

## **EXPLANATORY STATEMENT**

### *Health Insurance Act 1973*

#### *Health Insurance Legislation Amendment (2023 Measures No. 1) Regulations 2023*

The *Health Insurance Act 1973* (the Act) sets out the principles and definitions governing the Medicare Benefits Schedule (MBS). The Act provides for payments by way of medical benefits and for other purposes.

Subsection 133(1) of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Part II of the Act provides for the payment of Medicare benefits for professional services rendered to eligible persons. Section 9 of the Act provides that Medicare benefits be calculated by reference to the fees for medical services set out in prescribed tables.

Subsection 4(1) of the Act provides that regulations may prescribe a table of general medical services which sets out items of general medical services, the fees applicable for each item, and rules for interpreting the table. The table made under this subsection is referred to as the General Medical Services Table. The most recent version of the regulations is the *Health Insurance (General Medical Services Table) Regulations 2021* (GMST).

Section 4AA of the Act provides that regulations may prescribe a table of diagnostic imaging services which sets out items of diagnostic imaging services, the fees applicable for each item, and rules for interpreting the table. The table made under this section is referred to as the Diagnostic Imaging Services Table. The most recent version of the regulations is the *Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020* (DIST).

Section 4A of the Act provides that regulations may prescribe a table of pathology services which set out items of pathology services, the fees applicable for each item, and rules for interpreting the table. The table made under this section is referred to as the Pathology Services Table. The most recent version of the regulations is the *Health Insurance (Pathology Services Table) Regulations 2020* (PST).

The *Health Insurance Regulations 2018* (HIR) provide the overarching policy framework supporting the provision of appropriate Medicare services. For the purposes of paragraph 10(2)(aa) of the Act, section 28 of the HIR provides items that have a Medicare benefit equal to 100% of the fee in respect of the service.

### **Purpose**

The purpose of the *Health Insurance Legislation Amendment (2023 Measures No. 1) Regulations 2023* (the Regulations) is to amend the GMST, the DIST, the PST and the HIR from 1 July 2023.

Schedule 1 of the Regulations will apply the indexation factor from 1 July 2022 to several items and a clause of the GMST that were not indexed on 1 July 2022 due to an administrative error. These changes will commence the day after registration of the Regulations.

Schedule 2 of the Regulations will implement annual fee indexation by increasing the schedule fee by 3.6 per cent for most general medical services in the GMST, diagnostic imaging services in the DIST, and specific items for the management of bulk-billing pathology services in the PST. This means that patients will receive a higher Medicare benefit for these services from 1 July 2023.

Schedule 3 of the Regulations will include the following amendments to the DIST, GMST and PST announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure:

- Amend nuclear medicine item 61409 and introduce nuclear medicine item 61466 for cerebro-spinal fluid transport studies to better reflect the cost of the radiopharmaceuticals used for these services;
- Increase the schedule fee for items 16003, 16006, 16009, 16012 and 16018 to better reflect the cost of the radiopharmaceutical;
- Amend therapeutic nuclear medicine item 16015 for the treatment of painful bony metastases to amend patient eligibility to include patients with any cancer type;
- Amend orthopaedic item 49706 for arthrotomy of the ankle joint to enable patient access to this service where no infection is indicated;
- Introduce item 69505 for whole genome sequencing for antimicrobial drug susceptibility testing in patients who have an infection caused by a pathogen in the *Mycobacterium tuberculosis* complex;
- Introduce new item 73429 for somatic gene panel test in the initial diagnosis, and at relapse; and
- Introduce two new items (73434 and 73435) for single gene testing for the diagnosis of heritable neuromuscular disorders and amend item 73427 to include new item 73434 as an access pathway for services provided under 73427.

Schedule 3 of the Regulations will also amend the DIST, GMST and PST to:

- Insert items currently implemented through subsection 3C(1) ministerial determinations;
- Amend liver MRI item 63545 to ensure appropriate use of this item, aligning with the original policy intent of changes implemented on 1 November 2022;
- Remove references to Other Medical Practitioner Programs ceasing on 30 June 2023;
- Repeal item 32221 for the removal or revision of an artificial bowel sphincter;
- Amend item 38680 for cardio-thoracic tumour excision to provide that services under this item may only be performed in-hospital; and
- Update the Modified Monash area definitions to use the 2016 estimated resident population.

Schedule 4 of the Regulations will amend the GMST to implement the Government's response to recommendations from the MBS Review Taskforce (the Taskforce)

relating to plastic and reconstructive surgery services. These changes were announced in the 2021-22 Budget under the *Guaranteeing Medicare — changes to the Medicare Benefits Schedule* measure and the 2021-22 MYEFO under the *Guaranteeing Medicare – Medicare Benefits Schedule new and amended listings* measure.

Schedule 5 of the Regulations will amend the GMST to introduce 12 items to enable case conferencing for patients being treated under the *Better Access to Psychiatrists, Psychologists and General Practitioners through the MBS* (Better Access) initiative or an eating disorder treatment and management plan. This change was announced in the 2022-23 March Budget under the *Prioritising Mental Health* measure.

### **Consultation**

As part of the Taskforce and the Medical Services Advisory Committee (MSAC), a number of medical professional organisations were consulted on 1 July 2023 changes. Further consultation was also undertaken with Implementation Liaison Groups in the development of the changes. There was general support from stakeholders on the changes implemented by the Regulations. Additional consultation information is outlined in the [Attachment](#).

Some of the amendments in the Regulations are minor and machinery in nature and did not require consultation to be undertaken.

Details of the Regulations are set out in the [Attachment](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Sections 1 to 4 and Schedule 1 of the Regulations will commence the day after registration of this instrument, Schedule 2 of the Regulations will commence on 1 July 2023 and Schedules 3 to 5 of the Regulations will commence immediately after the commencement of Schedule 2.

Authority: Subsection 133(1) of the  
*Health Insurance Act 1973*

## ATTACHMENT

**Details of the *Health Insurance Legislation Amendment (2023 Measures No. 1) Regulations 2023***Section 1 – Name

This section provides for the Regulations to be referred to as the *Health Insurance Legislation Amendment (2023 Measures No. 1) Regulations 2023*.

Section 2 – Commencement

This section provides for sections 1 to 4 and Schedule 1 of the Regulations to commence the day after registration of this instrument, Schedule 2 to commence on 1 July 2023 and Schedules 3 to 5 of the Regulations to commence immediately after the commencement of Schedule 2.

Section 3 – Authority

This section provides that the Regulations are made under the *Health Insurance Act 1973*.

Section 4 – Schedules

This section provides that 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.

Schedule 1 – Amendments commencing day after registration***Health Insurance (General Medical Services Table) Regulations 2021 (GMST)***

Schedule 1 of the Regulations will amend the GMST the day after registration of the Regulations.

**Item 1** amends clause 5.9.2 of Schedule 1 of the GMST to apply indexation as at 1 July 2022 to the amount specified at paragraph (a) of the definition of ***amount under clause 5.9.2***. Indexation should have been applied to this amount on 1 July 2022. However, it was not due to an administrative oversight. This change will address this omission.

**Item 2** amends items 20230 to apply indexation to the schedule fee as at 1 July 2022. Indexation should have been applied to this fee on 1 July 2022. However, it was not due to an administrative oversight. This change will address this omission.

**Item 3** amends item 20300 to reduce the schedule fee to \$104.75. On 1 July 2022, the schedule fee item 20300 was incorrectly increased to \$251.40 due to an administrative error. This change will address this error.

**Item 4** amends item 21215 to apply indexation to the schedule fee as at 1 July 2022. Indexation should have been applied to this fee on 1 July 2022. However, it was not due to an administrative oversight. This change will address this omission.

### Schedule 2 – Indexation

Schedule 2 of the Regulations will apply annual indexation of the schedule fees of Medicare Benefits Schedule (MBS) items from 1 July 2023. This will increase the benefit paid to patients for these services, which is calculated as a percentage of the fee per section 10 of the *Health Insurance Act 1973*. Indexation will be applied by 3.6%, which is represented as 1.036 in the diagnostic imaging services table (clause 2.7.1), general medical services table (clause 1.3.1) and the pathology services table (clause 2.14.1).

#### ***Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020 (DIST)***

**Items 1 and 2** apply indexation to imaging services in Groups I1 (ultrasound), I2 (computed tomography), I3 (diagnostic radiology), I5 (MRI) and I6 (bulk-billing incentive for unreferral) of the diagnostic imaging services table. Nuclear medicine services in Group I4 will not be indexed.

