

## **EXPLANATORY STATEMENT**

### *Health Insurance Act 1973*

#### *Health Insurance Legislation Amendment (2024 Measures No. 1) Regulations 2024*

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).

### **Purpose**

The purpose of the *Health Insurance Legislation Amendment (2024 Measures No. 1) Regulations 2024* (the Regulations) is to amend the GMST and the DIST from 1 March 2024 as agreed to in the 2023-24 Budget under *A Modern and Clinically Appropriate Medicare Benefits Schedule* measure.

Schedule 1 of the Regulations will amend the GMST and the DIST to make changes to medical and diagnostic imaging services.

Parts 1 to 7 of Schedule 1 of the Regulations will implement the following changes to the GMST and DIST as announced in the 2023-24 Budget:

- Amend 14 plastic and reconstructive surgery items to insert (H) into the item descriptions to ensure the appropriate provision of the specified services in-hospital only;
- Amend six spinal instrumentation items and the associated item for anterior exposure of the spine to clarify clinical intent and explicitly exclude their use for vertebral body tethering;
- Amend clause 1.2.4 to include equivalent telehealth items in the co-claiming restriction for subsequent attendance items with high price items in Group T8;

- Amend item 30662 for complex surgical repair following a complication from circumcision to include a benefit for patients when a surgical assistant is required for the procedure;
- Insert new item 30664 for the diagnosis of indeterminate biliary strictures and new item 30665 for the removal of difficult biliary stones;
- Insert new item 31537 for the insertion of a breast marker clip following a breast biopsy;
- Insert item 32118 to provide ongoing access to minimally invasive ventral rectopexy services for the treatment of external rectal prolapse and symptomatic high grade rectal intussusception;
- Insert two new items (37204 and 37205) for non invasive treatment for benign prostate hyperplasia and remove four items for obsolete benign prostatic hyperplasia treatments;
- Implement the Government's response to recommendations from the MBS Review Taskforce (the Taskforce) relating to MBS psychiatry services, inserting five new items, amending 18 items and deleting three items to provide more flexible arrangements, strengthen intent and clarify and remove obsolete terms from items;
- Insert three new items (40804, 40805 and 40806) for magnetic resonance-guided focused ultrasound (MRgFUS) for the treatment of medically refractory essential tremor into the GMST and two new items (63019 and 63020) for related magnetic resonance imaging services into the DIST;
- Insert three new items (22052, 22053 and 22054), mirroring existing procedural items, into the anaesthetic Relative Value Guide (RVG) in the GMST to allow an anaesthetist to claim a procedural item in association with the administration of anaesthesia; and amend three existing procedural items (13703, 40018 and 55135) to restrict co-claiming with the new items;
- Insert new item 11732 for exercise electrocardiogram stress testing for patients under investigation, monitoring or treatment for genetic heart disease diagnoses, or first degree relative of patients with confirmed genetic heart disease;
- Amend item 35412 to clarify the pre-operative diagnostic imaging items 60009, 60072, 60075 and 60078 to be claimed in association with the service;
- Insert new item 38325 for intravascular ultrasound coronary stent insertion as an adjunct service to invasive coronary angiogram for patients undergoing percutaneous coronary intervention (stent placement only) with complex anatomical characteristics;
- Amendments to items 38373 and 38374 for percutaneous retrieval and/or replacement of a leadless permanent pacemaker to clarify requirements for standby cardiothoracic surgeon support and need for immediate access to a theatre capable of open cardiothoracic surgery;
- Amend item 38557 for complex replacement or repair of aortic arch to allow the service to be performed in conjunction with a service under item 38550, 38553, 38554, 38556, 38558 or 38571 performed by any medical practitioner;
- Amend four thoracic surgery items (38425, 38815, 38816 and 38859) to implement a co-claiming restriction, allow additional surgical methods and align the items with clinical best practice; and
- Amendments to orthopaedic services, inserting 30 new items and amending 86 items to address patient access issues identified following previous amendments to MBS orthopaedic items.

Parts 8 and 9 of Schedule 1 of the Regulations implement administrative amendments to the GMST, including amendments to the fee methodology for RVG items in Group T10.

**Consultation**

A number of medical professional organisations were consulted on the 1 March 2024 changes, as part of the Taskforce and Medical Services Advisory Committee (MSAC) process. These include the Australian Medical Association, Royal Australian and New Zealand College of Radiologists, Royal Australasian College of Surgeons and Royal Australasian College of Physicians, among others. Further consultation was also undertaken with Implementation Liaison Groups in the development of the changes. There was general support from stakeholders on the changes that will be 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*.

The Regulations will commence on 1 March 2024.

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

## ATTACHMENT

### **Details of the *Health Insurance Legislation Amendment (2024 Measures No. 1) Regulations 2024***

#### Section 1 – Name

This section provides for the Regulations to be referred to as the *Health Insurance Legislation Amendment (2024 Measures No. 1) Regulations 2024* (the Regulations).

#### Section 2 – Commencement

This section provides for the Regulations to commence on 1 March 2024.

#### 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

##### *Part 1 – Plastic, reconstructive and spinal surgery*

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

**Items 1 to 11** will amend items 31344, 31386, 31387, 31388, 45027, 45209, 45562, 45563, 45614, 45671, 45855, 45857, 46092 and 46094 to insert “(H)” into the item descriptors. These changes will ensure the plastic and reconstructive surgery services described in the listed items are only available as in-hospital services.

These 14 items for plastic and reconstructive surgery services were identified as unsafe to be performed out of hospital through further consultation with the Plastic and Reconstructive Surgery Implementation Liaison Group (ILG) regarding the implementation of the MBS Review Taskforce recommendations for plastic and reconstructive surgery items. These changes will ensure the safe and clinically appropriate provision of these services.

Government agreed to these changes in the 2023-24 Budget through the *A Modern and Clinically Appropriate Medicare Benefits Schedule* measure. As part of the consultation with the Plastic and Reconstructive Surgery ILG, the following peak bodies were consulted on these changes:

- Australian Society of Plastic Surgeons;
- Breast Surgeons of Australia & New Zealand; and
- Australian Medical Association.

**Items 12 to 14** will amend items 51021, 51022, 51023, 51024, 51025 and 51026, which are for spinal instrumentation, and item 51165, which is for anterior exposure of the spine, to exclude use of the items for vertebral body tethering (VBT) for the treatment of scoliosis. These changes are intended to provide greater transparency to practitioners on the clinical circumstances for which these items can be claimed and clarify that they should not be used for vertebral body tethering for adolescent idiopathic scoliosis.

These changes will reflect advice from the Medical Services Advisory Committee (MSAC) who considered the evidence on the comparative safety, clinical effectiveness and cost effectiveness of VBT when compared to the alternative treatment posterior spinal fusion (PSF).

