



**PB 71 of 2021**

# **National Health (Closing the Gap – PBS Co-payment Program) Amendment Special Arrangement 2021**

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I, Mariana Crank, Acting Assistant Secretary, Pharmacy Branch, delegate of the Minister for Health and Aged Care, make the following Special Arrangement under subsection 100(2) of the *National Health Act 1953*.

Dated 18 June 2021

Mariana Crank  
Acting Assistant Secretary  
Pharmacy Branch  
Technology Assessment and Access Division  
Department of Health

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## 1 Name

- (1) This instrument is the *National Health (Closing the Gap – PBS Co-payment Program) Amendment Special Arrangement 2021*.
- (2) This instrument may also be cited as PB 71 of 2021.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument.	1 July 2021	1 July 2021

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under subsection 100(2) of the *National Health Act 1953*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *National Health (Indigenous Chronic Disease – PBS Co-payment Measure) Special Arrangement 2016*

#### 1 Before Section 1

Add:

##### Part 1 General

#### 2 Subsection 1(1)

Omit “*Indigenous Chronic Disease – PBS Co-payment Measure*”, substitute “*Closing the Gap – PBS Co-payment Program*”.

#### 3 Section 4 (definition of *Aboriginal Community Controlled Health Service*)

Repeal the definition.

#### 4 Section 4 (definition of *chronic disease*)

Repeal the definition.

#### 5 Section 4 (after definition of *concessional beneficiary charge*)

Insert:

***CTG registering practitioner*** means:

- (a) a PBS prescriber; or
- (b) an individual who:
  - (i) is registered in the Aboriginal and Torres Strait Islander health profession under the Health Practitioner Regulation National Law; and
  - (ii) has been allocated an identification number by the Chief Executive Medicare, for the purposes of the *Health Insurance Act 1973*, in relation to their place or places of practice.

*Note:* See section 35 of the *Human Services (Medicare) Regulations 1973* in relation to the allocation of identification numbers to health professionals in relation to their places of practice.

***CTG supplier*** means an approved pharmacist, an approved medical practitioner or an approved hospital authority for a private hospital.

***early supply of a specified pharmaceutical benefit*** has the same meaning as in section 84AAA of the Act.

***entity*** means:

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- (a) a person; or
  - (b) a partnership; or
  - (c) any other unincorporated association or body; or
  - (d) a trust; or
  - (e) a part of an entity.

**6 Section 4 (after definition of *general patient reduced charge*)**

Insert:

*Health Practitioner Regulation National Law* has the same meaning as in Part VIIIA of the Act.

**7 Section 4 (definition of *general practitioner*)**

Repeal the definition.

**8 Section 4 (definition of *Indigenous Health Service*)**

Repeal the definition.

**9 Section 4 (definition of *medical practitioner*)**

Repeal the definition.

**10 Section 4 (definition of *professional service*)**

Repeal the definition.

**11 Section 4 (definition of *RACGP*)**

Repeal the definition.

**12 Section 4 (definition of *referred*)**

Repeal the definition.

**13 Section 4 (definition of *Regulations*)**

Omit “*National Health (Pharmaceutical Benefits) Regulations 1960*”, substitute “*National Health (Pharmaceutical Benefits) Regulations 2017*”.

**14 Section 4 (definition of *specialist*)**

Repeal the definition.

**15 Section 4 (note)**

Repeal the note, substitute:

*Note* Several other words and expressions used in this Instrument have the meaning they have in the Act, for example:

- approved medical practitioner
- approved pharmacist
- Chief Executive Medicare
- PBS prescriber
- pharmaceutical benefit
- private hospital

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- special patient contribution

**16 Subsection 7(3)**

Repeal the subsection.

**17 Subsection 7(4)**

Repeal the subsection.

**18 Section 8**

Repeal the section.

**19 Section 9**

Repeal the section.

**20 Subsection 10(1)**

Repeal the subsection.

**21 Subsection 10(2)**

Omit “The practitioner”, substitute “A CTG registering practitioner”.

**22 Subsection 10(2)**

Omit “a pharmaceutical benefit”, substitute “pharmaceutical benefits”.

**23 Paragraph 10(2)(b)**

Omit “himself or herself”, substitute “themselves”.

**24 Paragraph 10(2)(d)**

Repeal the paragraph, substitute:

(d) who provides consent to receive supplies under this Special Arrangement to the practitioner.

**25 Paragraph 10(2)(e)**

Repeal the paragraph.

**26 Paragraph 10(3)(a)**

Repeal the paragraph.

**27 Paragraph 10(3)(b)**

Omit “the disease if the patient did not adhere to a course of treatment (involving a pharmaceutical benefit) for the disease”, substitute “a medical condition if the patient did not adhere to a course of treatment (involving a pharmaceutical benefit) for that medical condition”.

**28 At the end of section 10**

Add:

- (4) A registration for subsection (2) must be made using the Health Professional Online Service (HPOS) electronic channel.