#### ***Health Insurance (General Medical Services Table) Regulations 2021 (GMST)***

**Items 3 to 23** apply indexation to all medical services in the general medical services table, other than the following items for services performed by other medical practitioners which are not indexed:

- all items in Group A2, A19, A23;
- item 173 in Group A7; and
- items 90092, 90093, 90095, 90096 in Group A35.

#### ***Health Insurance (Pathology Services Table) Regulations 2020 (PST)***

**Items 24 and 25** apply indexation to the bulk-billing incentives for unreferral pathology services (Group P12) in the pathology services table. Indexation will not apply to any other pathology service.

### Schedule 3 – General amendments

#### ***Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020 (DIST)***

**Items 1 and 2** insert items 59302 and 59305 for three-dimensional breast tomosynthesis services into the DIST. These items were introduced on 1 November 2018 by the *Health Insurance (Section 3C Diagnostic Imaging Services – 3D Breast Tomosynthesis) Determination 2018*. The *Health Insurance (Section 3C Diagnostic Imaging Services – 3D Breast Tomosynthesis) Determination 2018* will be repealed immediately after the commencement of this Schedule of the Regulations. These amendments are administrative in nature to incorporate items 59302 and 59305

into the DIST. These items will be inserted with indexation applied to the schedule fees.

**Item 3 and 4** amend item 61409 and introduce item 61466 for cerebro-spinal fluid transport studies. Item 61409 will be amended to specify that the radioisotope used for this service must be technetium-99m. Currently, services under item 61409 for cerebro-spinal fluid transport studies may be performed using indium-111 or technetium-99m and the choice of radiopharmaceutical is based on the patient's clinical requirements. New item 61466 will provide for cerebro-spinal fluid transport study services performed using indium-111 with a higher schedule fee to reflect the higher cost of this radiopharmaceutical.

These changes follow a recommendation from the MBS Review Taskforce (the Taskforce) to increase the schedule fee for item 61409 to adequately cover cost of indium-111. The Australasian Association of Nuclear Medicine Specialists, the Royal Australian and New Zealand College of Radiologists and the Australian and New Zealand Society of Nuclear Medicine were consulted on the changes.

**Item 5** inserts items 63498, 63499, 63501, 63502, 63504 and 63505 for magnetic resonance imaging (MRI) of silicone breast implants manufactured by Poly Implant Prothese into the DIST. These items were introduced on 1 May 2020 by the *Health Insurance (Poly Implant Prothese MRI) Determination 2020*. The *Health Insurance (Poly Implant Prothese MRI) Determination 2020* will be repealed immediately after the commencement of this Schedule of the Regulations. These amendments will be administrative in nature to incorporate items 63498, 63499, 63501, 63502, 63504 and 63505 into the DIST. These items will be inserted with indexation applied to the schedule fees.

**Item 6** repeals the note at the end of the table at clause 2.5.14.

**Item 7** amends item 63545 for liver MRI services. Item 63545 was amended on 1 November 2022 by the *Health Insurance Legislation Amendment (2022 Measures No. 3) Regulations 2022* to implement a recommendation from the Taskforce and the Medical Services Advisory Committee (MSAC) to allow access to an MRI scan of the liver for patients with any oncological indication where hepatic metastases is suspected. This change was announced in the March 2022-23 Budget under the *Guaranteeing Medicare – Medical Benefits Schedule new and amended listings* measure. Following the implementation of the 1 November 2022 change to item 63545, stakeholder feedback indicated that there is a lack of clarity on the appropriate use of the service. This amendment will provide additional clarity to ensure services provided under item 63545 align with the original policy intent.

### ***Health Insurance (General Medical Services Table) Regulations 2021 (GMST)***

**Item 8** amends clause 1.1.2 of Schedule 1. On 30 June 2023, four Other Medical Practitioner Programs – *After Hours Other Medical Practitioners Program*, *MedicarePlus for Other Medical Practitioners Program*, *Outer Metropolitan (Other Medical Practitioners) Relocation Incentive Program* and *Rural Other Medical Practitioners' Program* – referenced in clause 1.1.2 are due to cease. The cessation of

these Programs was announced in the 2018-19 Budget under the *A Stronger Rural Health Strategy* measure.

Currently, non-vocationally recognised medical practitioners registered in any of the four Programs are allowed to provide MBS general practitioner (GP) services in accordance with clauses 1.1.2 and 1.1.3 of the GMST. From 1 July 2023, following the cessation of the four Programs on 30 June 2023, non-vocationally recognised medical practitioners previously registered in the Programs will only be able to provide MBS services for non-vocationally recognised medical practitioners, which attract a lower Medicare benefit than GP services, as they will no longer meet the definition of an eligible non-vocationally recognised medical practitioner under clause 1.1.2.

This change will amend clause 1.1.2 of Schedule 1 to remove references to the four Programs as appropriate and to allow non-vocationally recognised medical practitioners who have completed the requirements of the MedicarePlus for Other Medical Practitioners Program on or before 30 June 2023 to continue providing GP services under the MBS in accordance with the *A Stronger Rural Health Strategy* measure in the 2018-19 Budget.

Consultation was undertaken with the Royal Australian College of General Practitioners (RACGP) and Australian College of Rural and Remote Medicine (ACRRM) regarding the cessation of the Programs in 2018. The department has continued to engage with GP peak bodies and Rural Workforce agencies in the lead up to the cessation of the four Programs.

Medicare claims for services provided before 1 July 2023 by a medical practitioner registered in one of the four Programs will continue to attract the higher GP benefit.

**Item 9** inserts clause 2.11.3, which clarifies the co-claiming arrangements for item 294 (refer to **item 10** of Schedule 3 of the Regulations).

**Item 10** inserts item 294, which provide a 50 per cent loading to bulk-billed psychiatry attendance items delivered via video conference to eligible patients, into the GMST. This item was introduced on 1 November 2022 by the *Health Insurance (Section 3C General Medical Services – Telehealth Psychiatry Attendance Service) Determination 2022*. The *Health Insurance (Section 3C General Medical Services – Telehealth Psychiatry Attendance Service) Determination 2022* will be repealed immediately after the commencement of this Schedule of the Regulations. This amendment is administrative in nature to incorporate item 294 into the GMST.

**Item 11** amends clause 2.14.4 of the GMST to remove references to the *After Hours Other Medical Practitioners Program*, which ceases on 30 June 2023 (refer to **item 8** of Schedule 3 of the Regulations).

**Item 12** repeals the definition of bulk-billed at clause 3.2.1. The insertion of item 294 into the GMST (refer to **item 10** of Schedule 3 of the Regulations) means that the definition of bulk-billed should apply to the whole GMST, not just Division 3.2. Accordingly, **item 30** will amend the definition of bulk-billed in clause 7.1.1 to apply the definition to the whole GMST.

**Items 13, 14, 15, 16 and 19** increase the schedule fees for items 16003, 16006, 16009, 16012 and 16018 for nuclear medicine services to better reflect the cost of the radiopharmaceutical administered as part of the service. The change, which was announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure, was recommended by the Taskforce, and will ensure that these services continue to be accessible and affordable for patients.

The Australasian Association of Nuclear Medicine Specialists, the Royal Australian and New Zealand College of Radiologists and the Australian and New Zealand Society of Nuclear Medicine were consulted on the changes. These stakeholders are supportive of the changes.

**Item 17** amends therapeutic nuclear medicine item 16015 for the treatment of painful bony metastases, expanding patient eligibility to include patients with any cancer type. This change was supported by MSAC at its December 2020 Executive meeting and was announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure. The changes to item 16015 will ensure ongoing patient access to treatment, when radiopharmaceuticals such as samarium-153 are not available due to supply chain disruption.

The Australasian Association of Nuclear Medicine Specialists, the Royal Australian and New Zealand College of Radiologists and the Australian and New Zealand Society of Nuclear Medicine were consulted on the changes. These stakeholders are supportive of the changes.

**Item 18** amends therapeutic nuclear medicine item 16018 to better reflect current clinical terminology and align with the amended wording in item 16015, which was supported by MSAC at its December 2020 Executive meeting.

This change was announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure. The Australasian Association of Nuclear Medicine Specialists, the Royal Australian and New Zealand College of Radiologists and the Australian and New Zealand Society of Nuclear Medicine were consulted on the changes. These stakeholders are supportive of the changes.