These changes were announced in the 2023-24 Budget under the *A Modern and Clinically Appropriate Medicare Benefits Schedule* measure. Consultation was undertaken on these changes with the Spine Society and Scoliosis Australia.

### Part 2 – Surgical Operations

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

Part 2 of Schedule 1 of the Regulations will amend the General Medical Services Table (GMST) to implement changes to surgical procedures as agreed to by Government in the 2023-24 Budget.

**Item 15** will amend subclause 1.2.4(1) to insert relevant telehealth consultation items into the restriction at clause 1.2.4. Clause 1.2.4 restricts claiming of specified items for consultation services on the same day as services to which a high value item in Group T8 applies. Consultation was undertaken on this change with relevant peak bodies, including the Australasian College of Dermatologists, the Australian and New Zealand Gastric and Oesophageal Surgery Association, the Australian and New Zealand Association of Paediatric Surgeons, and the Australian and New Zealand Society of Cardiac and Thoracic Surgeons, Australian and New Zealand Metabolic and Obesity Surgery Society, Australia and New Zealand Society for Vascular Surgery, Australian Orthopaedic Association, Australian Society of Ophthalmologists, Australian Society of Orthopaedic Surgeons, Australian Society of Otolaryngology head and neck surgery, Breast Surgeons of Australia and New Zealand, Colorectal Surgical Society of Australia and New Zealand, General Surgeons Australia, and Royal Australian and New Zealand College of Ophthalmologists.

**Item 16** will insert a note at the end of subclause 1.2.4(1), which will provide that some of the items specified in the subclause are located in determinations made under subsection 3C(1) of the Act. This amendment is machinery and consequential in nature, following the amendment to subclause 1.2.4(1) at **item 15** of the Regulations.

**Item 17** will insert new clause 5.10.5A, which provides the definition of the term *treatment cycle* for the purposes of new item 30665 (refer to **item 20** of the Regulations). For the purposes of item 30665, a treatment cycle begins on the day of the initial failed attempt at biliary stone removal via endoscopic retrograde cholangiopancreatography (ERCP) techniques and ends at the conclusion of the aftercare period for either the lithotripsy or surgical procedure that has resulted in removal of the biliary stones.

**Item 18** will amend item 30484, which provides for an ERCP procedure, to insert a co-claiming restriction for the service when it is provided on the same occasion as a service under new item 30664 or 30665 as these items include the ERCP procedure (refer to **item 20** of the Regulations).

**Item 19** will amend item 30662, which provides services for complex surgical repair following a complication from a circumcision, to insert “(Assist.)” at the end of the item descriptor. This change will provide patients with access to a Medicare benefit when assistance is required from an additional medical practitioner during a service provided under item 30662. This change was proposed by the relevant peak body for services under item 30662, the Urological Society of Australia and New Zealand (USANZ). Other relevant stakeholders, including the Australian Society of Plastic Surgeons (ASPS), the Australian and New Zealand Association of Paediatric Surgeons, Australian Paediatric Society and General Surgeons Australia, were advised of this minor change following the announcement of the change in the 2023-24 Budget.

**Item 20** will insert new items 30664 and 30665 for ERCP procedures with single operator, single use peroral cholangiopancreatography (POCPS). Item 30664 will provide patients with access to a service for POCPS and biopsy for the diagnosis of biliary strictures and item 30665 will provide patients with access to a service for POCPS and electrohydraulic or laser lithotripsy for the removal of biliary stones. Item 30664 will be applicable twice in a 12 month period unless a patient has been diagnosed with primary sclerosing cholangitis providing access to the service for this patient indication three times in a 12 month period. Item 30665 will be applicable twice per treatment cycle (refer to **item 17** of the Regulations).

The introduction of these new items was supported by MSAC at its 31 March 2021 meeting. A targeted consultation process was undertaken for the MSAC application, and the Department of Health and Aged Care consulted further with the Gastroenterological Society of Australia (GESA) regarding the item settings. General Surgeons Australia, the Australian and Aotearoa New Zealand Gastric and Oesophageal Surgery Association and the Pancare Foundation were also given the opportunity to provide comments on the proposed new item descriptors.

**Item 21** will insert new item 31537, which will provide patients with access to services for the insertion of a breast marker clip during a breast biopsy. The MBS Review Taskforce (the Taskforce) recommendations relating to breast imaging included a recommendation to introduce an item to provide accurate preoperative localisation of a lesion to facilitate follow-up investigations. The MSAC Executive Committee also considered the appropriate item descriptor and fee for item 31537 at its October 2022 meeting.

Consultation was undertaken with relevant stakeholders during drafting of the item descriptor, including with the Australian Diagnostic Imaging Association, the Royal Australian and New Zealand College of Radiologists, the Medical Oncology Group of Australia, the Clinical Oncology Society of Australia and Breast Surgeons of Australia and New Zealand.

**Item 22** will insert item 32118 for minimally invasive ventral rectopexy (MIVR) services into the GMST, which is currently listed in a determination made under subsection 3C(1) of the Act, the *Health Insurance (Section 3C General Medical Services - Ventral Mesh Rectopexy Services) Determination 2022*. On 6 July 2022, following changes made to

colorectal surgery items on 1 July 2022, item 32118 was introduced through the *Health Insurance (Section 3C General Medical Services - Ventral Mesh Rectopexy Services) Determination 2022* to ensure patients continued to have access to MIVR services while the application for an ongoing MIVR item was considered by MSAC. This change will implement the MSAC recommendations by providing an ongoing item for MIVR for the treatment of external rectal prolapse and symptomatic high grade rectal intussusception. The Department consulted with key stakeholders, including representatives from the Colorectal Surgical Society of Australia and New Zealand, the Australian Medical Association (AMA), the Royal Australasian College of Surgeons and private hospital and private health insurance sectors. Stakeholders are supportive of the change.

The *Health Insurance (Section 3C General Medical Services - Ventral Mesh Rectopexy Services) Determination 2022* will be repealed immediately after the commencement of the Regulations.

**Items 23 to 25** will amend items 36504, 36836, 36842 and 37201 to remove references to items 37206, 37230 and 37233, which will be repealed (refer to **items 29 and 32** of the Regulations).

**Items 26, 29 and 32** will repeal items 37202, 37206, 37230 and 37233 for treatment of benign prostate hyperplasia (BPH). MSAC recommended the removal of items 37202 (for continuation of initial treatment for transurethral radio-frequency needle ablation), 37206 (for continuation of initial treatment for transurethral resection of the prostate) 37230 and 37233 (for transurethral microwave thermotherapy), following the introduction of new items for non-invasive treatment of BPH (refer to **item 28** of the Regulations). These items are considered obsolete as well as having low and declining service volumes.

