

EXPLANATORY STATEMENT

Select Legislative Instrument No. 143, 2015

Health Insurance Act 1973

Health Insurance Legislation Amendment (2015 Measures No. 1) Regulation 2015

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.

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.

Subsections 4(1), 4A(1) and 4AA(1) of the Act provides that regulations may prescribe a table of medical, pathology and diagnostic imaging services which sets out items of medical, pathology and diagnostic imaging services, the fees applicable for each item, and rules for interpreting the table. The *Health Insurance (General Medical Services Table) Regulation 2015* (GMST), the *Health Insurance (Pathology Services Table) Regulation 2015* (PST) and the *Health Insurance (Diagnostic Imaging Services Table) Regulation 2015* (DIST) currently prescribe such tables.

The purpose of the *Health Insurance Legislation Amendment (2015 Measures No. 1) Regulation 2015* (the Regulation) is to incorporate measures announced in the 2015-16 Budget under the *Medicare Benefits Schedule – New and amended listings* measure. The Regulation will introduce the following Budget changes:

- **Revised listings for paediatric surgical services**
The introduction of 39 paediatric surgery items with a 30 per cent fee loading to recognise the complexity and time to perform the service, and minor amendments to 25 existing items to reflect clinical practice.
- **A new item to investigate for gastro-oesophageal reflux disease (GORD)**
The addition of item 11801 for the clinical assessment of GORD.
- **New items for the treatment of early stage breast cancer using targeted intraoperative radiotherapy**
The introduction of two new items (15900 and 31516) for the treatment of early stage breast cancer using targeted intraoperative radiotherapy.

- **New items to enable routine monitoring of implanted cardiac devices to be provided remotely**
 - Two new items for implanted pacemaker testing; item 11719 for the remote monitoring and item 11720 for testing with patient attendance (following detection of an abnormality by remote monitoring).
 - Two new items for implanted defibrillator testing; item 11725 for the remote monitoring and item 11726 for the testing with patient attendance (following detection of an abnormality by remote monitoring).
 - Amend three existing items for monitoring patients with implanted cardiac devices to prevent co-claiming with the new items.

- **New items to extend the eligibility for the use of telehealth services to optometrists**
Introduction of four new items (10945, 10946, 10947 and 10948) for optometrists to provide clinical support to a patient during telehealth consultations with ophthalmologists.

- **A new item for the removal of corneal foreign bodies by optometrists**
A new item (10944) for the removal of superficial embedded corneal foreign bodies by optometrists.

- **Two new items for computed tomography colonography**
Two new items (56553 and 56555) will replace existing items (56552 and 56554) to include the diagnosis of colorectal neoplasia by computed tomography in a symptomatic or high risk patient, where diagnosis cannot be performed by colonoscopy.

The Regulation will also include very minor machinery changes. These changes are for the purpose of:

- Inserting item 73338 into the PST for the testing of tumour tissue from a patient with metastatic colorectal cancer (stage IV), to determine if the requirements relating to rat sarcoma oncogene (RAS) gene mutation status for access to cetuximab or panitumumab under the Pharmaceutical Benefits Scheme.
- Amending clause 2.16.14 of the GMST to allow Aboriginal Health Workers to assist medical practitioners in performing a health assessment.

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

The Act specifies no conditions which need to be met before the power to make the Amendment Regulation may be exercised.

The Amendment Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Amendment Regulation commences on 1 September 2015.

Consultation

During the Medical Services Advisory Committee (MSAC) process, relevant organisations were consulted. The Department did not consult on the other minor changes as they are administrative in nature and uphold the status quo.

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

ATTACHMENT

Details of the *Health Insurance Legislation Amendment (2015 Measures No. 1) Regulation 2015*Section 1 – Name of regulation

This section provides for the regulation to be referred to as the *Health Insurance Legislation Amendment (2015 Measures No. 1) Regulation 2015*.

Section 2 – Commencement

This section provides for the regulation to commence on 1 September 2015.

Section 3 – Authority

This instrument is made under the *Health Insurance Act 1973*.

Section 4 – Schedule(s)

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.

Schedule 1 – Amendments***Health Insurance (Diagnostic Imaging Services Table) Regulation 2015*****Item [1] – Schedule 1 (items 56552 and 56554)**

This item will repeal items 56552 and 56554 and substitute two new items for the diagnosis of colorectal neoplasia by computed tomography in a symptomatic or high risk patient, where diagnosis cannot be performed by colonoscopy. Item 56553 will apply to a service using diagnostic imaging equipment that is within the new effective life age or the maximum extended life age. Item 56555 will apply to a service using diagnostic imaging equipment that is within the new effective life age or the maximum extended life age.