**Item 20** insert items 30630 for the insertion of testicular prosthesis into the GMST. This item was introduced on 1 March 2021 by the *Health Insurance (Section 3C General Medical Services – Insertion of Testicular Prosthesis) Determination 2021*. The *Health Insurance (Section 3C General Medical Services – Insertion of Testicular Prosthesis) Determination 2021* will be repealed immediately after the commencement of this Schedule of the Regulations. This amendment is administrative in nature to incorporate item 30630 into the GMST. This item will be inserted with indexation applied to the schedule fee.

**Item 21** repeals clause 5.10.14, which relates to item 32221. Item 32221 will be repealed by **item 22** of Schedule 3 of the Regulations.

**Item 22** repeals item 32221 for the removal or revision of an artificial bowel sphincter. In the 2021-22 Budget under the *Guaranteeing Medicare – Medicare*



*Benefits Schedule Review* measure, the Government announced and supported the deletion of item 32220 (for the insertion of an artificial bowel sphincter) and item 32221, as recommended by the Taskforce.

Following the 2021-22 Budget, the Department of Health and Aged Care worked with the Colorectal Surgery Implementation Liaison Group (ILG) to support the effective implementation of the changes to colorectal surgery items. The ILG included representatives from the Colorectal Surgical Society of Australia and New Zealand, the Australian Medical Association (AMA), and the Royal Australian College of Surgeons. The ILG recommended proceeding with the deletion of item 32220 on 1 July 2022 (which has now occurred) and deferring the deletion of item 32221 until 1 July 2023 due to continuing patient need. This 12-month deferral was to allow the department to review the claiming activity of item 32221 and ensure it is appropriate to proceed with deletion.

**Item 23** amends item 38680 for cardio-thoracic tumour excision to provide that services under this item may only be performed in-hospital. Item 38680 was amended on 1 July 2021 as part of implementation of the second phase of cardiac changes, which were recommended by the Taskforce and announced in the 2020-21 Budget under the *Guaranteeing Medicare – Medicare Benefits Schedule (MBS) reviews – cardiac services* measure. However, due to a drafting oversight, an “(H)” to indicate that services under item 38680 may only be provided in-hospital was omitted. This change will address this issue.

**Item 24** amends 49706 for arthrotomy of the ankle joint to remove “for infection” to ensure patient access is restored for services where no infection is indicated. This change was announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure.

On 1 July 2021, item 49706 was amended as part of the Government’s response to Taskforce recommendations relating to orthopaedic items. The change to item 49706 inadvertently limited use of the item to where an infection is indicated. This issue was raised with the department by the Australian Orthopaedic Foot and Ankle Society (AOFAS) as part of the early post-implementation review of the 1 July 2021 MBS orthopaedic item changes. The Australian Orthopaedic Association (AOA) and AOFAS were both consulted with as part of the early post-implementation review of the 1 July 2021 MBS orthopaedic item changes. These stakeholders are supportive of the change.

**Items 25 to 29** amend clause 7.1.1 to the repeal and replace the definition of **2013 estimated resident population** and update the definitions of **Modified Monash 2 area**, **Modified Monash 3 area** and **Modified Monash 4 area** to replace references to the 2013 estimated resident population with the 2016 estimated resident population as at 30 June 2016, as published by the Australian Bureau of Statistics (ABS). The refer to information, which is incorporated by reference, is as existing on 17 March 2017 and is freely available on the ABS’s website.

These changes will align the GMST with the current 2019 Modified Monash Model used by the department, which uses the estimated resident population as at

30 June 2016. The ABS has been consulted regarding these changes. For information regarding the 2019 Modified Monash Model, refer to the department's website.

**Item 30** updates the definition of *bulk-billed* at clause 7.1.1 to replace the existing definition with the definition currently found at clause 3.2.1 (refer to **item 12** of Schedule 3 of the Regulations). This change is administrative in nature and will apply to this definition of bulk-billed to the whole GMST.

### ***Health Insurance (Pathology Services Table) Regulations 2020 (PST)***

**Item 31** introduces item 69505 for whole genome sequencing for antimicrobial drug susceptibility testing in patients who have an infection caused by Mycobacterium tuberculosis complex (MTBC), both at the time that the infection is diagnosed and if the infection comes back (recurs). The test in this service is for detection and characterisation of antimicrobial resistance in the MTBC pathogen genome so that appropriate treatment can be provided. In March 2022, MSAC supported this new item on the basis that whole genome sequencing of MTBC is safe, gives faster and more accurate results compared to the current drug susceptibility testing. This change was announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure.

Consultation was undertaken on this change with the Australian Commission on Safety and Quality in Health Care (ACSQHC) and Thoracic Society of Australia and New Zealand (TSANZ). These stakeholders were overall supportive of the change.

**Item 32** amends item 73427 to include new item 73434 (refer to **item 33** of Schedule 3 of the Regulations) as an access pathway for services provided under item 73427. This change was recommended by MSAC Executive at its May 2022 meeting and announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure. Consultation was undertaken on this change with the Royal College of Pathologists of Australasia (RCPA), including the RCPA's neurogenetic experts.

**Item 33** introduces three pathology items (73429, 73434 and 73435).

Item 73429 provides services for genetic testing for the diagnosis and classification of brain cancers called gliomas, which include glioblastomas and glioneuronal tumours. This change was recommended by MSAC at its March 2022 meeting and announced in the 2022-23 October Budget under the *Medicare Benefits Schedule - new and amended listings* measure. During the MSAC process, consultation feedback was received from seven stakeholders, including Australian Pathology, Public Pathology Australia, Telethon Kids Institute, Cancer Australia, the Industry Genomics Network Alliance, the Neurosurgical Society of Australasia and Cooperative Trials Group for Neuro-Oncology. These stakeholders agreed with the listing of this item on the MBS.

Items 73434 and 73435 provides services for single gene testing (SGT) for the diagnosis of heritable neuromuscular disorders (NMD). Existing items 73422 and 73428 for gene panel testing of NMD were introduced on 1 November 2022 by the *Health Insurance Legislation Amendment (2022 Measures No. 3) Regulations 2022*. However, there are a number of NMD caused by specific types of genetic variant that

the gene panel test cannot detect. In May 2022, MSAC supported the listing of SGT items for NMD that cannot be detected by the gene panel test. Items 73434 and 73435 will need to be requested by a specialist or consultant physician.

New items 73434 and 73435 were announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure. Consultation was undertaken on this change with the RCPA and the Murdoch Children’s Research Institute. Both stakeholders supported the listing of these items on the MBS.

**Item 34** insert items 73812 for quantitation of glycated haemoglobin (HbA1c) performed in the management of established diabetes into the PST. This item was introduced on 1 November 2021 by the *Health Insurance (Section 3C Pathology Services – HbA1c Point of Care Testing) Determination 2021*. The *Health Insurance (Section 3C Pathology Services – HbA1c Point of Care Testing) Determination 2021* will be repealed immediately after the commencement of this Schedule of the Regulations. This amendment is administrative in nature to incorporate item 73812 into the PST.

#### Schedule 4 – Plastic and reconstructive surgery services

Schedule 4 of the Regulations will implement the Government’s response to Taskforce recommendations in the Taskforce Report for Plastic and Reconstructive Surgery Items 2019. The amendments were announced in the 2021-22 Budget under the *Guaranteeing Medicare – changes to the Medicare Benefits Schedule* measure and the 2021-22 MYEFO under the *Guaranteeing Medicare – Medicare Benefits Schedule new and amended listings* measure. Implementation of these changes was deferred from 1 November 2022 to 1 July 2023 to allow greater consultation with the sector to ensure the proposed changes are appropriate and will achieve the Taskforce outcomes. The deferral of these changes was announced in the 2022-23 October Budget under *Strengthening Medicare – MBS new and amended listings* measure.

These changes will:

- restructure general and skin items for consistency throughout the MBS;
- restructure burns items to reflect contemporary clinical practice;
- reorganise breast cancer and reconstruction items to reflect contemporary breast cancer surgery, including a range of new items for bilateral breast reconstruction;
- reorganise cranio-maxillofacial/oral and maxillofacial items;
- update terminology of the paediatric plastic surgery items to be consistent with international classifications and contemporary understanding in the field;
- safeguard Medicare against inappropriate use of services for cosmetic purposes;
- consolidate a range of existing items to simplify item claiming; and
- introduce new services for autologous fat grafting by injection for defects arising from breast surgery, breast cancer treatment/prevention and congenital breast deformity, which were assessed by MSAC in July 2020.