Consultation was undertaken regarding these changes with the Australian and New Zealand Association of Urological Surgeons (ANZAUS), AMA, the Royal Australian and New Zealand College of Radiologists (RANCZR), Australian Diagnostic Imaging Association (ADIA) and Prostate Cancer Foundation of Australia (PCFA).

**Item 27** will amend item 37203 to remove a reference to item 37202, which will be repealed (refer to **item 26** of the Regulations).

**Item 28** will insert new items 37204 and 37205 for non-invasive treatment of BPH. Item 37204 will support patient access to prostatic urethral lift (PUL) which uses implants to pull and lift the enlarged prostate into a better position, and item 37205 will support patient access to transurethral water vapour ablation (TUWA), which uses water vapour to remove part of the enlarged prostate. These new services were recommended by MSAC at its July 2022 meeting.

Consultation was undertaken regarding these changes with the ANZAUS, AMA, RANCZR, ADIA and PCFA.

**Items 30, 31 and 33** will amend items 37207, 37224 and 37245 to remove references to items 37202, 37206, 37230 and 37233, which will be repealed (refer to **items 26, 29 and 32** of the Regulations).

**Item 34** will amend the definition of *treatment cycle* at clause 7.1.1 to reference the additional definition of this term in relation to new item 30665 (refer to **items 17 and 20** of the Regulations).

*Part 3 – Psychiatry services*

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

Part 3 of Schedule 1 of the Regulations will implement the Government’s response to recommendations from the Taskforce relating to MBS psychiatry services. These changes are intended to provide more flexible arrangements for psychiatry services, strengthen the intent of the services and clarify and remove obsolete terms from items. The changes will also ensure that psychiatry patients receive the highest quality clinical care, and that MBS funded services continue to represent value for the patient and the community.

The Department conducted a consultation process with relevant psychiatric professional groups, including the AMA and Royal Australian and New Zealand College of Psychiatrists (RANZCP) to further inform the implementation of the Taskforce’s recommended changes for psychiatry and to mitigate any unintended consequences or barriers for patients. These changes were agreed to by Government as part of the 2023-24 Budget.

**Item 35** will repeal clause 2.11.1 of the GMST, which restricts claiming of specified psychiatry items in a 12 month period. Following changes to items 291 and 293 (refer to **item 36** of the Regulations), clause 2.11.1 will be redundant as the restriction will be included in the item descriptors of these items.

**Item 36** will amend items 291 and 293 for the preparation and review of a management plan by a consultant physician in the practice of the consultant physician’s specialty of psychiatry. This change is intended to strengthen the intent of the items and support best clinical practice.

A service provided to a patient under item 291 or 92435 is only available once in a 12 month period and a service under item 293 or 92436 is only available once in a 12 month period. To receive a service under item 293, a patient must also have received a service under item 291 or 92435 in the previous 12 months.

**Item 37** will amend item 294 for telehealth psychiatry attendances to revise the list of items that a service under item 294 must be provided in association with, following the introduction and removal of other psychiatry consultation services (refer to **items 43 to 47** of the Regulations).

**Items 38 to 41** will amend psychiatry items 296, 297, 299, 300, 302, 304, 306, 308, 310, 312, 314, 316 and 318 to include existing telehealth items for psychiatry services in the frequency limitations applying to services provided under the listed items. The changes will also make administrative amendments to these items to replace references to the item range “300 to 308” with “300, 302, 304, 306, 308”, following the introduction of new general practice items 301 and 303 that were implemented on 1 November 2023, and were not intended to be included in the frequency limitations for psychiatry services.

Telehealth items 91827, 91828, 91829, 91830, 91831, 91837, 91838, 91839 and 92437 for psychiatry services will also be amended on 1 March 2024 through an amendment to the



*Health Insurance (Section 3C General Medical Services – Telehealth and Telephone Attendances) Determination 2021.*

**Item 42** will amend psychiatry item 319 to remove specific diagnostic references and the associated stigma. This change is intended to remove barriers for patients accessing intensive psychotherapy treatment for complex and severe mental health disorders. This change will also amend the frequency limitation applying to services provided under item 319 in accordance with other relevant psychiatry services (refer to **items 38 to 41** of the Regulations).

**Items 43 to 46** will insert new psychiatry items 341, 343, 345 and 347 for time-tiered interview services provided to a person other than the patient to assist with the treatment of the patient. The new items mirror equivalent patient attendance items to increase clinician flexibility according to clinical needs of the patient, at diagnosis and throughout ongoing management.

**Item 47** will repeal three existing psychiatry items (348, 350 and 352) for interview services provided to a person other than the patient and insert new item 349 for interview services lasting more than 75 minutes provided to a person other than the patient to assist with the treatment of the patient. Items 348, 350 and 352 will be replaced by the new time tiered items 341, 343, 345, 347 and 349 for interview services provided to a person other than the patient. New telehealth items for interview services provided to a person other than the patient (items 91874 to 91878 and 91882 to 91884) will also be introduced on 1 March 2024 through an amendment to the *Health Insurance (Section 3C General Medical Services – Telehealth and Telephone Attendances) Determination 2021*.

**Items 48 and 49** will amend item 14224 to insert “(H)” into the item descriptor to ensure that services under this item are only provided in hospital settings and will increase the schedule fee to better account for the time and complexity associated with delivering this service.

*Part 4 – Services performed with imaging or anaesthesia*

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

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

**Items 50 and 51** of Part 4 of Schedule 1 of the Regulations will amend the Diagnostic Imaging Services Table (DIST).

**Items 52 to 56** of Part 4 of Schedule 1 of the Regulations will amend the GMST.

**Item 50** will amend item 55135 of the DIST, which provides services for intraoperative two-dimensional or three-dimensional real time transoesophageal echocardiography, to insert a co-claiming restriction between item 55135 and new item 22054 (refer to **item [49]** of the Regulations).

**Item 51** will insert new items 63019 and 63020 into the DIST for magnetic resonance-guided focused ultrasound (MRgFUS) for the treatment of medically refractory essential tremor. MRgFUS is a non-invasive neurosurgery intervention used as an alternative to invasive procedures such as deep brain stimulation. Item 63019 provides magnetic resonance imaging

(MRI) services for assessment of suitability for the treatment of medically refractory essential tremor with MRgFUS. Item 63020 provides MRI services for the post-procedure assessment of the patient following MRgFUS for the treatment of medically refractory essential tremor. Refer to **item 56** of the Regulations, which inserts three new items into the GMST for MRgFUS treatment services.