Health Insurance (General Medical Services Table) Regulation 2015**Item [2] – Clause 1.2.7 of Schedule 1**

This item will omit “10943” and substitute “10948”.

Item [3] – Subclause 1.2.8(1) of Schedule 1

This item will insert “11725, 11726,” after “11721,”.

Item [4] – Subclause 2.16.14(4) of Schedule 1

This item will insert “, Aboriginal health workers” after “Practice nurses”. This will allow Aboriginal Health Workers to assist medical practitioners in performing a health assessment.

Item [5] – Clause 2.18A.2 of Schedule 1

This item will omit “service if” and substitute with “facility where”.

Item [6] – Subclause 2.28.4(1) of Schedule 1

This item will omit “the table” and substitute with “Subgroup 1 of Group A10”.

Item [7] – Schedule 1 (After clause 2.28.5)

This item will:

- insert clause 2.28.5A which restricts item 10944 from being claimed on the same occasion as items 10905, 10907, 10910, 10911, 10912, 10913, 10914, 10915, 10916 or 10918 (see item 10).
- insert clause 2.28.5B. This clause will clarify that items 10945 and 10946 do not apply if the patient or specialist travels to a place in order to meet the distance requirement specified in each item.

Item [8] – Schedule 1 (before item 10905)

This item will insert “Subgroup 1 – General” for optometry items which are not telehealth attendances.

Item [9] – Schedule 1 (items 10931, 10932 and 10933, column headed “Description”)

This item will insert “Subgroup 1 of” before Group A10.

Item [10] – Schedule 1 (after item 10943)

This item will:

- insert the new item 10944 for the complete removal of embedded foreign body from the cornea by optometrists.
- insert items 10945, 10946, 10947 and 10948 to allow optometrists to provide clinical support to a patient during a telehealth consultation with an ophthalmologist.

Item [11] – Schedule 1 (after clause 2.34.2)

This item will insert clause 2.34.3 which restricts item 11801 from being claimed in association with a service mentioned in items 11800, 11810, 11820, 11823, 11830 or 11833

Item [12] – Schedule 1 (item 11718, column headed “Description”)

This item will omit “or 11721” and substitute with “11719, 11720, 11721, 11725 or 11726”.

Item [13] – Schedule 1 (after item 11718)

This item will insert item 11719 for the remote monitoring of implanted pacemaker without patient attendance, and item 11720 for pacemaker testing with patient attendance (following detection of abnormality by remote monitoring).

Item [14] – Schedule 1 (item 11721, column headed “Description”)

This item will omit “or 11718” and substitute with “11718, 11719, 11720, 11725 or 11726”.

Item [15] – Schedule 1 (after item 11724)

This item will insert item 11725 for the remote monitoring of implanted defibrillator without patient attendance, and item 11726 for implanted defibrillator testing with patient attendance (following detection of abnormality by remote monitoring).

Item [16] – Schedule 1 (item 11727, column headed “Description”)

This item will omit “or 11721” and substitute with “11719, 11720, 11721, 11725 or 11726”.

Item [17] – Schedule 1 (insert 11801)

This item will insert item 11801 for the clinical assessment of gastro-oesophageal reflux disease.

Item [18] – Schedule 1 (item 11820, column headed “Description”, paragraph (d))

This item will omit “The Conjoint Committee for Recognition of Training in Gastrointestinal Endoscopy” and substitute with “the Conjoint Committee for the Recognition of Training in Gastrointestinal Endoscopy”

Item [19] – Clause 2.38.3 of Schedule 1

This item will omit “15600” and substitute with “15900”.

Item [20] – Schedule 1 (insert 15900)

This item will insert item 15900 for the targeted intraoperative radiotherapy of a malignant breast tumour for patients 45 years or older.

Item [21] – Schedule 1 (item 18264, column headed “Description”)

This item will omit “Pudendal nerve,” in the description of item 18264 and substitute “Pudendal nerve or dorsal nerve (or both),”

Item [22] – Schedule 1 (item 30104, column headed “Description”)

This item will restrict the provision of item 30104 (surgical operation) to persons 10 years of age or over.

Item [23] – Schedule 1 (insert 30105)

This item will insert item 30105 to provide a paediatric surgery service for persons under 10 years of age.