Consultation on these changes has been undertaken with peak bodies, through the Plastic and Reconstructive Surgery ILG, including:

- Australian Society of Plastic Surgeons;
- Australian and New Zealand Association of Oral & Maxillofacial Surgeons;
- Breast Surgeons of Australia & New Zealand (BreastSurgANZ);
- The Australasian College of Dermatologists;
- Breast Cancer Network Australia;
- Reclaim Your Curves;
- Australasian Society of Otolaryngology, Head and Neck Surgery;
- Australasian Cleft Lip & Palate Association Inc.;
- Royal Australian College of General Practitioner;
- AMA;
- Australian Private Hospitals Association; and
- Private Healthcare Australia (PHA).

***Health Insurance (General Medical Services Table) Regulations 2021 (GMST)***

**Item 1** repeals clause 5.10.4, which provides restrictions for items 30299, 30300 and 30311, as **items 15 and 16** of Schedule 4 of the Regulations will repeal item 30300 and amend items 30299 and 30311 to update the requirements currently in clause 5.10.4 in the item descriptors.

**Items 2 and 3** amend items 30003 and 30006 for dressing of burns services without anaesthesia. The changes will provide great clarity and ensure appropriate claiming of these items.

**Item 4** introduces item 30007 for dressing of burns services without anaesthesia where the burns involve 10% or more of the total body service.

**Items 5 and 6** amend items 30010 and 30014 for dressing of burns services under anaesthesia. The changes will provide clarity for dressing of burns services under anaesthesia by introducing total body surface area concepts, allowing medical practitioners to differentiate between services and levels of work for different magnitude burns, and will reflect contemporary clinical practice, including by preventing a nurse alone from performing these procedures.

**Item 7** repeals and replaces items 30017 and 30020 for dressing of burns services under anaesthesia with items 30015 and 30016. These new items will use total body surface area concepts, allowing medical practitioners to differentiate between services and levels of work for different magnitude burns, and will reflect contemporary clinical practice, including by preventing a nurse alone from performing these procedures.

**Item 8** repeals and replaces items 30165, 30168, 30171 and 30172 for lipectomy services with items 30166 and 30169, restructuring these services, and will insert item 30175 for abdominoplasty for postpartum rectus diastasis.

Item 30166 provides for excision of abdominal skin and lipectomy and item 30169 will provide for non-abdominal skin and lipectomy. The new items will improve access for patients to appropriate care under the MBS for lipectomy services and prevent inappropriate claiming of these services for cosmetic use.

Item 30175 was introduced on 1 July 2022 by the *Health Insurance (Section 3C General Medical Services – Abdominoplasty for Postpartum Rectus Diastasis) Determination 2022*. The *Health Insurance (Section 3C General Medical Services – Abdominoplasty for Postpartum Rectus Diastasis) Determination 2022* will be repealed immediately after the commencement of this Schedule of the Regulations. This amendment is administrative in nature to incorporate item 30175 into the GMST. This item will be inserted with indexation applied to the schedule fee.

**Items 9 and 10** amend item 30176 to specify that it is for radical abdominoplasty, remove a reference to “(Pitanguy type or similar)” and replace references to repealed lipectomy items with the new restructured items (refer to **item 8** of Schedule 4 of the Regulations).

**Items 11 and 12** amend item 30177 to remove a reference to “(Pitanguy type or similar)” and replace references to repealed lipectomy items with the new restructured items (refer to **item 8** of Schedule 4 of the Regulations).

**Items 13 and 14** amend item 30179 to remove a reference to “(Pitanguy type or similar)” and replace references to repealed lipectomy items with the new restructured items (refer to **item 8** of Schedule 4 of the Regulations).

**Item 15** consolidates items 30299, 30300, 30302 and 30303 for sentinel lymph node biopsy services into a single item under item number 30299 and introduces item 30305 for sentinel lymph node biopsy of the internal mammary chain. The consolidated item 30299 will simplify sentinel lymph node biopsy services while maintaining access to best-practice health services for patients. New item 30305 will support patient access to contemporary clinical procedures.

**Items 16 and 17** amend item 30311 to align the language used in the item descriptor with revised item 30299 and replace references to repealed sentinel lymph node biopsy items with new item 30305 (refer to **item 15** of Schedule 4 of the Regulations).

**Item 18** amends item 30332 for excision of lymph nodes of axilla to remove the specification that this service be used for sampling.

**Item 19** repeals item 30335 for excision of lymph nodes of axilla, which is obsolete as lymph node excisions to level I could be regarded as limited excisions and claimed under item 30332 or could be considered complete excisions and claimed under amended item 30336 (refer to **item 20** of Schedule 4 of the Regulations).

**Item 20** amends item 30336 for excision of lymph nodes of axilla to remove the reference to levels of axilla to provide for complete excision of lymph nodes of axilla at any level.

**Item 21** amends items 30651 and 30655 to prevent co-claiming with abdominoplasty item 30175 for postpartum rectus diastasis and to update the language used to align with other co-claiming restrictions.

**Item 22** amends items 31220 and 31225 to include removal of lipomas in these services.

**Items 23, 26, 27 and 28** amend items 31340, 31356, 31358, 31359, 31361, 31363, 31365, 31367 and 31369 for skin excision services to prevent inappropriate co-claiming with melanoma excision items introduced on 1 November 2022 by the *Health Insurance Legislation Amendment (2022 Measures No. 3) Regulations 2022*.

**Item 24** introduces item 31344 for surgical excision of large and difficult lipomas, which may require an assistant.

**Item 25** amends item 31345 to provide maximum diameter of the lesion.

**Item 29** introduces items 31386, 31387 and 31388 for the excision of very extensive skin cancers. These new items will improve patients' access to care for these difficult procedures.

**Item 30** amends item 31512 for complete local excision of malignant breast tumour to prevent inappropriate co-claiming.

**Item 31** introduces items 31513 and 31514 for complete local excision of malignant breast tumour using oncoplastic breast surgery techniques. These items will provide patients with greater access to contemporary clinical procedures for breast cancer surgery.

**Item 32** amends item 31519 for total breast mastectomy services to clarify that it is for unilateral procedures.

**Item 33** introduces items 31520, 31522 and 31523 for breast mastectomy services. Item 31520 provides for bilateral total breast mastectomy services. Items 31522 and 31533 provides for unilateral and bilateral skin sparing mastectomy services, which will reflect contemporary breast surgery practice.

**Item 34** amends item 31525 for breast mastectomy services to clarify the appropriate use of the item and that it is for unilateral procedures as well as updating the spelling of "gynecomastia" to "gynaecomastia".

**Item 35** introduces item 31526 for bilateral breast mastectomy for gynaecomastia and items 31528 and 31529 for unilateral and bilateral nipple sparing mastectomy. The new nipple sparing mastectomy items will reflect contemporary breast surgery practice.

**Item 36** amends item 31563 for eversion of inverted nipple to include flap repair. This change will clarify appropriate claiming for this item.

**Item 37** amends item 39329 to remove a reference to item 39333, which will be repealed by **item 38** of Schedule 4 of the Regulations.

**Item 38** repeals item 39333 for brachial plexus surgery. Brachial plexus surgery is complex, and item 39333 does not adequately address the nature and variety of procedures performed. New items for brachial plexus procedures will be introduced by **item 156** of Schedule 4 of the Regulations.

**Item 39** amends clause 5.10.22 to update the definition of *maxilla* and the range of items to which this definition applies.

**Item 40** amends items 45000 and 45003 for skin flap services to prevent inappropriate co-claiming with melanoma excision items introduced on 1 November 2022 by the *Health Insurance Legislation Amendment (2022 Measures No. 3) Regulations 2022*.

**Item 41** amends item 45006 for skin flap repair to prevent claiming in the context of breast reconstruction. Post-mastectomy breast reconstruction should be claimed under separate items for this specified purpose.

**Item 42** amends item 45012 for skin flap repair to prevent claiming in the context of breast reconstruction and increase the schedule fee to better reflect the complexity of the service.

**Item 43** amends item 45021 for abrasive therapy to specify that this item is to be used for abrasive therapy on the face, limit the claiming frequency of the service and provide a requirement to include photographic evidence in the patient notes. The change also consolidates item 45021 with item 45024 by removing the limitation of one aesthetic area (refer to **item 44** of Schedule 4 of the Regulations).

