



Australian Government

Veterans' Entitlements Act 1986
Military Rehabilitation and Compensation Act 2004

Veterans' Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019

Instrument 2019 No. R44/MRCC44

I, Mark Cormack, Deputy Secretary, Policy & Programs, delegate of the Minister for Veterans and Defence Personnel, approve:

- (a) under section 91 of the *Veterans' Entitlements Act 1986* (VEA) — the variations by the Repatriation Commission of the *Repatriation Pharmaceutical Benefits Scheme* in the following instrument; and
- (b) under section 286 of the *Military Rehabilitation and Compensation Act 2004* (MRCA) — the variations by the Military Rehabilitation and Compensation Commission of the *MRCA Pharmaceutical Benefits Scheme* in the following instrument.

Dated this 29th day of October 2019

Mark Cormack

MARK CORMACK

The Repatriation Commission makes, under section 91 of the *Veterans' Entitlements Act 1986*, the variations to the *Repatriation Pharmaceutical Benefits Scheme* in the following instrument.

Dated this 28th day of October 2019

The Seal of the
Repatriation Commission)
was affixed hereto in the) SEAL
presence of:)
)

.....Elizabeth Cosson.....
ELIZABETH COSSON
AM CSC
PRESIDENT

.....C Orme.....
CRAIG ORME
DSC AM CSC
DEPUTY PRESIDENT

.....D Spinks.....
DONALD SPINKS
AM
COMMISSIONER

The Military Rehabilitation and Compensation Commission by its delegates makes, under section 286 of the *Military Rehabilitation and Compensation Act 2004*, the variations to the *MRCA Pharmaceutical Benefits Scheme* in the following instrument.

Dated this 28th day of October 2019

The Seal of the
Military Rehabilitation and Compensation Commission)
was affixed hereto in the) SEAL
presence of:)
)

.....Elizabeth Cosson.....
ELIZABETH COSSON
AM CSC
CHAIR

.....C Orme.....
CRAIG ORME
DSC AM CSC
MEMBER

.....D Spinks.....
DONALD SPINKS
AM
MEMBER

1 Name

This instrument is the *Veterans' Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019*.

2 Commencement

This instrument commences on 31 October 2019.

3 Authority

This instrument is made under:

- (a) section 91 of the *Veterans' Entitlements Act 1986* in respect of the variations to the *Repatriation Pharmaceutical Benefits Scheme* in Schedule 1; and
- (b) section 286 of the *Military Rehabilitation and Compensation Act 2004* in respect of the variations to the *MRCA Pharmaceutical Benefits Scheme* in Schedule 2.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is varied 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-Variations to the *Repatriation Pharmaceutical Benefits Scheme* (Instrument 2013 No. R34)

Part 1-Amendments relating to electronic prescriptions

1 Section 3 (definition of *approved electronic communication*)

Repeal the definition.

2 Section 3

Insert:

electronic medication chart has the meaning given by subsection 11B(8).

3 Section 3 (paragraph (a) of the definition of *electronic prescription*)

Omit “approved electronic”, substitute “eligible electronic”.

4 Section 3

Insert:

eligible electronic communication means:

- (a) an electronic communication of a kind approved by the Secretary under section 11 of the *National Health (Pharmaceutical Benefits) Regulations 2017* for the purposes of the provision in which the expression is used; or
- (b) if no such approval is in force for the purposes of the provision in which the expression is used—any electronic communication.

healthcare identifier has the same meaning as in the *Healthcare Identifiers Act 2010*.

healthcare provider organisation has the same meaning as in the *Healthcare Identifiers Act 2010*.

5 Paragraphs 11AA(a) and (b)

Repeal the paragraphs, substitute:

- (a) either:
 - (i) section 11A (prescriptions other than medication chart prescriptions);
 - or
 - (ii) section 11B (medication chart prescriptions); and
- (b) if the prescription is an electronic prescription—section 11C (additional requirements for all electronic prescriptions).

6 Paragraph 11A(1)(f)

Omit “to be supplied”, substitute “prescribed”.

7 Subparagraph 11B(1)(b)(ii)

After “authority prescription”, insert “other than an *authority prescription* referred to in subsection (4A)”.

8 Paragraphs 11B(4)(a) and (b)

Repeal the paragraphs, substitute:

- (a) each authority approval number for the prescription, unless the prescription is to be posted or delivered to the *Minister for Health or Chief Executive Medicare* for authorisation; or
- (b) the relevant streamlined authority code for the *Pharmaceutical benefit* that is prescribed.