On 31 March 2022, MSAC endorsed the creation of services on the MBS for MRgFUS for the treatment for medically refractory essential tremor, following consideration of the strength of the available evidence in relation to comparative safety, clinical effectiveness, and cost-effectiveness. The Department consulted the following stakeholders regarding the introduction of the new MRgFUS services:

- Neurosurgical Society of Australasia (NSA);
- Australian and New Zealand Association of Neurologists (ANZAN);
- RANZCR;
- Royal Australasian College of Physicians (RACP);
- Australian Society of Medical Imaging and Radiation Therapy (ASMIRT);
- Australasian Association of Nuclear Medicine Specialists (AANMS);
- Australian and New Zealand Society of Nuclear Medicine (ANZSNM);
- ADIA; and
- Australasian College of Physical Scientists and Engineers in Medicine (ACPSEM).

The stakeholder feedback received by the Department was supportive of the introduction of items for MRgFUS services. These changes were agreed to by Government as part of the 2023-24 Budget.

**Item 52** will amend item 13703 of the GMST, which provides for services for intraoperative blood transfusion, to insert a co-claiming restriction between item 13703 and new item 22052 (refer to **item 54** of the Regulations).

**Item 53** will insert a new subclause at the end of clause 5.9.4 of the GMST to provide that item 22054 does not apply to a service if the service is performed on diagnostic imaging equipment that exceeds the applicable life age of the equipment within the meaning of the diagnostic imaging services table. This change will ensure that new item 22054 (refer to **item 54** of the Regulations) has the same equipment life age requirements as equivalent service item 55135.

**Item 54** will insert new items 22052, 22053 and 22054 into the anaesthetic Relative Value Guide (RVG) of the GMST. The new items mirror existing items (13703, 40018 and 55135) to enable anaesthetists to co-claim these procedural services together with the administration of anaesthesia which, unless approved by the Minister, is otherwise prohibited under subsection 16(1) of the *Health Insurance Act 1973*.

In September 2022, the MSAC Executive considered a submission from the Australian Society of Anaesthetists (ASA) to replicate 10 procedural items into the RVG. MSAC subsequently endorsed the introduction of three new MBS services into Subgroup 19 of Group T10 of the anaesthesia RVG to support the provision of services by anaesthetists for services similar to those specified in items 13703, 40018 and 55135.

The Department consulted the following stakeholders regarding the introduction of the new anaesthesia services:

- NSA;
- Australian Society of Head & Neck Surgeons;
- Australasian Society for Ultrasound in Medicine;
- Australian Diagnostic Imaging Association (ADIA);
- RANCZR;
- Australian and New Zealand College of Anaesthetists;
- Australian and New Zealand Society of Cardiac Thoracic Surgeons;
- Australian Society of Medical Perfusion;
- ANZAN; and
- Australian and New Zealand Society of Vascular Surgeons.

Item 22052 provides a Medicare benefit for intraoperative transfusion of blood by an anaesthetist where the service is provided on the same occasion as the administration of anaesthesia by the same practitioner. This item must not be claimed on the same occasion as a service under item 13703 as item 22052 provides a Medicare benefit for the same service performed by a different medical practitioner.

Item 22053 provides a Medicare benefit for the insertion of lumbar cerebrospinal fluid drain by an anaesthetist where the service is provided on the same occasion as the administration of anaesthesia by the same practitioner. This item must not be claimed on the same occasion as a service under item 40018 as item 22053 provides a Medicare benefit for the same service performed by a different medical practitioner.

Item 22054 provides a Medicare benefit for intraoperative two-dimensional or three-dimensional real time transoesophageal echocardiography by an anaesthetist where the service is provided on the same occasion as the administration of anaesthesia by the same practitioner. This item must not be claimed on the same occasion as a service under item 55135 as item 22054 provides a Medicare benefit for the same service performed by a different medical practitioner.

The fees for the new items will specify the relevant number of base units applicable in accordance with the changes at **Part 9 of Schedule 1** of the Regulations.

These changes were agreed to by Government as part of the 2023-24 Budget.

**Item 55** will amend item 40018 of the GMST, which provides services for the insertion of lumbar cerebrospinal fluid drain, to insert a co-claiming restriction between item 40018 and new item 22053 (refer to **item 54** of the Regulations).

**Item 56** will insert three new items (40804, 40805 and 40806) for MRgFUS for the treatment of medically refractory essential tremor. MRgFUS is a non-invasive neurosurgery intervention used as an alternative to invasive procedures such as deep brain stimulation.

The services under the three items are required to be performed on the same occasion by three different practitioners. A service to which item 40804 applies must be rendered by an interventional or MRI radiologist, a service to which item 40805 applies must be rendered by a neurologist and a service to which item 40806 applies must be rendered by a neurosurgeon.

On 31 March 2022, MSAC endorsed the creation of services on the MBS for MRgFUS for the treatment for medically refractory essential tremor, following consideration of the

strength of the available evidence in relation to comparative safety, clinical effectiveness, and cost-effectiveness. The Department consulted the following stakeholders regarding the introduction of the new MRgFUS services:

- NSA;
- ANZAN;
- RANZCR;
- RACP;
- ASMIRT;
- AANMS;
- ANZSNM;
- ADIA; and
- ACPSEM.

The stakeholder feedback received by the Department was supportive of the introduction of items for MRgFUS services. These changes were agreed to by Government through the 2023-24 Budget.

*Part 5 – Cardiac and arterial procedures*

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

**Items 57 to 62** will amend clauses 1.2.11, 1.2.13, 4.1.3D and 4.1.3E of the GMST to apply the provisions of these clause to new item 11732 (refer to **item 63** of the Regulations). Clause 1.2.11 specifies services that can be performed by a person other than a medical practitioner. Clause 1.2.13 provides restrictions related to attendances on same day as electrocardiogram services are performed. Clauses 4.1.3D and 4.1.3E provide patient limitations and safety requirements for electrocardiogram stress testing services.

**Item 63** will insert new item 11732 for exercise electrocardiogram stress testing for patients under investigation, monitoring or treatment for genetic heart disease diagnoses, or a first degree relative of patients with confirmed genetic heart disease. The new item will facilitate best practice for assessment, risk stratification and management of patients suspected or diagnosed with inherited arrhythmia syndrome or arrhythmogenic cardiomyopathy.

These amendments were proposed by the Cardiac Society of Australia and New Zealand (CSANZ) and were supported by MSAC Executive in December 2022. This change was agreed to by Government as part of the 2023-24 Budget.

**Item 64** will amend item 35412 for intracranial aneurysm services to ensure appropriate claiming in association with pre-operative diagnostic imaging item 60009, 60072, 60075 or 60078. This change specifies that services under item 35412 must be performed in association with two pre-operative diagnostic imaging services: (1) under item 60009; and (2) under one of items 60072, 60075 and 60078.

