

# **Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2004 (No. 4) 2004 No. 229**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2004 No. 229**

Issued by the Authority of the Minister for Health and Ageing

*Health Insurance Act 1973*

*Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2004 (No. 4)*

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

The Act provides, in part, for payments of Medicare benefits in respect of professional services rendered to eligible persons. Section 9 of the Act provides that Medicare benefits shall be calculated by reference to the fees for medical services, including diagnostic imaging services, set out in prescribed tables.

Section 4AA of the Act provides that the regulations may prescribe a table of diagnostic imaging services, the amount of fees applicable in respect of each item and the rules for interpretation of the table. The *Health Insurance (Diagnostic Imaging Services Table) Regulations 2003* (the Principal Regulations) prescribe such a table.

The purpose of the Regulations is to amend the Principal Regulations as part of the ongoing management of the Diagnostic Imaging Services Table (the Table), specifically that part of the Table related to magnetic resonance imaging (MRI), including magnetic resonance angiography (MRA).

Medicare Benefits Schedule (MBS) funded MRI services are managed through the 2003-2008 Radiology Quality and Outlays Memorandum of Understanding (MoU) between the Commonwealth (as represented by the Department of Health and Ageing) and the radiology profession (as represented by the Royal Australian and New Zealand College of Radiologists and the Australian Diagnostic Imaging Association). The amendments to the Principal Regulations are part of an ongoing process to ensure that Medicare funding for radiology services is maintained within agreed levels specified in the MoU, while at the same time continuing to provide quality, affordable and accessible diagnostic imaging services for patients.

Currently, there are 73 MRI machines in Australia that may provide MBS eligible services. The Minister for Health and Ageing recently announced that the Government will provide additional funding to extend MBS eligibility to two existing MRI machines in Children's Hospitals in Perth and Adelaide and to a Children's Hospital in Brisbane upon purchase and installation of an MRI machine. In addition, a further expansion of twenty MBS eligible MRI machines will be funded by a reduction in the MRI fee introduced at the same time as fee relativities applied to all MRI and MRA services.

The Principal Regulations prescribe only one fee level for all MRI and MRA services (\$475.00). In conjunction with the radiology profession, relative values (fee relativities) were developed and are applied to MRI and MRA services to reflect the complexity, cost and time taken to perform the service. The application of the relative values replaces the current single fee with differential fees and, in most cases, results in a lower fee. In addition, the descriptions of the MRI and MRA

diagnostic imaging services in Schedule 1, Part 3, Group I5, have been simplified. The purpose for which an MRI scan is performed ie., for the "exclusion of", "the investigation of" and "the monitoring of", has been removed, and services have been rearranged into new subgroups based on the anatomical site scanned and the number of services which may be provided in any 12 month period (frequency).

Three new items classified as "modifying" items were developed in conjunction with the radiology profession. These items are not services in their own right, but provide additional recompense where the service is made more complex, expensive or lengthy due to the use of contrast medium on a patient, or where the patient has been sedated or anaesthetised. The modifying items are only eligible for a Medicare rebate if performed in conjunction with an eligible MRI or MRA service.

As part of the selection process for the twenty additional MBS eligible MRI units, applicants will be asked to declare their patient charging policy (eg. the patients they intend to bulk-bill and the maximum co-payments they intend to charge). MBS eligibility will be granted conditional upon commitments from the successful applicants on patient charging which, together with the selection criteria and specifications of the MRI units selected will, upon gazettal, be specified in a 2004 "MRI Additional Units Eligibility Scheme". The details of the Children's Hospitals will also be incorporated into the Scheme. A further amendment to the Principal Regulations will be made to specify the details of the Scheme.

The Regulations amend the Principal Regulations by:

#### Schedule 1, Part 2 Group I5

- amending rules of interpretation 2, 32, 37, 38, 39, 39A, 40 and 41 as a consequence of the amendments to Schedule 1, Part 3, Group I5 (see below);
- amending rule of interpretation 31 - MRI and MRA services - eligible services, to specify that an MRI service performed using eligible equipment described in the amendment to rule of interpretation 36 is only an eligible service if the service is bulk-billed in respect of the fee for that service;
- amending rule of interpretation 36 - MRI and MRA - eligible equipment, to include details of two MRI machines located in Children's Hospitals in Perth and Adelaide;
- renumbering rule of interpretation 77 - Application of items 64990 and 64991, to rule of interpretation 42;

#### Schedule 1, Part 3, Group I5

- removing the purpose of the scan specified in the item description (for the exclusion of, the further investigation of and the monitoring of specified conditions) for all MRI and MRA services, thereby reducing the number of items;
- allocating new item numbers to MRI and MRA services and rearranging into subgroups based on anatomical site scanned and the number of services which may be provided in a 12-month period (frequency);
- amending the Fee (\$) for each item as a result of relative values applied that reflect the time and complexity of each MRI and MRA service; and
- inserting three new "modifying" items, 63491, 63494 and 63497.