9 After subsection 11B(4)

Insert:

Authority prescriptions that have been authorised in accordance with certain authority required procedures

- (4A) Subparagraph (1)(b)(ii) does not apply to *authority prescriptions* that have been authorised in accordance with authority required procedures that are incorporated by reference into the circumstances determined for a *Pharmaceutical benefit* under subsection 85B(4) of the *National Health Act 1953*.

Note: If the authority required procedures referred to in subsection (4A) require a streamlined authority code or an authority approval number to be written on an authority prescription, and the code or number is not written on the authority prescription, the special patient contribution is not payable by the Commonwealth: see subsection 85B(4) of the *National Health Act 1953*.

10 At the end of section 11B

Add:

Electronic medication charts

- (8) An ***electronic medication chart*** is a medication chart in a form approved by the Secretary under subsection 41(5) of the *National Health (Pharmaceutical Benefits) Regulations 2017* for the purpose of writing an electronic prescription.

11 After section 11B

Insert:

11C Writing prescriptions—additional requirements for all electronic prescriptions

An *RPBS prescriber* writes an electronic prescription in accordance with this section if the *RPBS prescriber*:

- (a) includes in the metadata of the prescription:
 - (i) the conformance identifier provided to the Australian Digital Health Agency in relation to the software used to prepare the prescription; and
 - (ii) a unique identifier for the prescription generated by that software; and
- (b) states in the prescription:
 - (i) the healthcare identifier (if any) assigned to the *RPBS prescriber*; and
 - (ii) the healthcare identifier assigned to a healthcare provider organisation to which the *RPBS prescriber* is linked (within the meaning of the *Healthcare Identifiers Act 2010*).

11D Writing prescriptions—additional information that may be included in electronic prescriptions

An electronic prescription may include either or both of the following:

- (a) the date of birth of the person for whom the *Pharmaceutical benefit* is prescribed;
- (b) the reason why the *Pharmaceutical benefit* is prescribed to that person.

12 Subparagraph 45(2)(a)(ii)

After “electronic” (second occurring), insert “prescription, or a copy of the electronic”.

13 Subparagraph 45(2)(ab)(ii)

After “electronic” (second occurring), insert “prescription, or a copy of the electronic”.

14 Subparagraph 45(2)(ac)(ii)

After “electronic” (second occurring), insert “prescription, or a copy of the electronic”.

15 Subparagraph 45(2)(b)(ii)

After “electronic” (second occurring), insert “prescription, or a copy of the electronic”.

Part 2-Amendments relating to active ingredient prescribing

1 Section 3

Insert:

pharmaceutical benefit has a drug has the same meaning as in Part VII of the *National Health Act 1953*.

2 Paragraph 11A(1)(g)

Repeal the paragraph, substitute:

- (g) identifies in the prescription the *Pharmaceutical benefit* in accordance with subsection (1A); and

3 After subsection 11A(1)

Insert:

(1A) For the purposes of paragraph (1)(g), the *RPBS prescriber* must identify in the prescription:

- (a) if:
 - (i) the prescription is prepared in accordance with paragraph (1)(a); or
 - (ii) the prescription is for the supply of a *Pharmaceutical benefit* that has 4 or more drugs; or
 - (iii) the prescription is for the supply of a *Pharmaceutical benefit* that is specified by the Secretary, in writing, for the purposes of subparagraph

40(2A)(a)(iii) of the *National Health (Pharmaceutical Benefits) Regulations 2017*; or

(iv) the prescription is for the supply of a *Pharmaceutical benefit* listed under the heading “Various” in the *RPBS Schedule*; the *Pharmaceutical benefit* by such particulars as are necessary to identify the *Pharmaceutical benefit*; or

(b) otherwise:

(i) each drug that the *Pharmaceutical benefit* has; and

(ii) if the *RPBS prescriber* considers that it is necessary for the medical treatment of the person for whom the *Pharmaceutical benefit* is to be supplied to identify a brand of the pharmaceutical item that the *Pharmaceutical benefit* has—the brand of the pharmaceutical item.

(1B) If subparagraph (1A)(b)(ii) applies, the brand of the pharmaceutical item must be listed after the drugs that the *Pharmaceutical benefit* has.

(1C) Subsection (1A) does not apply to the extent that it would be contrary to a law of a State or Territory that would otherwise apply.