Consultation was not undertaken on this change as it is a correction of an administrative error from when the item was first introduced. This change was agreed to by Government as part of the 2023-24 Budget.

**Item 65** will insert new item 38325 for intravascular ultrasound guided (IVUS) coronary stent insertion as an additional treatment to invasive coronary angiogram for patients

undergoing percutaneous coronary intervention with complex anatomical characteristics. MSAC considered IVUS to have superior effectiveness, acceptable cost-effectiveness and financial impact for the higher risk population with complex lesions.

The Department undertook consultation with CSANZ, who support the introduction of this service. This change was agreed to by Government as part of the 2023-24 Budget.

**Items 66 and 67** will amend items 38373 and 38374 for percutaneous retrieval and/or replacement of a leadless permanent pacemaker.

Items 38373 and 38374 were introduced on 1 November 2023 by the *Health Insurance Legislation Amendment (2023 Measures No. 3) Regulations 2023*. For the purposes of these items, the services must be performed in a facility where cardiothoracic surgery is available and a thoracotomy can be performed immediately and without transfer if the service is performed at least four weeks after insertion of the pacemaker. As such, if a service under item 38373 or 38374 is performed within the first four weeks after the initial insertion of the pacemaker, it can be performed in a facility where cardiothoracic surgery is not available and a thoracotomy cannot be performed immediately and without transfer.

Following finalisation of the *Health Insurance Legislation Amendment (2023 Measures No. 3) Regulations 2023*, the Cardiac Society of Australia and New Zealand (CSANZ) raised concerns that the item descriptors for items 38373 and 38374 may not sufficiently clarify this policy intention, resulting in patient access issues for services provided under the new items. These changes will amend items 38373 and 38374 to address these concerns and provide further clarity regarding the appropriate use of these items.

The introduction of items 38373 and 38374 was announced in the 2023-24 Budget under the *A Modern and Clinically Relevant Medicare Benefits Schedule* measure.

**Item 68** will amend item 38557 for complex replacement or repair of aortic arch to allow the service to be performed in conjunction with a service under item 38550, 38553, 38554, 38556, 38558 or 38571 by any medical practitioner. This change will allow two surgeons to complete separate components of complex aortic procedures and allow individual claiming of the items.

These amendments were proposed by the Australian and New Zealand Society of Cardiac and Thoracic Surgeons (ANZSCTS) and were supported by MSAC Executive in December 2022.

This change was agreed to by Government as part of the 2023-24 Budget.

#### Part 6 – Thoracic surgery

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

**Item 69** will amend item 38425 for endoscopic resection of endobronchial tumours to remove the word “laser” and implement appropriate co-claiming restrictions. This change will provide for additional surgical techniques.

The Australian and New Zealand Society of Cardiac and Thoracic Surgeons requested this change to correct unintended consequences of Taskforce recommendations relating to thoracic surgery. This change was agreed to by Government as part of the 2023-24 Budget.

**Item 70** will amend item 38815 for thoracoscopy services to further clarify for providers that the co-claiming restriction between thoracoscopy and thoracotomy items only applies when the services are performed on the same lung.

The Australian and New Zealand Society of Cardiac and Thoracic Surgeons requested this change to correct unintended consequences of Taskforce recommendations relating to thoracic surgery. This change was agreed to by Government as part of the 2023-24 Budget.

**Item 71** will amend item 38816 for thoracotomy services to further clarify for providers that the co-claiming restriction between thoracoscopy and thoracotomy items only applies when the services are performed on the same lung.

The Australian and New Zealand Society of Cardiac and Thoracic Surgeons requested this change to correct unintended consequences of Taskforce recommendations relating to thoracic surgery. This change was agreed to by Government as part of the 2023-24 Budget.

**Item 72** will amend item 38859 to correct an administrative error, replacing a reference to “33815” with “38815”. No consultation was undertaken on this change as it is administrative in nature.

### Part 7 – Orthopaedic services

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

Part 7 of the Regulations implement changes to orthopaedic services to address patient access issues identified following the implementation of Taskforce recommendations relating to orthopaedic services on 1 July 2021.

On 1 July 2021, changes were made to 599 MBS items for orthopaedic surgery services in response to the recommendations of the Taskforce. As part of an agreement with the AMA, an early post-implementation review was initiated in November 2021 to address unintended consequences of the 1 July 2021 changes.

These changes insert 30 new items and amend 86 items to remedy unintended consequences identified during the early post-implementation review by restoring MBS coverage of some services that had been inadvertently removed, adjusting co-claiming restrictions where they were preventing appropriate claiming of multiple items, and improving the clarity and consistency of item descriptors.

Extensive consultation was undertaken regarding these changes with the peak body for orthopaedic surgery, the Australian Orthopaedic Association (AOA), and including the following orthopaedic sub-specialty societies:

- Shoulder and Elbow Society of Australia (SESA);
- Australian Hand Surgery Society (AHSS);
- Arthroplasty Society of Australia (ASA);
- Australian Orthopaedic Foot and Ankle Society (AOFAS); and

- Australian Paediatric Orthopaedic Society (APOS).

These changes were announced through the 2023-24 Budget under *A Modern and Clinically Appropriate Medicare Benefits Schedule* measure.

**Items 73 to 81** will amend orthopaedic items 39303, 39309, 39312, 39315, 39329, 39330, 39331, 39332, 39336, 39339, 39342 and 39345 to specify that the relevant co-claiming restriction with wound debridement item 30023 for each listed item only applies if the two services are performed on the same site at the same time.

**Item 82** will amend item 46324 for prosthetic interpositional replacement of carpometacarpal joint of the thumb services to also encompass services performed on the other carpometacarpal joints. The inclusion of carpometacarpal joints in addition to the already covered carpometacarpal thumb joint will address patient access issues. Trapezium replacement arthroplasty services will be removed from item 46324 to prevent duplication with item 49230 (refer to **item 125** of the Regulations).

**Item 83** will amend item 46325 for excisional arthroplasty of carpometacarpal joint of thumb services to also encompass services performed on the other carpometacarpal joints. The inclusion of carpometacarpal joints in addition to the already covered carpometacarpal thumb joint will address patient access issues.

**Item 84** will amend item 46335 for synovectomy services of digital extensor tendons in the hand to remove the co-claiming restriction with carpal tunnel release item 39331, which is only intended to apply to synovectomy services of the flexor tendons of the hand or wrist. This change will also specify that the relevant co-claiming restriction with wound debridement item 30023 only applies if the two services are performed on the same site at the same time.

**Item 85** will amend item 46339 for synovectomy services of the digital flexor tendons at wrist level to specify that the co-claiming restriction with wound debridement item 30023 applies if the two services are performed on the same site at the same time.

