

## EXPLANATORY STATEMENT

### *National Health Reform Act 2011*

#### **Direction to the Independent Hospital Pricing Authority on the performance of its functions under section 226 of the *National Health Reform Act 2011*** *No. 1/2020*

##### Authority

This Instrument is made under subsection 226(1) of the *National Health Reform Act 2011* (the Act), which provides that the Minister may give directions to the Independent Hospital Pricing Authority (IHPA) in relation to the performance of its functions and exercise of its powers. Section 131 of the Act sets out the functions of the IHPA, and its powers are specified in section 135 of the Act. Paragraphs 131(1)(h), (i), and (n) set out the functions of the IHPA relevant to this Instrument.

This Instrument operates by directing the IHPA in relation to the performance of its functions and the exercise of its powers. Under subsection 226(4) of the Act, the IHPA must comply with a direction made under subsection 226(1).

##### Purpose

This Instrument directs the IHPA to conduct a costing and pricing study into the Nationally Funded Centres (NFC) Program to inquire into and make findings about the following matters:

- (a) the direct and indirect cost of providing each NFC service at each specified site for that NFC service;
- (b) the aggregate direct and indirect cost of providing each NFC service across all specified sites for that NFC service;
- (c) the projected cost of providing all NFC services at all specified sites; and
- (d) the existing direct and indirect cost of providing each NFC service for each patient in each specified site for that NFC service.

The instrument also directs the IHPA to provide the Commonwealth and the States and Territories with options in respect of the following matters:

- a) whether NFC services, individually and collectively, are more appropriately funded via Activity Based Funding or block funding arrangements under the National Health Reform Agreement (NHRA);
- b) the development and operation of cost models and pricing models for the NFC Program, covering both existing and potential future services delivered under the NFC Program; and
- c) other related matters deemed appropriate by the Pricing Authority.

This work will assist with improving effective service delivery to achieve better health outcomes and health system efficiencies for the public sector provision of certain high-cost, highly-specialised clinical practices and technologies with limited demand.

### Background

The NFC Program was endorsed by Australian health ministers in June 1990 for the public sector provision of certain high cost, highly specialised clinical practices and technologies with limited demand. For a technology to be considered for NFC status it must require a national population base for efficient and effective service provision.

The Commonwealth and States and Territories commissioned a review of the NFC Program (NFC Review). The NFC Review recommends the NFC Program be integrated into NHRA funding arrangements.

This instrument gives effect to State and Territory requests that the Commonwealth direct the Independent Hospital Pricing Authority (IHPA) to conduct a study to fully understand the costing and pricing of NFC services.

As a preliminary scoping study, the IHPA's NFC Program Costing Study will inform Commonwealth and State and Territory decisions in response to the NFC Review, such as revised costing and pricing processes to apply to existing and future NFCs.

### Details

Subsection 226(3) of the Act provides that a direction made under subsection 226(1):

- (a) must be of a general nature only; and
- (b) must not be a direction to change:
  - i. a particular national efficient price for health care services provided by public hospitals; or
  - ii. a particular efficient cost for health care services provided by public hospitals.

This Instrument is of a general nature only. It does not direct the IHPA to change a particular national efficient price for health care services provided by public hospitals or a particular efficient cost for health care services provided by public hospitals between hospitals and sponsors.

### Consultation

Subsection 226(2) of the Act provides that the Minister must consult with the Standing Council on Health before giving a direction. Subsection 230(1) specifies the meaning of Standing Council on Health to be as follows:

***“The Standing Council on Health*** is (subject to subsection (2)) the Ministerial Council by that name, or, if there is no such Ministerial Council, the standing Ministerial Council established or recognised by COAG whose members include all Ministers in Australia having portfolio responsibility for health.”

The Minister for Health, the Hon. Greg Hunt MP, has written to State and Territory Health Ministers on his intention to issue a direction under subsection 226(1) of the Act.

This Instrument relates solely to the functions and powers of the IHPA. The activity that will be undertaken is not regulatory in nature. As such, a Regulation Impact Statement is not required.

This Instrument commences the day after registration on the Federal Register of Legislation.

This Determination is a legislative instrument for the purposes of the *Legislation Act 2003* and under the provisions of section 44 of the *Legislation Act 2003* the Instrument is not subject to disallowance.