Details of the Regulations are provided in the Attachment.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations commence on 1 August 2004.

## **ATTACHMENT**

### **DETAILS OF THE *HEALTH INSURANCE (DIAGNOSTIC IMAGING SERVICES TABLE) AMENDMENT REGULATIONS 2004 (No. 4)***

Regulation 1 provides for the Regulations to be referred to as the *Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2004 (No. 4)*.

Regulation 2 provides for the Regulations to commence on 1 August 2004.

Regulation 3 provides for Schedule 1 to amend the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2003* (the Principal Regulations).

#### **Schedule 1 Amendments**

#### **Part 2 of Schedule 1 to the Principal Regulations - Rules of interpretation**

##### **Item [1]**

This item amends rule of interpretation 2 to omit the definition of **exclusion** as it relates to MRI and MRA services, as the amendments to Schedule 1, Part 3, Group I5 (item [8]) mean that this definition is no longer required.

##### **Item [2]**

This item amends rule of interpretation 31 to omit "Items 63000 to 63963" and insert "Items 63001 to 63473". The range of items specified in these rules is amended by item [8]. This item also inserts subrules 31(2) and 31(3). Subrule 31(2) prescribes that if a service mentioned in subrule 31(1) is provided using eligible equipment as described in paragraph 36(b) (refer Item [4]), the service can only be bulk-billed in respect of the fee for that service. Subrule 31(3) describes "bulk-billed" in relation to a service.

##### **Item [3]**

This item amends rule of interpretation 32 to omit "Items 63000 to 63963" and insert "Items 63001 to 63473". The range of items specified in these rules is amended by item [8].

##### **Item [4]**

This item amends rule of interpretation 36 by inserting paragraph 36(b) to prescribe the MRI units located in The Women's and Children's Hospital, North Adelaide and The Princess Margaret Hospital for Children, Perth as eligible MRI equipment.

##### **Item [5]**

This item amends rule of interpretation 37 to omit "In items 63000 to 63963" and insert "In items 63001 to 63473". The range of items specified in this rule is amended by item [8].

##### **Item [6]**

This item:

- removes rule of interpretation 38 - descriptions of purpose of MRI and MRA services. As descriptions of the purpose of services do not appear in the amendments to Schedule 1, Part 3, Group I5, the rule for interpreting those services is not required;

- inserts a new rule of interpretation 38 - MRI and MRA services - multiple services rule, which provides that where an MRI service (as described) and an MRA service (as described) are provided to the same person on the same day, only the fee specified for the MRI service (as described) applies to both services;
- makes a minor amendment to rule of interpretation 39(1) as a consequence of an amendment to rule of interpretation 39(2);
- amends rule of interpretation 39(2) to specify the maximum number of services (frequency) that various MRI or MRA items, as amended by Item [8], could be claimed in a 12 month period;
- amends rule of interpretation 39(3) to specify that only one fee applies if two or more services are provided to a person on a single occasion, as specified in items 7 and 8 of subrule 39(2);
- renumbers rule of interpretation 39A, MRI services - limit for items 63690 and 63963, to rule 40 and renumber the items as amended by Item [8]; and
- inserts a new rule of interpretation 41, to specify the fee which apply to "modifying" items 63491, 63494 and 63497.

### **Item [7]**

This item renumbers rule of interpretation 77 - "Application of items 64990 and 64991", to rule 42.

### **Schedule 1, Part 3, Group I5**

#### **Item [8]**

This item removes the items, diagnostic imaging service and fee for *Group I5 - Magnetic resonance imaging*, and substitute a new *Group I5 - Magnetic resonance imaging* describing the item, diagnostic imaging service and fee for each service, including three new "modifying" items 63491, 63494 and 63497.