**Items 86 and 87** will amend items 46340 and 46341 for synovectomy services of flexor or extensor tendons in the hand or wrist, to amend the existing co-claiming restrictions. This change will reflect the intention that the co-claiming restriction with carpal tunnel release item 39331 should only apply where the synovectomy services are performed on the flexor tendons of the hand or wrist. Additionally, the restriction in each item with wound debridement item 30023 will only apply if the two services are performed on the same site at the same time.

**Items 88 to 92** will amend items 46348, 46351, 46354, 46357 and 46360 for flexor tenosynovectomy services of hand to amend the existing co-claiming restrictions in these items. The restriction in each item with 46363 will only apply if the flexor tenosynovectomy services are performed on one of the same rays as the trigger finger release service corresponding to item 46363. Additionally, the restriction in each item with wound debridement item 30023 will only apply if the two services are performed on the same site at the same time.

**Item 93** will amend item 46363 to replace a reference to “tenosynoviti” with “tenosynovitis” to address a typographical error.

**Items 94 to 96** will amend orthopaedic items 46364, 46387, 46390, 46393, 46394, 46395, 46408, 46414 and 46423 to specify that the relevant co-claiming restriction with wound debridement item 30023 for each listed item only applies if the two services are performed on the same site at the same time.

**Item 97** will amend item 46426 for repair of flexor tendon of hand or wrist services, proximal to the A1 pulley, to remove the restriction preventing the use of this item for “a service to repair a tendon of a digit if two tendons of the same digit have been repaired during the same procedure”. This restriction is not relevant to the anatomical site the service is performed on and its removal will improve the clarity of the descriptor.

**Item 98** will amend item 46432 for repair of flexor tendon services, distal to the A1 pulley, to remove the phrase “or wrist”. These services are limited to anatomical locations in the hand and the removal of ‘or wrist’ will improve the clarity of the descriptor.

**Items 99 to 101** will amend orthopaedic items 46434, 46450 and 46453 to specify that the relevant co-claiming restriction with wound debridement item 30023 for each listed item only applies if the two services are performed on the same site at the same time.

**Item 102** will amend item 46498 for excision of ganglion of flexor tendon sheath of hand services to amend the existing co-claiming restriction with trigger finger release item 46363 to specify that it only applies where the two services are performed on the same ray.

**Items 103 and 104** will amend orthopaedic items 46522 and 46525 to specify that the relevant co-claiming restriction with wound debridement item 30023 for each item only applies if the two services are performed on the same site at the same time.

**Item 105** will amend item 47357 for treatment of fracture of carpal scaphoid services to remove the requirement for the fracture reduction to be performed by open means and clearly allow any form of fixation to be used. This change will better align the item with modern clinical practice, improve clarity for providers and address patient access issues for some of these services.

**Item 106** will insert new item 47577 for treatment of fibular fractures proximal to the ankle. This change will address a patient access issue identified for the surgical management of isolated fibular fractures that are not already encompassed by current items 47570 and 47573. This change will restore benefits for these services that were previously available under item 47576, which ceased on 1 July 2021.

**Item 107** will amend items 47615 and 47618 for the treatment of hindfoot fractures to specify that the service applies to one hindfoot bone rather than one foot. This change will allow these items to be claimed more than once per foot in patients where multiple hindfoot bones are treated. This change will restore Medicare benefits that were unintentionally reduced by previous changes to these items made on 1 July 2021.



**Item 108** will amend item 47639 for treatment of fracture of metatarsal to specify that the service applies to one metatarsal of one foot. This change will improve consistency with items 47648 and 47657 and clarify appropriate use of this group of items by providers.

**Item 109** will amend item 47792 for joint stabilisation procedures to include services performed on the sternoclavicular joint. This will restore access to services for the sternoclavicular joint that were previously available under item 50106, which ceased on 1 July 2021. Services for joint stabilisation of the scapulothoracic joint will be removed from this item and will instead be available under new item 47795, which better describes that service (refer to **item 111** of the Regulations).

**Item 110** will amend item 47792 for joint stabilisation procedures to insert “(H)” into the item descriptor to ensure that services under this item are only provided in hospital settings.

**Item 111** will insert new item 47795 for joint stabilisation procedures of the scapulothoracic joint currently encompassed by item 47792. This new item will more accurately describe the procedure and allow for appropriate co-claiming with items for osteotomy of the rib and a chest drain where they are performed.

**Item 112** will insert new items 47968, 47970 and 47973 for open tenotomy of one or more tendons of the shoulder, scapula or elbow respectively. These new items will address patient access issues following the removal of item 47963 on 1 July 2021.

**Item 113** will amend item 48400 to clarify that it is limited to use in the foot and that it may be used for the removal of a sesamoid or accessory bone where no osteotomy is performed. This change will give providers greater certainty on appropriate use of the item and ensure there are no patient access issues for the removal of sesamoid or accessory bones in the foot.

**Item 114** will amend item 48403 for osteotomy of the first toe phalanx or metatarsal to clarify that it encompasses services performed on any of the five metatarsal bones. This change will improve clarity for providers and ensure there are no patient access issues for osteotomies of the second to fifth metatarsals.

**Item 115** will insert 11 new orthopaedic items (48436, 48438, 48440, 48442, 48444, 48446, 48448, 48450, 48452, 48454 and 48456). New region-specific items 48436 to 48444 will be introduced for the removal of one or more exostoses to address patient access issues for these services. This change will restore access to some services previously available under items 47933 or 47936, which both ceased on 1 July 2021.

New item 48436 will provide Medicare benefits for excision of one or more exostoses of the hand.

New item 48438 will provide Medicare benefits for excision of one or more exostoses in the wrist.

New item 48440 will provide Medicare benefits for excision of one or more exostoses in the arm or shoulder.

New item 48442 will provide Medicare benefits for excision of one or more exostoses in the hip.

New item 48444 will provide Medicare benefits for excision of one or more exostoses in the knee, tibia or fibula.

Items 48446 to 48456, for the treatment of fracture non-unions or malunions with bone grafting, will address provider uncertainty regarding appropriate claiming for these services following changes to orthopaedic MBS items on 1 July 2021 and will ensure patients can access Medicare benefits for these procedures.

New item 48446 will provide Medicare benefits for treatment of non-union or malunion of fracture of the pelvis.

New item 48448 will provide Medicare benefits for treatment of non-union or malunion of fracture of the femur.

New item 48450 will provide Medicare benefits for treatment of non-union or malunion of fracture of the tibia or fibula.

New item 48452 will provide Medicare benefits for treatment of non-union or malunion of fracture of the humerus.

New item 48454 will provide Medicare benefits for treatment of non-union or malunion of fracture of the radius, ulna, or carpus.

New item 48456 will provide Medicare benefits for treatment of non-union or malunion of fracture of the hand, distal to wrist.