Item [24] – Schedule 1 (item 30286 column headed “Description”)

This item will restrict the provision of item 30286 (surgical operation) to persons 10 years of age or over.

Item [25] – Schedule 1 (insert 30287)

This item will insert item 30287 to provide a paediatric surgery service for persons under 10 years of age.

Item [26] – Schedule 1 (item 30289 column headed “Description”)

This item will restrict the provision of item 30289 (surgical operation) to persons 10 years of age or over.

Item [27] – Schedule 1 (item 30314 column headed “Description”)

This item will restrict the provision of item 30314 (surgical operation) to persons 10 years of age or over.

Item [28] – Schedule 1 (insert 30326)

This item will insert item 30326 to provide a paediatric surgery service for persons under 10 years of age.

Item [29] – Schedule 1 (item 30375 column headed “Description”)

This item will restrict the provision of item 30375 (surgical operation) to persons 10 years of age or over.

Item [30] – Schedule 1 (item 30376 column headed “Description”)

This item will restrict the provision of item 30376 (surgical operation) to persons 10 years of age or over.

Item [31] – Schedule 1 (item 30378 column headed “Description”)

This item will restrict the provision of item 30378 (surgical operation) to persons 10 years of age or over.

Item [32] – Schedule 1 (item 30390 column headed “Description”)

This item will restrict the provision of item 30390 (surgical operation) to persons 10 years of age or over.

Item [33] – Schedule 1 (item 30483 column headed “Description”)

This item will repeal the cell in 30390 (surgical operation) and substitute the new descriptor text to restrict the service to persons 10 years of age or over.

Item [34] – Schedule 1 (item 30562 column headed “Description”)

This item will restrict the provision of item 30562 (surgical operation) to persons 10 years of age or over.

Item [35] – Schedule 1 (item 30563 column headed “Description”)

This item will restrict the provision of item 30563 (surgical operation) to persons 10 years of age or over.

Item [36] – Schedule 1 (item 30566 column headed “Description”)

This item will restrict the provision of item 30566 (surgical operation) to persons 10 years of age or over.

Item [37] – Schedule 1 (item 30571 column headed “Description”)

This item will restrict the provision of item 30571 (surgical operation) to persons 10 years of age or over.

Item [38] – Schedule 1 (item 30572 column headed “Description”)

This item will restrict the provision of item 30572 (surgical operation) to persons 10 years of age or over.

Item [39] – Schedule 1 (item 30601 column headed “Description”)

This item will restrict the provision of item 30601 (surgical operation) to persons 10 years of age or over.

Item [40] – Schedule 1 (insert 30608)

This item will insert item 30608 to provide a paediatric surgery service for persons under 10 years of age.

Item [41] – Schedule 1 (item 30609, column headed “Description”)

This item will omit “30612 or” from item 30609 as the service in 30612 is being repealed (see item 43)

Item [42] – Schedule 1 (insert 30611)

This item will insert item 30611 to provide a paediatric surgery service for persons under 10 years of age.

Item [43] – Schedule 1 (item 30612)

This will repeal item 30612.

Item [44] – Schedule 1 (item 30614 column headed “Description”)

This item will restrict the provision of item 30614 (surgical operation) to persons 10 years of age or over.

Item [45] – Schedule 1 (item 30614, column headed “Description”)

This item will omit “S” from item 30614 to allow general practitioners and specialists to bill this item.

Item [46] – Schedule 1 (item 30615 column headed “Description”)

This item will restrict the provision of item 30615 (surgical operation) to persons 10 years of age or over.

Item [47] – Schedule 1 (items 30616 and 30617)

This item will repeal items 30616 and 30617 and substitute items 30618 and 30619.

Item [48] – Schedule 1 (after item 30621)

This item will insert items 30622, 30623, 30626 and 30627 to provide paediatric surgery services for persons under 10 years of age.

Item [49] – Schedule 1 (after item 30635)

This item will insert items 30636 and 30637 to provide paediatric surgery services for persons under 10 years of age.

Item [50] – Schedule 1 (insert 30639)

This item will insert item 30639 to provide a paediatric surgery service for persons under 10 years of age.

Item [51] – Schedule 1 (insert 30643)

This item will insert item 30643 to provide a paediatric surgery service for persons under 10 years of age.

Item [52] – Schedule 1 (item 30644, column headed “Description”)

This item will restrict the provision of item 30644 (surgical operation) to persons 10 years of age or over.