4 Subsection 11A(3)

Repeal the subsection, substitute:

(3) For the purposes of paragraphs (2)(b), (c) and (d), a prescription must not be prepared using a computer program that:

(a) operates, or may operate, to indicate on a prescription by default, for the purposes of subsection 103(2A) of the *National Health Act 1953*, that only the brand of pharmaceutical benefit specified in the prescription is to be supplied; or

(b) if paragraph (2A)(b) of this section applies to the prescription—operates, or may operate, to indicate on a prescription by default a brand of the pharmaceutical item that the pharmaceutical benefit has.

5 Subparagraph 11B(3)(a)(i)

Repeal the subparagraph, substitute:

(i) particulars to identify the *Pharmaceutical benefit* in accordance with subsection (3A); and

6 After paragraph 11B(3)(e)

Insert:

(ea) if paragraph (3A)(b) of this section applies to the prescription—the section of the chart is not completed using a computer program that operates, or may operate, to indicate on a prescription by default a brand of the pharmaceutical item that the pharmaceutical benefit has; and

7 After subsection 11B(3)

Insert:

(3A) For the purposes of subparagraph (3)(a)(i), the *RPBS prescriber* must write in the section of the chart:

- (a) if:
- (i) the prescription is prepared by handwriting the prescription on the section of the chart; or
 - (ii) the prescription is for the supply of a pharmaceutical benefit that has 4 or more drugs; or
 - (iii) the patient is receiving treatment in or at a residential care service and the medication chart is not an electronic medication chart; or
 - (iv) the prescription is for the supply of a pharmaceutical benefit that is specified by the Secretary, in writing, for the purposes of subparagraph 40(2A)(a)(iii) of the *National Health (Pharmaceutical Benefits) Regulations 2017*; or
 - (v) the prescription is for the supply of a *Pharmaceutical benefit* listed under the heading “Various” in the *RPBS Schedule*;

particulars sufficient to identify the pharmaceutical benefit; or

- (b) otherwise:
- (i) each drug that the *Pharmaceutical benefit* has; and
 - (ii) if the *RPBS prescriber* considers that it is necessary for the medical treatment of the patient to identify a brand of the pharmaceutical item that the *Pharmaceutical benefit* has—the brand of the pharmaceutical item.

(3B) If subparagraph (3A)(b)(ii) applies, the brand of the pharmaceutical item must be listed after the drugs that the pharmaceutical benefit has.

(3C) Subsection (3A) does not apply to the extent that it would be contrary to a law of a State or Territory that would otherwise apply.

8 At the end of Part 6

Add:

47 Transitional provision relating to the Veterans’ Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019

- (1) This section applies in relation to a prescription for the supply of a *Pharmaceutical benefit* that is written before 1 November 2020.
- (2) Despite the amendments of section 11A of the *Repatriation Pharmaceutical Benefits Scheme* made by Part 2 of Schedule 1 to the *Veterans’ Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019*, a prescription that is not a *medication chart prescription* is taken to have been written in accordance with section 11A if the prescription is written in accordance with that section as in force immediately before 31 October 2019.
- (3) Despite the amendments of section 11B of the *Repatriation Pharmaceutical Benefits Scheme* made by Part 2 of Schedule 1 to the *Veterans’ Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019*, a prescription that is a *medication chart prescription* is taken to have been written in accordance with section 11B if

the prescription is written in accordance with that section as in force immediately before 31 October 2019.

Schedule 2-Variations to the *MRCA Pharmaceutical Benefits Scheme* (Instrument 2013 No. MRCC 34)

Part 1-Amendments relating to electronic prescriptions

1 Section 3 (definition of *approved electronic communication*)

Repeal the definition.

2 Section 3

Insert:

electronic medication chart has the meaning given by subsection 11B(8).

3 Section 3 (paragraph (a) of the definition of *electronic prescription*)

Omit “approved electronic”, substitute “eligible electronic”.

4 Section 3

Insert:

eligible electronic communication means:

- (a) an electronic communication of a kind approved by the Secretary under section 11 of the *National Health (Pharmaceutical Benefits) Regulations 2017* for the purposes of the provision in which the expression is used; or
- (b) if no such approval is in force for the purposes of the provision in which the expression is used—any electronic communication.

healthcare identifier has the same meaning as in the *Healthcare Identifiers Act 2010*.

healthcare provider organisation has the same meaning as in the *Healthcare Identifiers Act 2010*.

