

## SUPPLEMENTARY EXPLANATORY STATEMENT

*Health Insurance Act 1973*

*Health Insurance (Section 3C Pathology Services – Respiratory Pathogen Testing)  
Determination 2024*

### **Purpose of supplementary explanatory statement**

The purpose of this supplementary explanatory statement is to provide information on the consultation process and outcomes relating to the introduction of new permanent items for nucleic acid testing for respiratory pathogens, which may include COVID-19, under the Medicare Benefits Schedule (MBS) as introduced by the *Health Insurance (Section 3C Pathology Services – Respiratory Pathogen Testing) Determination 2024* (the Determination).

### **Consultation**

The Department of Health and Aged Care (the Department) consulted with the Royal College of Pathologists of Australasia (RCPA), Australian Pathology (AP) and Public Pathology Australia (PPA) in relation to the new items listed in the Determination. Consultation with the sector has occurred previously in relation to COVID-19 pathology services, including for the introduction of temporary testing items in 2020 and for all subsequent extensions of temporary items. This included consultation on item descriptions as well as on schedule fees. The Department regularly consults with RCPA, AP and PPA regarding changes to pathology items under the MBS. As part of this process, the Department reviews any feedback from stakeholders on new and amended pathology MBS items and considers whether changes may be required to relative legislative instruments where changes are within the Medical Services Advisory Committee (MSAC) supported proposal and Government policy authority.

The Australian Government relies on the advice of MSAC on whether a new medical service should be publicly funded. MSAC appraises new medical services on an assessment of its comparative safety, clinical effectiveness, cost-effectiveness, and total cost, using the best available evidence. As part of this process, consultation is undertaken with a wide range of (pathology) stakeholders to ensure the service is fit for purpose and the assessment is appropriate.

New items 69421 and 69422 were listed on the MBS following advice to the Government on Medical Services Advisory Committee (MSAC) Application 1747. MSAC deliberation of Application 1747 considered feedback from RCPA, AP and PPA. Other stakeholders were provided with the opportunity to provide further comment on Application 1747 through the standard MSAC consultation processes. Following the publication of MSAC's advice on Application 1747, the Department provided stakeholders with further opportunity to give feedback on the new item descriptors as recommended by MSAC. The Department considered this feedback and confirmed with stakeholders which elements of feedback would be incorporated into the new MBS items and explain which elements would not be incorporated.

The Department implemented the sector's recommendation to remove the historical bulk-billing mandate, which applied to previous COVID-19 testing items. The Department also implemented the sector's request to remove previous fee disparity that resulted in lower Medicare benefits for public providers under previous COVID-19 testing items. Additionally, the Department

implemented a recommendation to remove reference to specific respiratory pathogens in the new items.

As the Department could only consider feedback that was within the scope of the original MSAC supported application, not all feedback from the sector was incorporated into the new items. For example, the Department could not implement recommendations to increase the schedule fees of the new COVID-19 testing items, as MSAC advised that the fees were reasonable. The Department also could not maintain an item supporting standalone testing of one pathogen (i.e. COVID-19 alone), as MSAC advised this is not consistent with current clinical best practice. Additionally, the Department could not implement a separate item supporting rapid COVID-19 testing at a higher fee, as these tests were deemed out of scope for the new permanent testing items.

Stakeholders were advised that if they wish to seek significant change, outside of the scope of the MSAC Application 1747 supported items, that they can make a submission to MSAC at any time.