

EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance (Bonded Medical Program) Amendment Rule (No. 1) 2022

Purpose

The *Health Insurance (Bonded Medical Program) Amendment Rule (No. 1) 2022* (the Rule) amends the *Health Insurance (Bonded Medical Program) Rule 2020* (the Principal Rule) to offer participants in the Bonded Medical Program greater flexibility in meeting their 3-year return of service obligation (RoSO) by amending the definition of *per-day basis*.

Previously, the Principal Rule allowed a bonded participant to complete their RoSO on a *per-day basis*, provided they completed at least 7.5 hours on those days. To recognise that bonded participants may seek to complete their RoSO in a more flexible way, and to support bonded participants in circumstances where the personal circumstances or professional opportunities may limit them from completing longer periods of work on any given day, the 7.5 hour minimum requirement has been removed.

The RoSO calculator and other elements of the Department of Health's web portal used by bonded participants to self-manage their participation in the Bonded Medical Program - the Bonded Return of Service System (BRoSS) – will be updated to reflect these changes.

Authority

Subsection 124ZT(1) of the *Health Insurance Act 1973* (the Act) provides that the Minister may by legislative instrument make rules [the *Health Insurance (Bonded Medical Program) Rule 2020*] 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.

Reliance on subsection 33(3) of the *Acts Interpretation Act 1901*

Under subsection 33(3) of the *Acts Interpretation Act 1901*, 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.

Background

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 period of work in regional, rural and remote areas and areas of workforce shortage (referred to as the 'return of service obligation' or 'RoSO'). Existing participants in the Medical Rural Bonded Scholarship Scheme or the Bonded Medical Places Scheme may also voluntarily opt-in to the Bonded Medical Program and, if the Secretary agrees to their participation, they also become bonded participants.

The *Health Insurance (Bonded Medical Program) Rule 2020* is made under subsection 124ZT(1) of the Act and provides the necessary details 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 their RoSO;
- the eligible locations in which a bonded participant must work as a medical practitioner to complete their RoSO;
- the circumstances in which a bonded participant may apply for an extension of time to complete their RoSO, 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.

Commencement

The Rule commences on the day after the instrument is registered on the Federal Register of Legislation.

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, including the intention to make amendments to the *Health Insurance (Bonded Medical Program) Rule 2020*.

Attachment

A provision by provision description of the Rule is set out in the Attachment.

Details of the *Health Insurance (Bonded Medical Program) Amendment Rule (No. 1) 2022*

Section 1 Name

Section 1 provides that the name of the instrument is the *Health Insurance (Bonded Medical Program) Amendment Rule (No. 1) 2022*.

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 instrument amends the *Health Insurance (Bonded Medical Program) Rule 2020* in the manner set out in the Schedule.

SCHEDULE 1 - AMENDMENTS

Item 1– Section 4 (definition of ‘per-day basis’)

This item repeals the definition of ‘per-day basis’ in section 4 and substitutes a new definition. This new definition provides that a bonded participant completes 1 week of their return of service obligation on a *per-day basis*, if they are employed in eligible work on two or more days with a total of at least 20 hours. The new definition offers participants greater flexibility in meeting their 3-year return of service obligation. It will no longer be necessary for a participant to work at least 7.5 hours on each of the relevant days to accrue 1 week towards their return of service obligation. A participant will simply need to work at least 20 hours spread across two or more days.

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 RULE (NO. 1) 2022

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 Rule (No. 1) 2022*, 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).

The legislative instrument offers participants greater flexibility in meeting their 3-year return of service obligation (RoSO) under the Bonded Medical Program by amending the definition of *per-day basis* in section 4 of the Principal Rule.

Human rights implications

The legislative instrument does not engage any of the applicable human rights or freedoms. It is for the benefit of bonded participants, in order to provide greater flexibility in how they may complete their RoSO under the Bonded Medical Program.

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