Item [53] – Schedule 1 (after item 30644)

This item will insert items 30645, 30646 and 30649 to provide paediatric surgery services for persons under 10 years of age.

Item [54] – Schedule 1 (item 30663, column headed “Description”)

This item will restrict the provision of item 30663 (surgical operation) to persons 10 years of age or over.

Item [55] – Schedule 1 (item 30666, column headed “Description”)

This item will omit “Paraphimosis,” in the description of item 30666 and substitute “Paraphimosis or phimosis,”.

Item [56] – Schedule 1 (item 31350, column headed “Description”)

This item will restrict the provision of item 31350 (surgical operation) to persons 10 years of age or over.

Item [57] – Schedule 1 (item 31423, column headed “Description”)

This item will restrict the provision of item 31423 (surgical operation) to persons 10 years of age or over.

Item [58] – Schedule 1 (item 31470, column headed “Description”)

This item will restrict the provision of item 31470 (surgical operation) to persons 10 years of age or over.

Item [59] – Schedule 1 (item 31516)

This item will insert items 31516 for the surgical excision of a malignant tumour when performed concurrently with item 15900 (targeted intraoperative radiotherapy).

Item [60] – Schedule 1 (item 34527, column headed “Description”)

This item will restrict the provision of item 34527 (surgical operation) to persons 10 years of age or over.

Item [61] – Schedule 1 (item 34528, column headed “Description”)

This item will restrict the provision of item 34528 (surgical operation) to persons 10 years of age or over.

Item [62] – Schedule 1 (insert 34529)

This item will insert item 34529 to provide a paediatric surgery service for persons under 10 years of age.

Item [63] – Schedule 1 (item 34530, column headed “Description”)

This item will omit “catheter” from item 34530.

Item [64] – Schedule 1 (item 34530, column headed “Description”)

This item will restrict the provision of item 34530 (surgical operation) to persons 10 years of age or over.

Item [65] – Schedule 1 (insert 34534)

This item will insert item 34534 to provide a paediatric surgery service for persons under 10 years of age.

Item [66] – Schedule 1 (insert 34540)

This item will insert item 34540 to provide a paediatric surgery service for persons under 10 years of age.

Item [67] – Schedule 1 (item 37045, column headed “Description”)

This item will omit “Mitrofanoff continent valve,” in the description of item 37045 and substitute Continent catheterisation bladder stomas (for example, Mitrofanoff).”.

Item [68] – Schedule 1 (item 37800, column headed “Description”)

This item will restrict the provision of item 37800 (surgical operation) to persons 10 years of age or over.

Item [69] – Schedule 1 (insert 37801)

This item will insert item 37801 to provide a paediatric surgery service for persons under 10 years of age.

Item [70] – Schedule 1 (item 37803, column headed “Description”)

This item will restrict the provision of item 37803 (surgical operation) to persons 10 years of age or over.

Item [71] – Schedule 1 (insert 37804)

This item will insert item 37804 to provide a paediatric surgery service for persons under 10 years of age.

Item [72] – Schedule 1 (item 37806, column headed “Description”)

This item will restrict the provision of item 37806 (surgical operation) to persons 10 years of age or over.

Item [73] – Schedule 1 (insert 37807)

This item will insert item 37807 to provide a paediatric surgery service for persons under 10 years of age.

Item [74] – Schedule 1 (item 37809, column headed “Description”)

This item will restrict the provision of item 37809 (surgical operation) to persons 10 years of age or over.

Item [75] – Schedule 1 (insert 37810)

This item will insert item 37810 to provide a paediatric surgery service for persons under 10 years of age.

Item [76] – Schedule 1 (item 37812, column headed “Description”)

This item will restrict the provision of item 37812 (surgical operation) to persons 10 years of age or over.

Item [77] – Schedule 1 (item 37812, column headed “Description”)

This item will omit “items 37803 to 37809”, from item 30612 and substitute “any of items 37803, 37806 and 37809”.

Item [78] – Schedule 1 (insert 37813)

This item will insert item 37813 to provide a paediatric surgery service for persons under 10 years of age.

Item [79] – Schedule 1 (item 37815, column headed “Description”)

This item will restrict the provision of item 37815 (surgical operation) to persons 10 years of age or over.

Item [80] – Schedule 1 (insert 37816)

This item will insert item 37816 to provide a paediatric surgery service for persons under 10 years of age.

Item [81] – Schedule 1 (item 37818, column headed “Description”)

This item will restrict the provision of item 37818 (surgical operation) to persons 10 years of age or over.