**Item 44** repeals item 45024 for abrasive therapy on more than one aesthetic area, which will be consolidated into item 45021 by **item 43** of Schedule 4 of the Regulations. This change will address potential inappropriate use of item 45024.

**Item 45** amends item 45027 for angioma services to update the terminology in this item to reflect the contemporary understanding of the pathology of this condition.

**Item 46** amends items 45030 and 45033 for angioma services. Item 45030 will be consolidated with item 45039 for arteriovenous malformation services and item 45033 will be consolidated with 45042 for arteriovenous malformation services to update terminology used and reflect contemporary clinical practice.

**Item 47** amends item 45035 for angioma services to update terminology and clarify appropriate use of item when there is involvement of major neurovascular structures.

**Item 48** amends item 45036 for angioma services to update terminology and clarify inclusion of dissection of cranial nerves and major vessels and involvement of major neurovascular structures.

**Item 49** repeals items 45039 and 45042 for arteriovenous malformation services, which will be consolidated into items 45030 and 45033 respectively by **item 46** of Schedule 4 of the Regulations.

**Item 50** amends item 45045 to update the terminology used, replacing “Arteriovenous malformation” with “Vascular anomaly” to reflect contemporary clinical practice.

**Item 51** amends item 45054 for escharotomy services to increase the schedule fee, reflecting the critical nature of this procedure and skill significant required to perform it.

**Items 52 to 54** amend items 45200, 45201, 45203, 45206 and 45207 for skin flap services to prevent inappropriate co-claiming with melanoma excision items introduced on 1 November 2022 by the *Health Insurance Legislation Amendment (2022 Measures No. 3) Regulations 2022*.

**Item 55** amends item 45209 for flap repair to include forehead and cross leg flap to consolidate this service with item 45215 (refer to **item 57** of Schedule 4 of the Regulations) and to indicate that this service is the first stage in a multistage process. This change will also insert “pedicled” into the item descriptor to increase clarity regarding the type of flap referred to in this item.

**Item 56** amends item 45212 for flap repair to include forehead and cross leg flap to consolidate this service with item 45218 (refer to **item 57** of Schedule 4 of the Regulations) and to indicate that this service is the second or third stage of flap repair. This change will also insert “pedicled” into the item descriptor to increase clarity regarding the type of flap referred to in this item.

**Item 57** repeals items 45215, 45218 and 45236 for skin flap procedures. Items 45215 and 45218 will be consolidated with items 45209 and 45212 respectively (refer to **items 55 and 56** of Schedule 4 of the Regulations). Item 45236 will be repealed as it is not consistent with contemporary clinical practice.

**Item 58** amends item 45239 for skin flap procedures to consolidate with this service with services currently provided under 45240 (refer to **item 59** of Schedule 4 of the Regulations). Consolidating the items will prevent co-claiming of two separate items for a single revision procedure. This change will also insert a restriction to the limit the number of times item 45239 can be claimed per flap to minimise inappropriate use of the service.

**Item 59** repeals items 45240, 45400, 45403, 45406, 45409, 45412, 45415 and 45418. Item 45240 will be consolidated with item 45239 under item 45239 (refer to **item 58** of Schedule 4 of the Regulations). Items 45400 and 45403 for split skin free grafting will be consolidated with other existing free grafting items under two new items 45440 and 45443 (refer to **item 60** of Schedule 4 of the Regulations).

Items 45406, 45409, 45412, 45415 and 45418 for free grafting for burns will be repealed with other existing burns items and replaced with new burns items (refer to **item 156** of Schedule 4 of the Regulations).

**Item 60** repeals items 45439 and 45442 for split skin free grafting and introduces items 45440 and 45443. New items 45440 and 45443 will consolidate existing split skin free grafting items, providing one service for free grafting of small defects and one service for free grafting of large defects. This change will clarify and simplify skin grafting procedures under the MBS.



**Item 61** repeals 45445 and 45448 for split skin free grafting, which will be consolidated with other existing free grafting items under two new items 45440 and 45443 (refer to **item 60** of Schedule 4 of the Regulations).

**Item 62** amends item 45451 for full thickness free grafting to better describe the service, restrict use of this item to defects greater than 5 mm in diameter and remove the reference to male pattern baldness. This change will address potential inappropriate use of item 45451 and update the service to reflect contemporary clinical practice.

**Item 63** repeals 28 items for free grafting for burns, which will be replaced with new burns items (refer to **item 156** of Schedule 4 of the Regulations).

**Item 64** amends item 45497 for flap revision to consolidate this service with services currently provided under items 45498 and 45499 (refer to **item 65** of Schedule 4 of the Regulations). This change will simplify flap revision services under the MBS.

**Item 65** repeals items 45498 and 45499 for flap revision, which will be consolidated with item 45497 under item number 45497 by **item 64** of Schedule 4 of the Regulations.

**Item 66** amends item 45500 for microvascular repair to restrict claiming of this service to either an artery or a vein. Usually, to restore blood flow to an extremity or a digit both an artery and a vein need to be repaired. Item 45500 will be amended to allow for repair of either an artery or a vein if the repair of the artery and the repair of the vein are performed by different providers. For example, it will be appropriate to claim item 45500 in the case of a conjoint surgery where each surgeon repairs either an artery or a vein. Amended item 45507 will be appropriate to claim where one surgeon repairs both an artery and a vein (refer to **item 68** of Schedule 4 of the Regulations).

**Items 67 and 68** amend items 45501 and 45502 for microvascular anastomosis to consolidate these services and specify that any anastomoses performed must be critical for restoration of blood supply. Amended item 45501 will provide services for anastomosis of a single artery or vein to allow for circumstances of conjoint surgery where each surgeon performs anastomosis of either an artery or a vein. Amended item 45502 will provide services for anastomoses of both a vein and artery with an increased schedule fee as the amendment to this item combines two previously separate services.

**Item 69** amends item 45503 for micro-arterial or micro-venous graft item to restrict use of this service in the context of cardiac surgery and provide that the service must be critical for restoration of blood supply. The change will prevent inappropriate use of item 45503.

**Item 70** amends item 45504 for microvascular anastomosis for free transfer of tissue to specify that the service is for anastomosis of an artery, vein or veins and prevent claiming for the purpose of breast reconstruction. Amended item 45504 will allow for circumstances of conjoint surgery where each surgeon performs anastomosis of either an artery or a vein. The change will also prevent inappropriate co-claiming.

**Item 71** amends item 45505 microvascular anastomosis for free transfer of tissue, repeals and replaces item 45506 for revision of scar services with new item 45510 and introduces item 45507 for microvascular repair.

Amended item 45505 will consolidate the services currently available under items 45504 and 45505, providing services for microvascular anastomoses of an artery and vein or veins as well as an increased schedule fee for the new combined service. The change will also amend item 45505 to prevent claiming for the purpose of breast reconstruction and inappropriate co-claiming.

Item 45506 will be repealed and replaced with item 45510 to move this service into sequence with other scar revision services.

Item 45507 will provide services for microvascular repair, including anastomoses of all required vessels.

**Items 72 and 73** amend items 45515 and 45518 for revision of scar procedures to prevent potential inappropriate use for cosmetic purposes.

**Item 74** repeals item 45519 for burns contracture release, which will be replaced with three new items (46141, 46142 and 46143) by **item 156** of Schedule 4 of the Regulations.

**Items 75 and 76** amend items 45520 and 45522 for unilateral reduction mammoplasty to prevent inappropriate co-claiming with services on the same breast.

**Item 77** amends item 45523 for bilateral reduction mammoplasty to prevent inappropriate co-claiming with services on the same breast.

**Item 78** amends item 45524 for unilateral mammoplasty to prevent inappropriate co-claiming with services on the same breast.

**Item 79** amends item 45527 for unilateral breast reconstruction using prosthesis to describe the service more accurately, increase the schedule fee to reflect the complexity of the procedure and prevent inappropriate co-claiming.

**Items 80 and 81** amend item 45528 to prevent inappropriate co-claiming and make an administrative amendment to remove “and/or”.

**Item 82** introduces item 45529 for bilateral breast reconstruction using prostheses.

**Item 83** amends item 45530 for unilateral breast reconstruction using autologous flaps to reflect the variety of reconstructive flaps that may be used for this service.