**Items 116 to 123** will insert 11 new orthopaedic items (48919, 48925, 48932, 48943, 48944, 48952, 48953, 48959, 49113, 49114 and 49127) to address patient access issues for services in the shoulder and elbow region following the implementation of Taskforce recommendations relating to orthopaedic services on 1 July 2021.

New item 48919 will provide Medicare benefits for anatomic or reverse total shoulder replacement service requiring a bone graft. This new item will include services currently claimed under a combination of current shoulder replacement item 48918 and the relevant bone graft item. The new item will additionally encompass bone grafts performed as part of a shoulder replacement procedure that are intended to attract a Medicare benefit but are not described by any of bone graft items 48245 to 48257. This change will ensure patients receive an appropriate benefit for these shoulder replacement procedures.

New item 48925 will restore Medicare benefits for a subset of arthroplasty services that are not already encompassed by the current items. This change will address an access issue for services including interpositional arthroplasty of the shoulder. These services were previously provided under item 50127, which ceased on 1 July 2021.

New item 48932 will restore Medicare benefits for arthroplasty services of the acromioclavicular joint or sternoclavicular joint that are not encompassed by current items. This change will address an access issue for services including interpositional arthroplasty of these joints. These services were previously provided under item 50127, which ceased on 1 July 2021.

New item 48943 will restore Medicare benefits for arthrodesis services of the acromioclavicular joint or sternoclavicular joint to address a patient access issue. These services were previously provided under item 50109, which ceased on 1 July 2021.

New item 48944 will restore Medicare benefits for arthrodesis services of the scapulothoracic joint to address a patient access issue. These services were previously provided under item 50109, which ceased on 1 July 2021.

New item 48952 will restore Medicare benefits for arthroscopic surgery of the acromioclavicular joint or sternoclavicular joint to address a patient access issue. These were previously provided under item 50102, which ceased on 1 July 2021.

New item 48953 will restore Medicare benefits for arthroscopic surgery of scapulothoracic joint to address a patient access issue. These services were previously provided under item 50102, which ceased on 1 July 2021.

New item 48959 will provide Medicare benefits for Latarjet procedures for shoulder stabilisation. These services are currently provided under several different items. This change will introduce one item representing a complete medical service to address provider uncertainty regarding appropriate billing patterns and ensure patients receive an appropriate benefit for this procedure.

New item 49113 will restore Medicare benefits for the removal of a radial head prosthesis. This change will address an access issue for procedures wherein a radial head prosthesis is removed but not replaced. These services were previously provided under item 50127, which ceased on 1 July 2021.

New item 49114 will restore Medicare benefits for revision procedures of a radial head replacement. This change will address a patient access issue for isolated revision procedures of a radial head replacement. These services were previously provided under item 50127, which ceased on 1 July 2021.

New item 49127 will restore Medicare benefits for arthroplasty of the elbow joint that are not encompassed by current items. This change will address a patient access issue for some elbow arthroplasty procedures, including interpositional arthroplasty. These services were previously provided under item 50127, which ceased on 1 July 2021.

**Item 124** will amend items 49219 and 49220 for the arthroscopic diagnosis or treatment of the carpometacarpal joint of thumb or joint of digit. The change will insert “joint” after “carpometacarpal” to correct typographical errors in these items.

**Item 125** will amend item 49230 for the prosthetic replacement of carpal bones of the wrist. The requirement that the service be performed in a trauma or emergency setting will be removed to address a patient access issue for these services where they are provided in an elective setting. The item descriptor will also be amended to clarify that ligament and tendon balancing procedures, limited wrist fusions, and limited bone grafting are optional components of the procedure that are included if performed.

**Items 126 to 128** will amend item 49233 for excisional arthroplasty services for single carpal bones of the wrist. These changes will clarify that radial styloidectomy, ulnar styloidectomy, and excision of the proximal hamate, and excision of the proximal scaphoid are all optional components of the procedure that are included if performed. The co-claiming restrictions in this item will also be adjusted to allow it to be used on the same occasion as items for some other wrist procedures where appropriate. The clinical terminology will be updated to specify “radioulnar joint” for consistency with the remainder of the Schedule. These changes will provide greater clarity to providers performing these services and ensure patients receive appropriate Medicare benefits for complex wrist procedures.

**Item 129** will amend item 49239 to specify that it also includes services for the excision of a sesamoid bone of the hand. This change will address a patient access issue for sesamoid removal in the hand. These services were previously performed under item 48400, which is now limited to use in the foot.

**Item 130** will amend item 49321 for arthroplasty services of the hip to specify that it is to be used for a “complex primary arthroplasty”. This change will update the terminology to be more clinically relevant and better differentiate this item from primary hip arthroplasty item 49318.

**Item 131** will amend item 49363 to specify that the service is for diagnostic arthroscopy of hip, with synovial biopsy. This change will reverse the unintentional conversion from a diagnostic item to a treatment item that occurred as part of the 1 July 2021 changes.

**Item 132** will amend items 49518 and 49519 for arthroplasty of knee services to remove the word “replacement”. This change will improve the clarity of the services and ensure consistency of item descriptors for knee arthroplasty services.

**Item 133** will amend item 49521 for complex primary arthroplasty of knee services to update the language used to describe the service. This change will improve the clarity of the services and ensure consistency of item descriptors for knee arthroplasty services.

**Item 134** will amend item 49524 for complex primary arthroplasty of knee services using both revision femoral and tibial components to update the language used to describe the service. This change will improve the clarity of the services and ensure consistency of item descriptors for knee arthroplasty services. The item has also been amended to specify that it includes complex primary knee arthroplasty procedures that include a distal femoral or a proximal tibial revision, including anatomic specific allograft.

**Item 135** will amend items 49527, 49530 and 49533 for revision of knee procedures services to replace the term “replacement” with “arthroplasty”. This change will improve the clarity of the services to assist providers and ensure consistency of item descriptors for orthopaedic services.

**Item 136** will amend item 49534 for knee procedures to replace the term “Replacement” with “Arthroplasty”. This change will improve the clarity of the service to assist providers and ensure consistency of item descriptors for orthopaedic services.

**Item 137** will insert new items 49592, 49594 and 49596 for services for the excision of heterotopic ossification, myositis ossificans or post-traumatic ossification in the hip, knee or

lower leg respectively. This change will restore patient access to these procedures following the removal of the term “osteotomy” from a range of osteotomy items on 1 July 2021.

**Item 138** will amend item 49716 for revision of total ankle replacement services to specify that the replacement may include the exchange of tibial or talar components (or both) or plastic inserts. This change will address a patient access issue for revision of total ankle replacement services where only the plastic inserts are exchanged.

