

EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance (Bonded Medical Program) Amendment (Extension of Transitional Provisions) Rule 2021

Authority

Subsection 124ZT(1) of the *Health Insurance Act 1973* (the Act) provides that the Minister may by legislative instrument make rules (the Bonded Medical Program rules) about matters that are required or permitted by Part VD of the Act to be prescribed by the rules, or that are necessary or convenient to be prescribed for carrying out or giving effect to Part VD of the Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Purpose

This Rule (the Amendment Rule) amends the *Health Insurance (Bonded Medical Program) Rule 2020* (the Principal Rule) to extend the time during which the transitional provisions in section 19 apply.

Part VD of the Act establishes the Bonded Medical Program, which is an Australian Government initiative designed to address the doctor shortage across regional, rural and remote areas. Participants receive a Commonwealth supported place in a medical course at an Australian university in return for completion of a return of service commitment to work in regional, rural and remote areas and areas of workforce shortage (referred to as the ‘return of service obligation’). Existing participants in the Bonded Medical Places (BMP) and Medical Rural Bonded Scholarship (MRBS) schemes may also voluntarily opt in to the Bonded Medical Program and, if the Secretary agrees to their participation, they also become bonded participants.

The purpose of the Principal Rule is to provide the details necessary to support the operation of the Bonded Medical Program by prescribing certain matters, including:

- the period of time in which a bonded participant must complete their course of study in medicine;
- the requirements for completing a return of service obligation;
- the eligible locations in which a bonded participant must work as a medical practitioner to complete their return of service obligation;

- the circumstances in which a bonded participant may apply for an extension of time to complete their return of service obligation, including the evidential requirements for applying for an extension;
- the events that a bonded participant must notify to evidence compliance with conditions of the Bonded Medical Program; and
- the form in which, and the way in which, information or evidence is to be provided to the Department within prescribed timeframes.

Under section 19 of the Principal Rule, participants are not required to comply with the requirements to provide certain information or evidence through the Department of Health's web portal unless a notice has been published on the Department's website stating that the required elements of the web portal are functional. Section 19 is a transitional provision that ceases to operate on 30 June 2021.

The Bonded Return of Service System (BRoSS) now provides the necessary functionality for bonded participants to comply with current reporting obligations. Further development will be required to address planned amendments to the Act – and consequently to the Principal Rule – provided for in the 2021-22 Budget.

To ensure that bonded participants can be fully compliant with all reporting obligations under the Bonded Medical Program, the Amendment Rule extends the operation of the transitional provision in section 19 from 30 June 2021 to 30 June 2022. BRoSS will be fully operational before that date, in which case a notice will be published to that effect on the Department's website, and the reporting obligations under the Principal Rule will apply to participants.

Commencement

Sections 1 to 4 and Schedule 1 of the Amendment Rule will commence on the day after the instrument is registered.

Consultation

Implementation of the administrative arrangements for the Bonded Medical Program has been informed by ongoing consultation with the Implementation Working Group (IWG), which comprises representatives of the Australian Medical Association, the Australian Medical Students' Association and the National Rural Health Student Network.

The IWG meets regularly to ensure that key stakeholders are informed and consulted about the implementation process.

The Department outlined a proposed extension to the transitional provisions in the Principal Rule – at the 25 May 2021 meeting – to ensure that key stakeholders were informed and consulted about implementation. The members indicated support for the extension.

Details of the *Health Insurance (Bonded Medical Program) Amendment (Extension of Transitional Provisions) Rule 2021*

Section 1 Name

Section 1 provides that the name of the instrument is the *Health Insurance (Bonded Medical Program) Amendment (Extension of Transitional Provisions) Rule 2021*.

Section 2 Commencement

Section 2 provides that the whole instrument commences on the day after it is registered.

Section 3 Authority

Section 3 provides that the instrument is made under subsection 124ZT(1) of the *Health Insurance Act 1973*.

Section 4 Schedule

Section 4 provides that the Amendment Rule amends the Principal Rule in the manner set out in the Schedule.

SCHEDULE 1 - AMENDMENT

Item 1 – Subsection 19(8)

This item amends subsection 19(8) to extend the operation of the transitional provisions in section 19 until 30 June 2022.

Statement of Compatibility with Human Rights

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

HEALTH INSURANCE (BONDED MEDICAL PROGRAM) AMENDMENT (EXTENSION OF TRANSITIONAL PROVISIONS) RULE 2021

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

This legislative instrument, the *Health Insurance (Bonded Medical Program) Amendment (Extension of Transitional Provisions) Rule 2021*, is made under subsection 124ZT(1) of the *Health Insurance Act 1973* (the Act).

The legislative instrument amends the *Health Insurance (Bonded Medical Program) Rule 2020* (the Principal Rule).

Under the transitional provisions in section 19 of the Principal Rule, participants in the Bonded Medical Program are not required to comply with provisions requiring them to provide certain information or evidence through the Department of Health's web portal (the Bonded Return of Service System (BRoSS)), unless a notice has been published on the Department's website stating that the required elements of the web portal are functional. The transitional provisions cease to operate at the end of 30 June 2021.

As the development of BroSS has taken longer than originally anticipated, this legislative instrument extends the operation of the transitional provisions to 30 June 2022.

Human rights implications

The legislative instrument does not engage any of the applicable human rights or freedoms. It is for the benefit of Bonded Medical Program participants, in order to relieve them from a range of reporting obligations under the Principal Rule until the required elements of the Department of Health's web portal are functional and a notice to that effect has been published on the Department's website.

Conclusion

The legislative instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Greg Hunt MP, Minister for Health and Aged Care