**Item 84** repeals item 45533 for the first stage of breast reconstruction using breast sharing technique and introduce items 45531 and 45532. The procedure covered by item 45533 is considered obsolete. Items 45531 and 45532 will provide services for bilateral breast reconstruction using autologous flaps and revision of post-mastectomy breast reconstruction respectively.

**Items 85 and 86** amend items 45534 and 45535 for autologous fat grafting to prevent inappropriate co-claiming.

**Item 87** repeals item 45536, amends item 45539 and introduces items 45537, 45538, 45540 and 45541.

Item 45536 is for the second stage of breast reconstruction using breast sharing technique, which is considered an obsolete procedure.

Item 45539 for unilateral breast reconstruction using tissue expansion will be amended to prevent inappropriate co-claiming, and to increase the schedule fee to reflect the complexity of the procedure and account for additional attendances for expansion injections.

New items 45537 and 45538 will provide services for correction of partial mastectomy defects and for preparation for microsurgical transfer of a free flap respectively.

New item 45540 will provide services for bilateral breast reconstruction using tissue expansion, including insertion of tissue expansion unit.

New item 45541 will provide services for bilateral breast reconstruction using tissue expansion, including removal of tissue expansion unit and insertion of prosthesis.

**Item 88** amends item 45542 for unilateral breast reconstruction using tissue expansion to prevent inappropriate co-claiming.

**Item 89** introduces item 45547 for breast reconstruction, revision of, for rotation and migration of permanent prosthesis.

**Items 90 and 91** amend items 45556 and 45558 to prevent inappropriate co-claiming.

**Item 92** amends item 45561 for microvascular anastomosis to adequately describe the service, reflecting contemporary clinical practice.

**Item 93** amends item 45562 for free transfer of tissue to adequately describe the service, reflecting contemporary clinical practice, and exclude claiming in the context of breast reconstruction.

**Item 94** amends item 45563 for neurovascular island flap to adequately describe the service, reflecting contemporary clinical practice, clarify indication for claiming and remove the reference to male pattern baldness. The change will also prevent inappropriate co-claiming.

**Items 95 and 96** amend items 45564 and 45565 for free transfer of tissue to reflect a complete medical service, appropriately align with contemporary clinical best practice and exclude claiming in the context of breast reconstruction.

**Item 97** amends item 45566 for insertion of a temporary prosthetic tissue expander to clarify when it is appropriate to use this item.

**Item 98** introduces item 45567 for free tissue transfer for the repair of major tissue defect of the head and neck or other non-breast defect where a single surgeon is required for the procedure. A service provided under this new item includes all necessary elements of the operation.

**Item 99** amends item 65568 for removal of a tissue expander to allow for provision of the service when excision of fibrous capsule is not required.

**Item 100** consolidates items 45569 and 45570 under new item 45571. New item 45571 will align the consolidated service with contemporary clinical practice.

**Item 101** amends item 45572 for intra-operative tissue expansion to prevent claiming for breast tissue expansion and remove the reference to male pattern baldness.

**Item 102** amends item 45581 to update the terminology used, replacing “palsy” with “paralysis”.

**Item 103** amend items 45585 for liposuction to prevent co-claiming with a service under item 31526.

**Item 104** amends item 45590 for reconstruction orbital wall or floor to include use of bone or cartilage in this procedure.

**Item 105** repeals item 45593 for orbital cavity reconstruction and introduce items 45592 and 45594. Item 45592 will provide services for orbital wall and floor reconstruction and item 45594 will provide services for orbital wall or floor exploration.

**Items 106 and 107** amend items 45596 and 45597 for maxilla resection services to update the terminology with contemporary clinical practice.

**Item 108** amends item 45599 for mandible resection to simplify and clarify appropriate circumstances for claiming this item.

**Item 109** amends item 45608 for mandible reconstruction to reflect contemporary clinical practice and clarify appropriate claiming of this item.

**Item 110** introduces item 45609 for reconstruction of mandible, maxilla or skull base using bony free flap.

**Item 111** makes a minor amendment to item 45611 to clarify that the service is for condylectomy of the mandible.

**Item 112** amends item 45614 for reconstruction of the eyelid to clarify appropriate claiming of this item, include all required flaps or grafts and increase the schedule fee to reflect the complexity of the procedure.

**Items 113 and 114** amend item 54644 to prevent inappropriate co-claiming and make a minor administrative amendment.

**Item 115** repeals item 45647 for contour restoration of one region of the face, which will be replaced by item 45718 (refer to **item 124** of Schedule 4 of the Regulations).

**Item 116** amends item 45660 for complex total reconstruction of external ear to allow claiming of this item for services where only one costal cartilage graft is required for reconstruction.

**Item 117** amends item 45661 for complex total reconstruction of external ear to allow claiming of this item for services where a full or partial skin graft is indicated.

**Item 118** repeals item 45662 for reconstruction of external auditory canal, as this service is considered obsolete.

**Item 119** amends item 45665 for wedge excision of lip, eyelid or ear to exclude services for eyelid wedge when performed in conjunction with a cosmetic eyelid procedure. This change will prevent inappropriate claiming item 45665 for cosmetic purposes.

**Item 120** amends item 45671 for first stage of lip or eyelid reconstruction to clarify appropriate use, updating terminology, and allow claiming for single stage lip or eyelid reconstruction.

**Item 121** amends item 45674 for second stage of lip or eyelid reconstruction to clarify appropriate use, updating terminology.

**Item 122** amends items 45677, 45680, 45683 and 45686 for cleft lip procedures to include primary repair of the nasolabial complex and increase the schedule fees to reflect the complexity of these procedures.

**Item 123** amends item 45714 for oro-nasal fistula to update terminology used to align with contemporary clinical practice.

**Item 124** introduces items 45717 and 45718. Item 45717 will provide services for alveolar bone grafting, replacing existing item 45897 (refer to **item 152** of Schedule 4 of the Regulations), and item 45718 will provide services for contour restoration of one region of the face, which are currently provided under item 45647 (refer to **item 112** of Schedule 4 of the Regulations).

**Item 125** repeals 16 items (45720, 45723, 45726, 45729, 45731, 45732, 45735, 45738, 45741, 45744, 45747, 45752, 45753, 45754, 45755 and 45758) for mandible or maxilla osteotomy, which will be restructured into 9 new items (46150, 46151, 46152, 46153, 46154, 46155, 46156, 46157 and 46158) by **item 153** of Schedule 4 of the Regulations.

**Item 126** amends item 45761 for genioplasty to include the requirement of pathology (congenital absence of tissue or trauma) and the requirement for photographic evidence to be captured before treatment. This change will prevent inappropriate claiming of item 45761 for cosmetic purposes.

**Item 127** amends item 45767 for hypertelorism to clarify the intracranial approach and provide that services under this item must be performed in-hospital.

**Item 128** repeals item 45770 for sub- cranial hypertelorism as the service under this item is no longer considered clinical best practice.

**Item 129** amends item 45773 for correction of Treacher Collins Syndrome to include syndromic orbital dystopia, specify bilateral reconstruction and allow for use of bone grafts from a distant site.

**Item 130** amends item 45782 for fronto- orbital advancement to reflect contemporary clinical practice, removing “unilateral” and providing that the service must be performed in-hospital.

**Item 131** amends item 45785 for cranial vault reconstruction to update terminology to align with contemporary clinical practice.

**Item 132** amends item 45788 for reconstruction of glenoid fossa, zygomatic arch and temporal bone to update terminology to more accurately describe the service.

**Item 133** amends item 45791 for construction of absent condyle and ascending ramus to update terminology to align with contemporary clinical practice.

**Items 134 and 135** amend items 45794 and 45797 for first and second stage osseo-integration procedures to reflect contemporary clinical practice, include pathology requirements (congenital absence of tissue, tumour or trauma) and remove the restriction on use for implantable bone conduction hearing system device.

**Item 136** repeals item 45799 for aspiration biopsy of one or more jaw cysts as aspiration as an independent procedure is not used in contemporary clinical practice.

**Item 137** consolidates items 45801, 45803 and 45805 into a single service under item 45801 to simplify services for the removal of a tumour, cyst, ulcer or scar in the oral cavity under the MBS. The change will also address the overlap between the services in these items and skin service items.

**Item 138** amends item 45815 for surgery for osteomyelitis to include the requirement for radiological and laboratory evidence of osteomyelitis and expand the item to allow surgery for management of radiation or medication induced osteonecrosis.

