

AUSTRALIAN GOVERNMENT
HEALTH INSURANCE ACT 1973

Health Insurance (Eligible persons - holders of Humanitarian Stay (Temporary) Visa (Subclass 449)) Order 2021

I, TRAVIS HASLAM, Acting First Assistant Secretary, Medical Benefits Division, Health Resourcing Group, delegate for the Minister for Health and Aged Care, pursuant to subsection 6(1) of the *Health Insurance Act 1973* (the Act) hereby DECLARE that:

- (1) Every person included in the specified class of persons to whom clause (2) applies, being a person who, but for this Order, would not be an eligible person for the purposes of the Act shall, during any period in which the person is in Australia, be treated as being an eligible person for the purposes of the Act.
- (2) This clause applies to a person who:
 - (a) is the holder of a Humanitarian Stay (Temporary) visa (Subclass 449) that was granted on or after 19 August 2021 and the circumstances in which, or reasons why, the visa holder or other member of the family unit met the primary criteria for the visa relate directly or indirectly to the deteriorating security situation in Afghanistan; or
 - (b) the child of a person mentioned in subclause (1)(a) and who:
 - (i) was born in Australia; and
 - (ii) is taken to have been granted a Humanitarian Stay (Temporary) visa (Subclass 449) because of section 78 of the *Migration Act 1958*.
- (3) However, clause (2) does not apply to a person who is an *unauthorised maritime arrival* or who was not *immigration cleared* on their last entry to Australia, as those terms are defined in the *Migration Act 1958*.
- (4) This Order shall be taken to have commenced on 19 August 2021

Dated this 3rd day of September 2021

Note: See the *Health Insurance (Eligible persons unauthorised maritime arrivals and holders of Humanitarian Stay (Temporary) visa) Order 2017* in relation to persons who are unauthorised maritime arrivals or who were not immigration cleared on their last entry to Australia.

TRAVIS HASLAM
DELEGATE OF THE MINISTER FOR HEALTH

ATTACHMENT - STATEMENT OF REASONS

Health Insurance Act 1973
Class Order under Subsection 6(1)

ORDER NO: 815

DATE OF ORDER: 3/9/2021

RELATED ORDER: 808

NAME OF PERSON/GROUP: Persons who have been granted a Humanitarian Stay (Temporary) Visa (Subclass 449) by the Australian Government as part of its response to the deteriorating security situation in Afghanistan.

REASON FOR APPROVAL:

The Humanitarian Stay (Temporary) visa (Subclass 449) (HSTV) is a subclass of the Temporary Safe Haven (Class UJ) visa. It is a generic humanitarian visa that provides temporary stay in Australia primarily for persons displaced or likely to be displaced and who have grave fears for their personal safety.

Under subsection 6(1) of the *Health Insurance Act 1973*, the Minister for Health has a discretionary power to declare certain people or classes of people eligible for Medicare in specified circumstances.

The *Health Insurance (Eligible persons - holders of Humanitarian Stay (Temporary) Visa (Subclass 449)) Order 2021* provides immediate access to Medicare for persons who have been granted subclass 449 visas by the Australian Government as part of its response to the deteriorating security situation in Afghanistan.

The *Health Insurance (Eligible persons - holders of Humanitarian Stay (Temporary) Visa (Subclass 449)) Order 2021* will take effect retrospectively on 19 August 2021. However, no person will have their rights, as existing at the time the order takes effect, affected so as to disadvantage them, or liabilities imposed on them, other than the Commonwealth.

Related order number 808, the *Health Insurance (Eligible persons unauthorised maritime arrivals and holders of Humanitarian Stay (Temporary) visa) Order 2017*, provides access to Medicare in relation to persons who are unauthorised maritime arrivals or who were not immigration cleared on their last entry to Australia.