

The purpose of the *Health Insurance (General Medical Services Table) Amendment (Indexation) Regulations 2019* (the Regulations) is to amend the *Health Insurance (General Medical Services Table) Regulations 2019* to increase the schedule fees of 89 general practitioner (GP) items from 1 July 2019. These items include health assessments, chronic disease management plans and mental health services provided by GPs.

Consultation

Indexation of the 89 GP items is supported by general practice stakeholders, including the Australian Medical Association and the Royal Australian College of General Practitioners. Doctors and patients were advised of the changes in the 2019-20 Budget papers and the Medicare Indexation Schedule available on www.mbsonline.gov.au.

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

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

The Regulations commence on 1 July 2019.

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

ATTACHMENT

Details of the *Health Insurance (General Medical Services Table) Amendment (Indexation) Regulations 2019*Section 1 – Name

This section provides for the Regulations to be referred to as the *Health Insurance (General Medical Services Table) Amendment (Indexation) Regulations 2019*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 July 2019.

Section 3 – Authority

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

Section 4 – Schedules

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 2019*****Amendments 1 to 4**

These amendments index the fees of 89 MBS items provided by GPs, including health assessments, chronic disease management and mental health services.

The changes in amendments 1 to 3 will index ‘ready reckoner’ items. These items have a derived fee calculated on a nominal amount plus a modifier. The modifier must be divided or multiplied (6 or fewer patients is divided, 7 or more patients is multiplied) by the number of patients seen by the medical practitioner. To apply indexation to these items, the two distinct modifiers must be indexed. These amendments will apply indexation to these items by amending the individual modifiers in separate line items. For example, the first two rows in the table of amendment 1 apply indexation for a single item (item 195).

Amendments 5 and 6

Items 51300 and 51303 provide a Medicare benefit where a second medical practitioner provides assistance at an eligible operation. The relevant assistance item to claim depends on the fee for the operation. Amendment five would index this amount in the descriptors of items 51300 and 51303 to keep the value comparative to the fees for operations in Group T8, which will be indexed from 1 July 2019 by the *Health Insurance (General Medical Services Table) Regulations 2019*.

Items 51800 and 51803 provide a Medicare benefit where an approved dental practitioner in the practice of oral and maxillofacial surgery provides assistance at an eligible operation. The relevant assistance item to claim depends on the fee for the operation. Amendment six would index this amount in the descriptors of items 51800

and 51803 to keep the value comparative to the fees for oral and maxillofacial operations in Groups O3 to O9, which will be indexed from 1 July 2019 by the *Health Insurance (General Medical Services Table) Regulations 2019*.

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 (Indexation) Regulations 2019

This Regulation 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 Regulations

The purpose of the *Health Insurance (General Medical Services Table) Amendment (Indexation) Regulations 2019* (the Regulations) is to amend the *Health Insurance (General Medical Services Table) Regulations 2019* to increase the schedule fees of 89 general practitioner (GP) items from 1 July 2019. These items include health assessments, chronic disease management plans and mental health services provided by GPs.

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

Conclusion

This instrument is compatible with human rights because it maintains existing arrangements and the protection of human rights.

Greg Hunt

Minister for Health