**Items 139** will amend items 49717, 49740 and 49744 for ankle procedures to specify that the relevant co-claiming restriction with wound debridement item 30023 for each item only applies if the two services are performed on the same site at the same time.

**Items 140 to 146** will amend items 49762, 49763, 49764, 49765, 49766, 49767 and 49768 for stabilisation of two to eight metatarsophalangeal joint to increase the schedule fees for these services. This change will align the fee structure for these items with the multiple operation rule for joints beyond the first as originally intended and ensure patients receive appropriate benefits for these procedures.

**Items 147 to 152** will amend orthopaedic items 49771, 49773, 49774, 49775, 49776, 49782, 49866, 49881, 49884, 49887 and 49890 to specify that the relevant co-claiming restriction with wound debridement item 30023 for each listed item only applies if the two services are performed on the same site at the same time.

**Item 153** will amend item 50654 for hip procedures for patients under the age of 18 to remove the limitation that it be used for the treatment of hip dysplasia or dislocation. This change will address a patient access issue for some rare paediatric hip pathologies that are not best described as hip dysplasia or dislocation. The language in the item descriptor will also be updated to better describe the service.

#### Part 8 – Administrative amendment

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

**Item 154** will repeal Division 2.18 of Schedule 1 of the GMST. On 1 January 2022, items in Group A30 specified in Division 2.18 of the GMST were repealed by the *Health Insurance Legislation Amendment (2021 Measures No. 3) Regulations 2021*. However, the heading and clauses contained within Division 2.18 were not removed at that time. This administrative change will remove all remaining text in Division 2.18 in accordance with the previous removal of items in Group A30. No consultation was undertaken regarding this change as it is administrative in nature.

#### Part 9 – Anaesthesia fees

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

Part 9 of Schedule 1 of the Regulations amends the fee methodology for Relative Value Guide (RVG) items in Group T10 to simplify the process of annual fee indexation for these items.

Currently, the cell at column 3 for these items specifies a fee value. However, the fees for these items are calculated using a base unit, which is then multiplied by the number of base units for the relevant item. This base unit is indexed on 1 July each year and the fees are recalculated and updated in the legislation accordingly.

This change does not apply to items in subgroups 24 to 26 of Group T10, as these items have their fees specified under clauses 5.9.1 and 5.9.2 of the GMST. No consultation was undertaken regarding this change as it is machinery in nature and is not intended to change the operation of the affected RVG items.

**Item 155** will insert new clause 5.9.1A, which provides the meaning of *base unit* for the provision of items in Group T10 of the GMST. The current base unit amount is \$21.80.

**Item 156** will amend listed items in Group T10 to replace the current fee with an equivalent number of base units. The fees payable for services under these items will not be affected by these changes.

## 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 2024***

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 *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).

#### **Purpose**

The purpose of the *Health Insurance Legislation Amendment (2024 Measures No. 1) Regulations 2024* (the Regulations) is to amend the GMST and the DIST from 1 March 2024 as agreed to in the 2023-24 Budget under *A Modern and Clinically Appropriate Medicare Benefits Schedule* measure.

Schedule 1 of the Regulations will amend the GMST and the DIST to make changes to medical and diagnostic imaging services.

Parts 1 to 7 of Schedule 1 of the Regulations will implement the following changes to the GMST and DIST as announced in the 2023-24 Budget:

- Amend 14 plastic and reconstructive surgery items to insert (H) into the item descriptions to ensure the appropriate provision of the specified services in-hospital only;

- Amend six spinal instrumentation items and the associated item for anterior exposure of the spine to clarify clinical intent and explicitly exclude their use for vertebral body tethering;
- Amend clause 1.2.4 to include equivalent telehealth items in the co-claiming restriction for subsequent attendance items with high price items in Group T8;
- Amend item 30662 for complex surgical repair following a complication from circumcision to include a benefit for patients when a surgical assistant is required for the procedure;
- Insert new item 30664 for the diagnosis of indeterminate biliary strictures and new item 30665 for the removal of difficult biliary stones;
- Insert new item 31537 for the insertion of a breast marker clip following a breast biopsy;
- Insert item 32118 to provide ongoing access to minimally invasive ventral rectopexy services for the treatment of external rectal prolapse and symptomatic high grade rectal intussusception;
- Insert two new items (37204 and 37205) for non invasive treatment for benign prostate hyperplasia and remove four items for obsolete benign prostatic hyperplasia treatments;
- Implement the Government's response to recommendations from the MBS Review Taskforce (the Taskforce) relating to MBS psychiatry services, inserting five new items, amending 18 items and deleting three items to provide more flexible arrangements, strengthen intent and clarify and remove obsolete terms from items;
- Insert three new items (40804, 40805 and 40806) for magnetic resonance-guided focused ultrasound (MRgFUS) for the treatment of medically refractory essential tremor into the GMST and two new items (63019 and 63020) for related magnetic resonance imaging services into the DIST;
- Insert three new items (22052, 22053 and 22054), mirroring existing procedural items, into the anaesthetic Relative Value Guide (RVG) in the GMST to allow an anaesthetist to claim a procedural item in association with the administration of anaesthesia; and amend three existing procedural items (13703, 40018 and 55135) to restrict co-claiming with the new items;
- Insert new item 11732 for exercise electrocardiogram stress testing for patients under investigation, monitoring or treatment for genetic heart disease diagnoses, or first degree relative of patients with confirmed genetic heart disease;
- Amend item 35412 to clarify the pre-operative diagnostic imaging items 60009, 60072, 60075 and 60078 to be claimed in association with the service;
- Insert new item 38325 for intravascular ultrasound coronary stent insertion as an adjunct service to invasive coronary angiogram for patients undergoing percutaneous coronary intervention (stent placement only) with complex anatomical characteristics;
- Amendments to items 38373 and 38374 for percutaneous retrieval and/or replacement of a leadless permanent pacemaker to clarify requirements for standby cardiothoracic surgeon support and need for immediate access to a theatre capable of open cardiothoracic surgery;
- Amend item 38557 for complex replacement or repair of aortic arch to allow the service to be performed in conjunction with a service under item 38550, 38553, 38554, 38556, 38558 or 38571 performed by any medical practitioner;
- Amend four thoracic surgery items (38425, 38815, 38816 and 38859) to implement a co-claiming restriction, allow additional surgical methods and align the items with clinical best practice; and



- Amendments to orthopaedic services, inserting 30 new items and amending 86 items to address patient access issues identified following previous amendments to MBS orthopaedic items.

Parts 8 and 9 of Schedule 1 of the Regulations implement administrative amendments to the GMST, including amendments to the fee methodology for RVG items in Group T10.

### **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. The Regulations also advance rights to health and social security and the right of equality and non-discrimination by introducing a number of new services which will be available as publicly subsidised medical services.

### **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**