5 Paragraphs 11AA(a) and (b)

Repeal the paragraphs, substitute:

- (a) either:
 - (i) section 11A (prescriptions other than medication chart prescriptions);
 - or
 - (ii) section 11B (medication chart prescriptions); and
- (b) if the prescription is an electronic prescription—section 11C (additional requirements for all electronic prescriptions).

6 Paragraph 11A(1)(f)

Omit “to be supplied”, substitute “prescribed”.

7 Subparagraph 11B(1)(b)(ii)

After “authority prescription”, insert “other than an *authority prescription* referred to in subsection (4A)”.

8 Paragraphs 11B(4)(a) and (b)

Repeal the paragraphs, substitute:

- (a) each authority approval number for the prescription, unless the prescription is to be posted or delivered to the *Minister for Health or Chief Executive Medicare* for authorisation; or
- (b) the relevant streamlined authority code for the *Pharmaceutical benefit* that is prescribed.

9 After subsection 11B(4)

Insert:

Authority prescriptions that have been authorised in accordance with certain authority required procedures

- (4A) Subparagraph (1)(b)(ii) does not apply to *authority prescriptions* that have been authorised in accordance with authority required procedures that are incorporated by reference into the circumstances determined for a *Pharmaceutical benefit* under subsection 85B(4) of the *National Health Act 1953*.

Note: If the authority required procedures referred to in subsection (4A) require a streamlined authority code or an authority approval number to be written on an authority prescription, and the code or number is not written on the authority prescription, the special patient contribution is not payable by the Commonwealth: see subsection 85B(4) of the *National Health Act 1953*.

10 At the end of section 11B

Add:

Electronic medication charts

- (8) An ***electronic medication chart*** is a medication chart in a form approved by the Secretary under subsection 41(5) of the *National Health (Pharmaceutical Benefits) Regulations 2017* for the purpose of writing an electronic prescription.

11 After section 11B

Insert:

11C Writing prescriptions—additional requirements for all electronic prescriptions

An *MPBS prescriber* writes an electronic prescription in accordance with this section if the *MPBS prescriber*:

- (a) includes in the metadata of the prescription:
 - (i) the conformance identifier provided to the Australian Digital Health Agency in relation to the software used to prepare the prescription; and
 - (ii) a unique identifier for the prescription generated by that software; and
- (b) states in the prescription:
 - (i) the healthcare identifier (if any) assigned to the *MPBS prescriber*; and
 - (ii) the healthcare identifier assigned to a healthcare provider organisation to which the *MPBS prescriber* is linked (within the meaning of the *Healthcare Identifiers Act 2010*).

11D Writing prescriptions—additional information that may be included in electronic prescriptions

An electronic prescription may include either or both of the following:

- (a) the date of birth of the person for whom the *Pharmaceutical benefit* is prescribed;
- (b) the reason why the *Pharmaceutical benefit* is prescribed to that person.

12 Subparagraph 45(2)(a)(ii)

After “electronic” (second occurring), insert “prescription, or a copy of the electronic”.

13 Subparagraph 45(2)(ab)(ii)

After “electronic” (second occurring), insert “prescription, or a copy of the electronic”.

14 Subparagraph 45(2)(ac)(ii)

After “electronic” (second occurring), insert “prescription, or a copy of the electronic”.

15 Subparagraph 45(2)(b)(ii)

After “electronic” (second occurring), insert “prescription, or a copy of the electronic”.

Part 2-Amendments relating to active ingredient prescribing

1 Section 3

Insert:

pharmaceutical benefit has a drug has the same meaning as in Part VII of the *National Health Act 1953*.

2 Paragraph 11A(1)(g)

Repeal the paragraph, substitute:

- (g) identifies in the prescription the *Pharmaceutical benefit* in accordance with subsection (1A); and

3 After subsection 11A(1)

Insert:

(1A) For the purposes of paragraph (1)(g), the *MPBS prescriber* must identify in the prescription:

- (a) if:
 - (i) the prescription is prepared in accordance with paragraph (1)(a); or
 - (ii) the prescription is for the supply of a *Pharmaceutical benefit* that has 4 or more drugs; or
 - (iii) the prescription is for the supply of a *Pharmaceutical benefit* that is specified by the Secretary, in writing, for the purposes of subparagraph

40(2A)(a)(iii) of the *National Health (Pharmaceutical Benefits) Regulations 2017*; or

(iv) the prescription is for the supply of a *Pharmaceutical benefit* listed under the heading “Various” in the *RPBS Schedule*; the *Pharmaceutical benefit* by such particulars as are necessary to identify the *Pharmaceutical benefit*; or

(b) otherwise:

(i) each drug that the *Pharmaceutical benefit* has; and

(ii) if the *MPBS prescriber* considers that it is necessary for the medical treatment of the person for whom the *Pharmaceutical benefit* is to be supplied to identify a brand of the pharmaceutical item that the *Pharmaceutical benefit* has—the brand of the pharmaceutical item.