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- (5) Despite subsection (4), a registration for subsection (2) may be made by telephone to Services Australia if, when the registration is made, for reasons outside the CTG practitioner's control the practitioner:
- (a) does not have access to functioning IT systems, including internet; or
  - (b) is unable to access the HPOS electronic channel.

*Note:* Information about HPOS can be found on the Services Australia website at <https://www.servicesaustralia.gov.au/organisations/health-professionals/services/medicare/hpos>.

## **29 After Section 10**

Add:

### **10A Supply of pharmaceutical benefits under this Special Arrangement**

A pharmaceutical benefit may be supplied under this Special Arrangement by:

- (a) an approved pharmacist;
- (b) an approved medical practitioner; or
- (c) an approved hospital authority for a private hospital.

### **30 Subsection 11(2)**

Omit "an approved supplier", substitute "a CTG supplier".

### **31 Subsection 11(2) (note)**

Omit "an approved supplier" (second occurring), substitute "a CTG supplier".

### **32 Subsection 11(3)**

Omit "an approved supplier", substitute "a CTG supplier".

### **33 Subsection 11(3) (note)**

Omit "an approved supplier" (second occurring), substitute "a CTG supplier".

### **34 After subsection 11(3)**

Add:

*Special patient contribution*

(3A) Subsection (3B) applies where:

- (a) a CTG supplier that is an approved pharmacist or approved medical practitioner supplies a pharmaceutical benefit that is a listed brand of a pharmaceutical item in relation to which a determination under subsection 85B(3) of the Act is in force; and
- (b) the supplier is not entitled to be paid by the Commonwealth an amount equal to that special patient contribution under subsection 99(2AA) of the Act.

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(3B) In addition to any amount that may be charged for the supply of a pharmaceutical benefit under this Special Arrangement in accordance with subsections (2) and (3), the approved pharmacist or approved medical practitioner may charge the person to whom the benefit is supplied an amount equal to the special patient contribution for the benefit.

(3C) Subsection (3D) applies where:

- (a) a CTG supplier that is an approved hospital authority for a private hospital supplies a pharmaceutical benefit that is a listed brand of a pharmaceutical item in relation to which a determination under subsection 85B(3) of the Act is in force; and
- (b) the supply is not an early supply of a specified pharmaceutical benefit prescribed for a patient who is the holder of an entitlement card.

(3D) In addition to any amount that may be charged for the supply of a pharmaceutical benefit under this Special Arrangement in accordance with subsections (2) and (3), the approved hospital authority may charge the person to whom the benefit is supplied an amount equal to the special patient contribution for the pharmaceutical benefit if the supply had been made by an approved pharmacist.

(3E) Nothing in this section prevents a CTG supplier that is an approved pharmacist or approved medical practitioner from charging an amount in accordance with subsection 87(4) of the Act.

### **35 Subsection 13(2)**

Omit “an approved supplier”, substitute “a CTG supplier”.

### **36 Subsection 13(2)**

After “subsection 99(2)”, insert “and, where relevant, subsection 99(2AA), of the Act”.

### **37 Subsection 13(3)**

Omit “an approved supplier”, substitute “a CTG supplier”.

### **38 Subsection 13(4)**

Omit “an approved supplier”, substitute “a CTG supplier”.

### **39 Subsection 13(4)**

After “subsection 99(2)”, insert “ and, where relevant subsection 99(2AA), of the Act”.

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#### **40 Subsection 13(5)**

Omit “an approved supplier”, substitute “a CTG supplier”.

#### **41 Subsection 14(1)**

Omit “An approved supplier”, substitute “A CTG supplier”.

#### **42 After Section 14**

Insert:

## **Part 2 Transitional/application provisions**

### **15 Definitions**

In this Part:

*transition time* means the time this section commences;

*old Special Arrangement* means this Special Arrangement, as in force immediately before the transition time;

*Note* This Special Arrangement was previously known as the *National Health (Indigenous Chronic Disease – PBS Co-payment Measure) Special Arrangement 2016*.

*new Special Arrangement* means this Special Arrangement, as amended by the *National Health (Closing the Gap – PBS Co-payment Program) Amendment Special Arrangement 2021*.

### **16 Application of old Special Arrangement to supplies made before transition time**

Despite the amendments made by the *National Health (Closing the Gap – PBS Co-payment Program) Amendment Special Arrangement 2021*, the old Special Arrangement continues to apply in relation to the supply of a pharmaceutical benefit made before the transition time.

### **17 Supply of benefits prescribed under old Special Arrangement**

Where, before the transition time, a pharmaceutical benefit was prescribed for supply under this Special Arrangement in accordance with section 7 of the old Special Arrangement, from the transition time that benefit may be supplied on the basis of that prescription as if it had been prescribed in accordance with section 7 of the new Special Arrangement.

### **18 Registration of patients**

Despite the amendments made by the *National Health (Closing the Gap – PBS Co-payment Program) Amendment Special Arrangement 2021*, a person who was registered under section 10 of the old Special Arrangement is taken to be registered under section 10 of the new Special Arrangement.