Item [82] – Schedule 1 (insert 37819)

This item will insert item 37819 to provide a paediatric surgery service for persons under 10 years of age.

Item [83] – Schedule 1 (item 37821, column headed “Description”)

This item will restrict the provision of item 37821 (surgical operation) to persons 10 years of age or over.

Item [84] – Schedule 1 (insert 37822)

This item will insert item 37822 to provide a paediatric surgery service for persons under 10 years of age

Item [85] – Schedule 1 (item 37824, column headed “Description”)

This item will restrict the provision of item 37824 (surgical operation) to persons 10 years of age or over.

Item [86] – Schedule 1 (insert 37825)

This item will insert item 37825 to provide a paediatric surgery service for persons under 10 years of age.

Item [87] – Schedule 1 (item 37827, column headed “Description”)

This item will restrict the provision of item 37827 (surgical operation) to persons 10 years of age or over.

Item [88] – Schedule 1 (insert 37828)

This item will insert item 37828 to provide a paediatric surgery service for persons under 10 years of age

Item [89] – Schedule 1 (item 37833, column headed “Description”)

This item will restrict the provision of item 37833 (surgical operation) to persons 10 years of age or over.

Item [90] – Schedule 1 (insert 37834)

This item will insert item 37834 to provide a paediatric surgery service for persons under 10 years of age.

Item [91] – Schedule 1 (item 42573, column headed “Description”)

This item will restrict the provision of item 42573 (surgical operation) to persons 10 years of age or over.

Item [92] – Schedule 1 (insert 42576)

This item will insert item 42576 to provide a paediatric surgery service for persons under 10 years of age.

Item [93] – Schedule 1 (insert 43805)

This item will insert item 43805 to provide a paediatric surgery service for persons under 10 years of age.

Item [94] – Schedule 1 (item 43819, column headed “Description”)

This item will omit “Hirschsprung’s disease,” in the description of item 43819 and substitute “Aganglionosis Coli,”.

Item [95] – Schedule 1 (insert 43832)

This item will insert item 43832 to provide a paediatric surgery service for persons under 10 years of age.

Item [96] – Schedule 1 (insert 43835)

This item will insert item 43835 to provide a paediatric surgery service for persons under 10 years of age.

Item [97] – Schedule 1 (insert 43838)

This item will insert item 43838 to provide a paediatric surgery service for persons under 10 years of age.

Item [98] – Schedule 1 (insert 43841)

This item will insert item 43841 to provide a paediatric surgery service for persons under 10 years of age.

Item [99] – Schedule 1 (items 43852 and 43858, column headed “Description”)

This item will omit “(Anaes.)” in the description of items 43852 and 43858 and substitute “(H) (Anaes.)” to restrict the service to in-hospital only.

Item [100] – Schedule 1 (item 43867, column headed “Description”)

This item will repeal the item descriptor in 43867 and substitute with “Gastroschisis or exomphalos, secondary operation for, with removal of silo (H) (Anaes.) (Assist.)”.

Item [101] – Schedule 1 (items 43915, 43942 and 43948, column headed “Description”)

This item will omit “(Anaes.)” in the description of items 43915, 43942 and 43948 and substitute “(H) (Anaes.)” to restrict the service to in-hospital only.

Item [102] – Schedule 1 (item 43990, column headed “Description”)

This item will omit “Hirschsprung’s disease,” in the description of item 43990 and substitute “Aganglionosis Coli,”.

Item [103] – Schedule 1 (item 43993, column headed “Description”)

This item will omit “Hirschsprung’s disease,” in the description of item 43993 and substitute “Aganglionosis Coli,”.

Item [104] – Schedule 1 (item 43993, column headed “Description”)

This item will omit “(Anaes.)” in the description of item 43913 and substitute “(H) (Anaes.)” to restrict the service to in-hospital only.

Item [105] – Schedule 1 (item 43996, column headed “Description”)

This item will omit “Hirschsprung’s disease,” in the description of item 43996 and substitute “Aganglionosis Coli,”.

Item [106] – Schedule 1 (item 43996, column headed “Description”)

This item will omit “(Anaes.)” in the description of item 43996 and substitute “(H) (Anaes.)” to restrict the service to in-hospital only.

Item [107] – Schedule 1 (item 43999, column headed “Description”)

This item will omit “Hirschsprung’s disease,” in the description of item 43999 and substitute “Aganglionosis Coli,”.

