

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2007 No. 10**

Issued by the Authority of the Minister for Health and Ageing

*Health Insurance Act 1973*

*Health Insurance (General Medical Services Table) Amendment Regulations 2007 (No. 1)*

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 set out in prescribed tables.

Subsection 4(1) of the Act provides that the regulations may prescribe a table of medical services (other than diagnostic imaging services and pathology services) that sets out items of medical services, the amount of fees applicable in respect of each item and rules for interpretation of the table. *The Health Insurance (General Medical Services Table) Regulations 2006* (the Principal Regulations) currently prescribe such a table.

The purpose of the Regulations is to amend the Principal Regulations to alter the way in which Medicare benefits are paid for emergency after-hours attendances by medical practitioners. For the purpose of the emergency after-hours items, an after-hours period is between 8 pm and 8 am on weeknights, before 8 am and after 1 pm on Saturdays, and all day on Sundays and public holidays.

The Regulations will rename the relevant items as “urgent” after-hours items. This will remove confusion with the definition of “emergency” contained in the *Health Insurance Regulations 1975* that is more relevant to situations managed by specialist emergency physicians in hospital emergency departments.

Under the Principal Regulations the emergency after-hours items can only be claimed if the attendance is requested and provided in an after-hours period. In addition, routine providers of after-hours services, such as Medical Deputising Services, are restricted from claiming these items. The Regulations will allow requests for urgent after-hours attendances to be taken up to two hours prior to the commencement of an after-hours period and extend access to the urgent after-hours home visit items to routine providers of after-hours services. This will allow doctors greater flexibility in providing after-hours care and increase access for patients.

Details of the Regulations are set out in the Attachment.

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

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on 1 March 2007.

**Consultation**

Development of changes to the Round the Clock Medicare and emergency after-hours items MBS has occurred between the Department of Health and Ageing, Medicare Australia, the Australian Medical Association, the Royal Australian College of General Practitioners, the Rural Doctors Association of Australia, the National Association of Medical Deputising Australia and the Australasian College of Sports Physicians.

## ATTACHMENT

**Details of the *Health Insurance (General Medical Services Table) Amendment Regulations 2007 (No. 1)*****Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Health Insurance (General Medical Services Table) Amendment Regulations 2007 (No. 1)*.

**Regulation 2 – Commencement**

This regulation provides for the Regulations to commence on 1 March 2007.

**Regulation 3 – Amendment of the *Health Insurance (General Medical Services Table) Regulations 2006***

This regulation provides that the *Health Insurance (General Medical Services Table) Regulations 2006* (the Principal Regulations) are amended as set out in Schedule 1.

**Schedule 1 – Amendments****Item [1] – Schedule 1, Part 2, subrule 3(1)**

This item will insert the definition of an *after-hours period* for the purpose of payment of Medicare benefits.

**Item [2] – Schedule 1, Part 2, subrule 3(1)**

This item will insert the definition of *unsociable hours*, that is, between 11 pm and 7 am on any day.

**Item [3] – Schedule 1, Part 2, after rule 5**

This item will insert new rules 5A and 5B. Rule 5A will define when a patient's medical condition requires urgent treatment, and specify what constitutes a *responsible person* for requesting urgent after-hours services. Rule 5B will provide that routine providers of after-hours services may not claim the urgent in-surgery after-hours items.

**Item [4] – Schedule 1, Part 2, rule 15A**

This item will substitute a simplified rule 15A in line with the provisions made by subrule 3(1) (inserted by item 1).

**Item [5] – Schedule 1, Part 3, item 1, column 2**

This item will amend General Medical Services (GMS) item 1 for vocationally registered (VR) GPs to allow requests for urgent out-of-surgery medical attendances up to two hours prior to the start of an after-hours period.

**Item [6] – Schedule 1, Part 3, item 2, column 2**

This item will amend GMS item 2 for VR GPs to allow requests for urgent in-surgery medical attendances up to two hours prior to the start of an after-hours period. It will also restrict routine providers of after-hours services from claiming the item as per new rule 5B (inserted by item 3).

**Item [7] – Part 3, item 97, column 1**

This item will amend GMS item 97 for non-VR GPs to allow requests for urgent out-of-surgery medical attendances up to two hours prior to the start of an after-hours period.

**Item [8] – Part 3, GMS item 98**

This item will amend GMS item 98 for non-VR GPs to allow requests for urgent medical attendances in-surgery up to two hours prior to the start of an after-hours period. It will also restrict routine providers of after-hours services from claiming the item as per new rule 5B (inserted by item 3).

**Item [9] – Part 3, Group A16, Subgroup 2**

This item will amend the heading for subgroup 2 to refer to urgent attendances, rather than emergency attendances.

**Item [10] – Part 3, item 448, column 2**

This item will amend GMS item 448 for sports physicians to allow requests for urgent medical attendances in-surgery up to two hours prior to the start of an after-hours period. It will also restrict routine providers of after-hours services from claiming the item as per new rule 5B (inserted by item 3).

**Item [11] – Part 3, item 449, column 2**

This item will amend GMS item 449 for sports physicians to allow requests for urgent medical attendances in-surgery up to two hours prior to the start of unsociable hours during an after-hours period. It will also restrict routine providers of after-hours services from claiming the item as per new rule 5B (inserted by item 3).

**Item [12] – Part 3, item 601, column 2**

This item will amend GMS item 601 for VR GPs to allow requests for urgent medical attendances out-of-surgery up to two hours prior to the start of unsociable hours during an after-hours period.

**Item [13] – Part 3, item 602, column 2**

This item will amend GMS item 602 for VR GPs to allow requests for urgent medical attendances in-surgery up to two hours prior to the start of unsociable hours during an after-hours period. It will also restrict routine providers of after-hours services from claiming the item as per new rule 5B (inserted by item 3).

**Item [14] – Part 3, GMS item 697**

This item will amend GMS item 697 for non-VR GPs to allow requests for urgent medical attendances out-of-surgery up to two hours prior to the start of unsociable hours during an after-hours period.

**Item [15] – Part 3, GMS item 698**

This item will amend GMS item 698 for non-VR GPs to allow requests for urgent medical attendances in-surgery up to two hours prior to the start of unsociable hours during an after-hours period. It will also restrict routine providers of after-hours services from claiming the item as per new rule 5B (inserted by item 3).