(1B) If subparagraph (1A)(b)(ii) applies, the brand of the pharmaceutical item must be listed after the drugs that the *Pharmaceutical benefit* has.

(1C) Subsection (1A) does not apply to the extent that it would be contrary to a law of a State or Territory that would otherwise apply.

4 Subsection 11A(3)

Repeal the subsection, substitute:

(3) For the purposes of paragraphs (2)(b), (c) and (d), a prescription must not be prepared using a computer program that:

(a) operates, or may operate, to indicate on a prescription by default, for the purposes of subsection 103(2A) of the *National Health Act 1953*, that only the brand of pharmaceutical benefit specified in the prescription is to be supplied; or

(b) if paragraph (2A)(b) of this section applies to the prescription—operates, or may operate, to indicate on a prescription by default a brand of the pharmaceutical item that the pharmaceutical benefit has.

5 Subparagraph 11B(3)(a)(i)

Repeal the subparagraph, substitute:

(i) particulars to identify the *Pharmaceutical benefit* in accordance with subsection (3A); and

6 After paragraph 11B(3)(e)

Insert:

(ea) if paragraph (3A)(b) of this section applies to the prescription—the section of the chart is not completed using a computer program that operates, or may operate, to indicate on a prescription by default a brand of the pharmaceutical item that the pharmaceutical benefit has; and

7 After subsection 11B(3)

Insert:

(3A) For the purposes of subparagraph 11B(3)(a)(i), the *MPBS prescriber* must write in the section of the chart:

(b) if:

- (i) the prescription is prepared by handwriting the prescription on the section of the chart; or
- (ii) the prescription is for the supply of a pharmaceutical benefit that has 4 or more drugs; or
- (iii) the patient is receiving treatment in or at a residential care service and the medication chart is not an electronic medication chart; or
- (iv) the prescription is for the supply of a pharmaceutical benefit that is specified by the Secretary, in writing, for the purposes of subparagraph 40(2A)(a)(iii) of the *National Health (Pharmaceutical Benefits) Regulations 2017*; or
- (v) the prescription is for the supply of a *Pharmaceutical benefit* listed under the heading “Various” in the *RPBS Schedule*;

particulars sufficient to identify the pharmaceutical benefit; or

(b) otherwise:

- (i) each drug that the *Pharmaceutical benefit* has; and
- (ii) if the *MPBS prescriber* considers that it is necessary for the medical treatment of the patient to identify a brand of the pharmaceutical item that the *Pharmaceutical benefit* has—the brand of the pharmaceutical item.

(3B) If subparagraph (3A)(b)(ii) applies, the brand of the pharmaceutical item must be listed after the drugs that the pharmaceutical benefit has.

(3C) Subsection (3A) does not apply to the extent that it would be contrary to a law of a State or Territory that would otherwise apply.

8 At the end of Part 6

Add:

47 Transitional provision relating to the Veterans’ Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019

- (1) This section applies in relation to a prescription for the supply of a pharmaceutical benefit that is written before 1 November 2020.
- (2) Despite the amendments of section 11A of the MRCA Pharmaceutical Benefits Scheme made by Part 2 of Schedule 2 to the *Veterans’ Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing) Amendment Instrument 2019*, a prescription that is not a *medication chart prescription* is taken to have been written in accordance with section 11A if the prescription is written in accordance with that section as in force immediately before 31 October 2019.
- (3) Despite the amendments of section 11B of the MRCA Pharmaceutical Benefits Scheme made by Part 2 of Schedule 2 to the *Veterans’ Affairs Pharmaceutical Benefits Schemes (Electronic Prescriptions and Active Ingredient Prescribing)*

Amendment Instrument 2019, a prescription that is a *medication chart prescription* is taken to have been written in accordance with section 11B if the prescription is written in accordance with that section as in force immediately before 31 October 2019.