**Item 139** repeals items 45817, 45819 and 45821 as they are considered inconsistent with contemporary clinical practice and unnecessarily duplicate other services available under the MBS.

**Item 140** amends item 45823 for the insertion of arch bars for dental fixation purposes to allow for the insertion of similar fixtures such as Intermaxillary Fixation (IMF) Screws. The change will provide access for patients to services under item 45823 where IMF Screws are used instead of arch bars.

**Item 141** amends item 45831 for papillary hyperplasia of the palate procedures to consolidate this item with items 45833 and 45835, which will be repealed by **item 142** of Schedule 4 of the Regulations. The change will simplify papillary hyperplasia of the palate procedures under the MBS, aligning with contemporary clinical practice.

**Item 142** repeals items 45833, 45835, 45839 and 45843. Items 45833 and 45835 will be consolidated with item 45831 under item 45381 (refer to **item 141** of Schedule 4 of the Regulations). Item 45839 duplicates services already available under item 45837 as is considered unnecessary. Item 45843 provides services for the insertion of an inflatable tissue expansion device for alveolar ridge augmentation, which is a procedure that is considered inconsistent with contemporary clinical practice.

**Items 143 and 144** amend item 45845 and 45847 for osseo- integration procedures to allow provision of these services due to trauma or congenital absence of maxilla or mandible.

**Item 145** amends item 45849 for maxillary sinus procedures to allow for use of allograft instead of, or as well as, bone graft.

**Item 146** amends item 45851 for manipulation of the temporomandibular joint to clarify that this item is for use as an independent procedure not associated with a service to which any other item applies.

**Item 147** repeals item 45853 as it duplicates services available under item 45791.

**Item 148** amends item 45855 for arthroscopy of the temporomandibular joint to reduce the schedule fee to align with the schedule fee for services of similar complexity.

**Item 149** amends item 45857 for arthroscopy of the temporomandibular joint to update terminology in line with contemporary clinical practice and clarify appropriate use of this item.

**Item 150** repeals items 45859, 45861, 45863, 45867 and 45869 for temporomandibular joint procedures, which are considered inconsistent with contemporary clinical practice. The change will also consolidate temporomandibular joint procedures and reduce unnecessary duplication of services under the MBS.

**Item 151** amends item 45873 to remove references to items that will be repealed by **item 150** of Schedule 4 of the Regulations.

**Item 152** introduces item 45874 for total temporomandibular joint replacement.

**Item 153** repeals items 45875, 45877, 45879 and 45885. The removal of items 45875, 45877 and 45879 for temporomandibular joint procedures will consolidate temporomandibular joint procedures and reduce unnecessary duplication of services under the MBS. These services are also considered inconsistent with contemporary clinical practice.

The procedure available under item 45885 (for ligation of facial, mandibular or lingual artery or vein or artery and vein) is not performed in isolation and is an integral part of other procedures. The items covering these other procedures were written with the intent that ligation of these vessels would be included, which renders item 45885 obsolete.

**Item 154** amends item 45894 for free grafting of a granulating area to specify use for procedures in the oral cavity.

**Item 155** repeals items 45897 and 45900. Item 45897 for alveolar bone grafting will be replaced by item 45717 (refer to **item 124** of Schedule 4 of the Regulations). Item 45900 for fixation of the mandible by intermaxillary wiring is considered inconsistent with contemporary clinical practice.

**Item 156** repeals nine items (45945, 45975, 45978, 45981, 45984, 45987, 45990, 45993 and 45996), which are considered substantial duplicates of the orthopaedic fracture items and are worded inconsistently with contemporary clinical practice.

This item also introduces 86 new items, including:

- Two items for free perforator flap procedures for dissection of pedicled or free perforator flaps;
- Seven items for free flap procedures for performing free flap with a bony component or double free flaps;
- Six items for post-mastectomy breast reconstructions using autologous flaps to reflect contemporary clinical practice;
- Two items for lower pole coverage using autologous flaps;
- 41 items for burns services to restructure existing burns items and reflect contemporary clinical practice, including a modifier item to provide additional funding for procedures involving the patient's hands, face or anterior neck;
- Nine items to restructure mandible and maxilla osteotomy services;
- Three items for midfacial osteotomies for principal, conjoint and single surgeons, consolidating existing services available under items 45753 and 45754;
- Two items for treatment of thoracic outlet syndrome; and
- 14 items for brachial plexus services to more accurately reflect the procedures performed.

**Item 157** amends item 47000 for treatment of dislocation of mandible to specify use of this service in the operating theatre of a hospital and require provision of general anaesthesia or intravenous sedation.

**Items 158 and 159** consolidate items 47753 and 47756 under item 47753 to simplify these services under the MBS.

**Item 160** amends item 47762 to update the terminology used and restrict co-claiming with any other item in the same Group.

**Item 161** amends item 47765 for treatment of fracture of the zygomatic bone and introduces item 47766. Amended item 47765 will consolidate this service with services currently available under items 47768 and 47771 (refer to **item 162** of



Schedule 4 of the Regulations) to simplify these services. New item 47766 will provide services for the management of naso-orbital-ethmoidal fractures.

**Item 162** repeals items 47768, 47771, 47774, 47777, 47780 and 47783 for treatment of fractures of the zygomatic bone, maxilla or mandible services. Services under items 47768 and 47771 will be available under amended item 47765 (refer to **item 161** of Schedule 4 of the Regulations). Items 47774, 47777, 47780 and 47783 will be repealed as open reduction should not be performed without some sort of fixation and services for open reduction involving fixation are available under items 47786 and 47789, which reflect contemporary surgical best practice.

**Item 163** amends items 47786 and 47789 for treatment of fracture of the mandible or maxilla to clarify that fixation may involve one or more plates.

**Item 164** amend the definition of *maxilla* in clause 7.1.1 to update the range of items to which this definition applies.

#### Schedule 5 – Mental health case conferencing services

Schedule 5 of the Regulations will introduce 12 items to enable case conferencing for patients being treated under the *Better Access to Psychiatrists, Psychologists and General Practitioners through the MBS* (Better Access) initiative or an eating disorder treatment and management plan and will allow this patient cohort to access services for the creation and review of team care arrangements. This change was announced in the 2022-23 March Budget under the *Prioritising Mental Health* measure.

Representatives from the below organisations, as well as consumer and carer representatives, were given the opportunity to comment on the MBS changes:

- RACGP;
- AMA;
- ACRRM;
- Royal Australian and New Zealand College of Psychiatrists (RANZCP);
- Australian Psychological Society (APS);
- Australian Clinical Psychology Association (ACPA);
- Australian Association of Psychologists Inc (AAPi);
- Australian Association of Social Workers (AASW);
- Occupational Therapy Australia (OTA);
- headspace National;
- Emerging Minds;
- Gidget Foundation Australia; and
- Orygen.

#### ***Health Insurance (General Medical Services Table) Regulations 2021 (GMST)***

**Item 1** amends subparagraph 1.1.5(1)(b)(i) to insert references to 12 new case conferencing items for patients being treated under the Better Access initiative or an eating disorder treatment and management plan (refer to **item 9** of Schedule 5 of the Regulations). Clause 1.1.5 of the GMST provides the definition for multidisciplinary case conference team.

**Item 2** amends subclause 1.2.7(1) to exclude the 12 new case conferencing items for patients being treated under the Better Access initiative or an eating disorder treatment and management plan (refer to **item 9** of Schedule 5 of the Regulations) from an existing range of items. The change will ensure that clause 1.2.7 of the GMST, which relates to personal attendances by medical practitioners, does not apply to the new case conferencing items.

**Item 3** inserts subclause (1A) after subclause (1) of clause 2.16.9 in Schedule 1 of the GMST. New subclause (1A) will provide that a service provided under item 723 or 732 may also apply to a service for a patient if:

- the service is provided for the purpose of coordinating the development of team care arrangements, or coordinating a review of team care arrangements, for the patient; and
- the patient:
  - is referred for a mental health service in one of the specified Subgroups/Groups; or
  - has an eating disorder treatment and management plan; and
- the patient meets the relevant requirements in table 2.16.9.

**Items 4 and 5** amend the table at subclause 2.16.12(2) of the GMST to update the frequency limitations for services provided under items 723 and 732.

The new patient cohort eligible for services under items 723 and 732 in accordance with subclause 2.16.9(1A) will be able to access:

- one service under item 723 in a 12 month period; and
- one service under item 732 in a 3 month period.