Item [108] – Schedule 1 (insert 44101)

This item will insert item 44101 to provide a paediatric surgery service for persons under 2 years of age.

Item [109] – Schedule 1 (item 44102, column headed “Description”)

This item will restrict the provision of item 44102 (surgical operation) to persons 2 years of age or over.

Item [110] – Schedule 1 (insert 44104)

This item will insert item 44104 to provide a paediatric surgery service for persons under 2 years of age.

Item [111] – Schedule 1 (item 44105, column headed “Description”)

This item will restrict the provision of item 44105 (surgical operation) to persons 2 years of age or over.

Item [112] – Schedule 1 (items 44108, 44111 and 44114, column headed “Description”)

This item will omit “3 months” in the description of items 44108, 44111 and 44114 and substitute “12 months”.

Health Insurance (Pathology Services Table) Regulation 2015**Item [113] – Schedule 1 (insert 73338)**

This item will insert item 73338 for the testing of tumour tissue from a patient with metastatic colorectal cancer (stage IV), to determine if the requirements relating to rat sarcoma oncogene (RAS) gene mutation status for access to cetuximab or panitumumab under the Pharmaceutical Benefits Scheme.

Statement of Compatibility with Human Rights

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

Health Insurance Legislation Amendment (2015 Measures No. 1) Regulation 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Health Insurance Legislation Amendment (2015 Measures No. 1) Regulation 2015* amends the *Health Insurance (General Medical Services Table) Regulation 2015* (GMST), the *Health Insurance (Pathology Services Table) Regulation 2015* (PST) and the *Health Insurance (Diagnostic Imaging Services Table) Regulation 2015* (DIST).

In accordance with sections 4(1), 4A(1) and 4AA(1) of the *Health Insurance Act 1973* (the Act), the regulation prescribes a table of medical, pathology and diagnostic imaging services containing: items of services, the amounts of fees applicable for each item, and rules for interpretation. The amendments to the regulations involve the:

- **Revised listings for paediatric surgical services**
The introduction of 39 paediatric surgery items with a 30 per cent fee loading to recognise the complexity and time to perform the service, and minor amendments to 25 existing items to reflect clinical practice.
- **A new item to investigate for gastro-oesophageal reflux disease**
The addition of item 11801 for the clinical assessment of gastro-oesophageal reflux disease.
- **New items for the treatment of early stage breast cancer using targeted intraoperative radiotherapy**
The introduction of two new items (15900 and 31516) for the treatment of early stage breast cancer using targeted intraoperative radiotherapy.
- **New items to enable routine monitoring of implanted cardiac devices to be provided remotely**
 - Two new items for implanted pacemaker testing; item 11719 for the remote monitoring and item 11720 for testing with patient attendance (following detection of an abnormality by remote monitoring).
 - Two new items for implanted defibrillator testing; item 11725 for the remote monitoring and item 11726 for the testing with patient attendance (following detection of an abnormality by remote monitoring).
 - Amend three existing items for monitoring patients with implanted cardiac devices to prevent co-claiming with the new items.

- **New items to extend the eligibility for the use of telehealth services to optometrists**
Introduction of four new items (10945, 10946, 10947 and 10948) for optometrists to provide clinical support to a patient during telehealth consultations with ophthalmologists.
- **A new item for the removal of corneal foreign bodies by optometrists**
A new item (10944) for the removal of superficial embedded corneal foreign bodies by optometrists.
- **Two new items for computed tomography colonography**
Two new items (56553 and 56555) will replace existing items (56552 and 56554) to include the diagnosis of colorectal neoplasia by computed tomography in a symptomatic or high risk patient, where diagnosis cannot be performed by colonoscopy.

The Regulation also includes minor machinery changes. These changes are for the purpose of:

- Inserting item 73338 into the PST for the testing of tumour tissue from a patient with metastatic colorectal cancer (stage IV), to determine if the requirements relating to rat sarcoma oncogene (RAS) gene mutation status for access to cetuximab or panitumumab under the Pharmaceutical Benefits Scheme.
- Amending clause 2.16.14 of the GMST to allow Aboriginal Health Workers to assist medical practitioners in performing a health assessment.

Human rights implications

The regulations engage Articles 2, 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

Analysis

This Regulation will advance rights to health and social security by ensuring access to publicly subsidised health services which are clinically effective and cost-effective.

Conclusion

The Legislative Instrument is compatible with human rights because it maintains existing arrangements and the protection of human rights.

Sussan Ley
Minister for Health