Accessing services under items 723 and 732 in accordance with subclause 2.16.9(1A) will not reduce how often a patient may access services under items 723 and 732 in accordance with 2.16.9(1). For example, a patient has received one service under item 723 in the last 12 months to create team care arrangements for their medical condition that is likely to last six months. However, the patient also has an eating disorder treatment and management plan, and their general practitioner would like to create team care arrangements in relation to this using item 723. The change to the table at subclause 2.16.12(2) will allow item 723 to be claimed a second time in 12 months in these circumstances.

**Item 6** amends clause 2.16.15 to insert references to 6 new items for organising and coordinating a mental health case conference (for items 933, 935, 946, 948 and 959, refer to **item 9** of Schedule 5 of the Regulations). Clause 2.16.15 provides the definition of organise and coordinate for the purpose of case conference services.

**Item 7** amends clause 2.16.16 to insert references to 6 new items for participation in a mental health case conference (for items 937, 943, 945, 961, 962 and 964, refer to **item 9** of Schedule 5 of the Regulations). Clause 2.16.16 provides the definition of participate for the purpose of case conference services.

**Item 8** inserts clause 2.16.19A after clause 2.16.19 of the GMST. New clause 2.16.19 will provide the requirements for patients to access services under the 12 new case conferencing items (refer to **item 9** of Schedule 5 of the Regulations). The clause will provide that the patient must:

- be referred for a mental health service in one of the specified Subgroups/Groups; or
- have an eating disorder treatment and management plan.

**Item 9** introduces 12 new items for case conferencing services for patients being treated under the Better Access initiative or an eating disorder treatment and management plan. These items will provide services for general practitioners and consultant physicians in the specialty of psychiatry or paediatrics to organise and coordinate or participate in a mental health case conference.

**Item 10** amends clause 7.1.1 of the GMST to insert the definition for *mental health case conference*.

### ***Health Insurance Regulations 2018 (HIR)***

**Items 11 and 12** amend the table at subsection 28(1) of the HIR. In 2004, the Government announced a number of policies to increase the bulk-billing rate for general practice (GP) services. One of those measures was to increase the benefit for GP items from 85% of the schedule fee to 100% of the fee.

The *Health Insurance Amendment (100% Medicare Rebate and Other Measures) Act 2004* commenced on 1 January 2004 to amend section 10 of the *Health Insurance Act 1973* to provide a regulation-making power to prescribe services (that are not hospital services) that have a benefit calculated as 100% of the schedule fee. All ongoing GP items are prescribed in the subsection 28(1) of the HIR.

These items amend the table at subsection 28(1) of the HIR to prescribe the 12 new GP items to facilitate mental health case conferences (items 930, 933, 935, 937, 943 and 945 in Subgroup 2 of Group A15 and items 969, 971, 972, 973, 975 and 986 in Subgroup 6 of Group A7) to enable the Medicare benefit to be calculated as 100% of the schedule fee for these GP items.

Items 969, 971, 972, 973, 975 and 986 will be introduced through an amendment to the *Health Insurance (Section 3C General Medical Services – Other Medical Practitioner) Determination 2018*.

## **Statement of Compatibility with Human Rights**

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

### ***Health Insurance Legislation Amendment (2023 Measures No. 1) Regulations 2023***

This Regulation 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**

The purpose of the *Health Insurance Legislation Amendment (2023 Measures No. 1) Regulations 2023* (the Regulations) is to amend the GMST, the DIST, the PST and the HIR from 1 July 2023.

Schedule 1 of the Regulations will apply the indexation factor from 1 July 2022 to several items and a clause of the GMST that were not indexed on 1 July 2022 due to an administrative error. These changes will commence the day after registration of the Regulations.

Schedule 2 of the Regulations will implement annual fee indexation by increasing the schedule fee by 3.6 per cent for most general medical services in the GMST, diagnostic imaging services in the DIST, and specific items for the management of bulk-billing pathology services in the PST. This means that patients will receive a higher Medicare benefit for these services from 1 July 2023.

Schedule 3 of the Regulations will include the following amendments to the DIST, GMST and PST announced in the 2022-23 October Budget under the *Medicare Benefits Schedule – new and amended listings* measure:

- Amend nuclear medicine item 61409 and introduce nuclear medicine item 61466 for cerebro-spinal fluid transport studies to better reflect the cost of the radiopharmaceuticals used for these services;
- Increase the schedule fee for items 16003, 16006, 16009, 16012 and 16018 to better reflect the cost of the radiopharmaceutical;
- Amend therapeutic nuclear medicine item 16015 for the treatment of painful bony metastases to amend patient eligibility to include patients with any cancer type;
- Amend orthopaedic item 49706 for arthrotomy of the ankle joint to enable patient access to this service where no infection is indicated;
- Introduce item 69505 for whole genome sequencing for antimicrobial drug susceptibility testing in patients who have an infection caused by a pathogen in the *Mycobacterium tuberculosis* complex;
- Introduce new item 73429 for somatic gene panel test in the initial diagnosis, and at relapse; and
- Introduce two new items (73434 and 73435) for single gene testing for the diagnosis of heritable neuromuscular disorders and amend item 73427 to include new item 73434 as an access pathway for services provided under 73427.

Schedule 3 of the Regulations will also amend the DIST, GMST and PST to:

- Insert items currently implemented through subsection 3C(1) ministerial determinations;
- Amend liver MRI item 63545 to ensure appropriate use of this item, aligning with the original policy intent of changes implemented on 1 November 2022;
- Remove references to Other Medical Practitioner Programs ceasing on 30 June 2023;
- Repeal item 32221 for the removal or revision of an artificial bowel sphincter;
- Amend item 38680 for cardio-thoracic tumour excision to provide that services under this item may only be performed in-hospital; and
- Update the Modified Monash area definitions to use the 2016 estimated resident population.

Schedule 4 of the Regulations will amend the GMST to implement the Government's response to recommendations from the MBS Review Taskforce (the Taskforce) relating to plastic and reconstructive surgery services. These changes were announced in the 2021-22 Budget under the *Guaranteeing Medicare — changes to the Medicare Benefits Schedule* measure and the 2021-22 MYEFO under the *Guaranteeing Medicare – Medicare Benefits Schedule new and amended listings* measure.

Schedule 5 of the Regulations will amend the GMST to introduce 12 items to enable case conferencing for patients being treated under the *Better Access to Psychiatrists, Psychologists and General Practitioners through the MBS* (Better Access) initiative or an eating disorder treatment and management plan. This change was announced in the 2022-23 March Budget under the *Prioritising Mental Health* measure.

### **Human rights implications**

The Regulations engage Articles 9 and 12 of the International Covenant on Economic Social and Cultural Rights (ICESCR), specifically the rights to health and social security.

#### *The Right to Health*

The right to the enjoyment of the highest attainable standard of physical and mental health is contained in Article 12(1) of the ICESCR. The UN Committee on Economic Social and Cultural Rights (the Committee) has stated that the right to health is not a right for each individual to be healthy, but is a right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

The Committee reports that the '*highest attainable standard of health*' takes into account the country's available resources. This right may be understood as a right of access to a variety of public health and health care facilities, goods, services, programs, and conditions necessary for the realisation of the highest attainable standard of health.

#### *The Right to Social Security*

The right to social security is contained in Article 9 of the ICESCR. It requires that a country must, within its maximum available resources, ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care. Countries are obliged to demonstrate that every effort has been made to use all resources that are

at their disposal in an effort to satisfy, as a matter of priority, this minimum obligation.

The Committee reports that there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under ICESCR. In this context, a retrogressive measure would be one taken without adequate justification that had the effect of reducing existing levels of social security benefits, or of denying benefits to persons or groups previously entitled to them. However, it is legitimate for a Government to re-direct its limited resources in ways that it considers to be more effective at meeting the general health needs of all society, particularly the needs of the more disadvantaged members of society.

*The right of equality and non-discrimination*

The rights of equality and non-discrimination are contained in articles 2, 16 and 26 of the International Covenant on Civil and Political Rights (ICCPR). Article 26 of the ICCPR requires that all persons are equal before the law, are entitled without any discrimination to the equal protection of the law and in this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Analysis

The Regulations maintain rights to health and social security and the right of equality and non-discrimination by ensuring access to publicly subsidised medical services are clinically and cost-effective as intended.

**Conclusion**

This instrument is compatible with human rights because it maintains existing arrangements and the protection of human rights.

**Mark Butler**

**Minister for Health and Aged Care**