

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 27

Health Insurance Act 1973

Health Insurance (General Medical Services Table) Amendment Regulations 2010 (No. 2)

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 are calculated with 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) which sets out items of medical services, the fees applicable for each item, and rules for interpreting the table. The *Health Insurance (General Medical Services Table) Regulations 2009* (the Principal Regulations) currently prescribe such a table.

The Regulations amend five items in the Principal Regulations.

These amendments

- amend the descriptor in item 37220 so that a fee may be paid for anaesthesia provided in conjunction with the prostate cancer treatment specified in that item; and
- amend the descriptors in items 104, 16401, 16590 and 16591 to give effect to measures in the 2009-10 Budget which cap Medicare benefits under the extended Medicare safety net for obstetric services.

Details of the Regulations are set out in the Attachment.

Consultation was undertaken with the Australian Medical Association and Medicare Australia for all amendments. For the obstetric items (16401, 16590, 16591), consultation was also undertaken with the Royal Australian College of General Practitioners, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists and the National Association of Specialist Obstetricians and Gynaecologists. The AMA and the craft groups supported the amendments.

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

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

The Regulations commence on 1 March 2010.

ATTACHMENT

**DETAILS OF THE HEALTH INSURANCE (GENERAL MEDICAL SERVICES TABLE)
AMENDMENT REGULATIONS 2010 (No. 2)**

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Health Insurance (General Medical Services Table) Amendment Regulations 2010 (No. 2)*.

Regulation 2 - Commencement

This regulation provides for the Regulations to commence on 1 March 2010.

Regulation 3 – Amendment of the *Health Insurance (General Medical Services Table) Regulations 2009*

This regulation provides that Schedule 1 amends the *Health Insurance (General Medical Services Table) Regulations 2009 (the Principal Regulations)*.

Schedule 1 – Amendments

Rules of interpretation

Item [1] Schedule 1, subrule 3(2A)

This item removes the definition of 'therapeutic substance' from the Principal Regulations, thereby allowing treating medical practitioners freedom to exercise their clinical judgement as to which 'therapeutic substance' best meets the individual needs of their patients.

Item [2] Schedule 1, subrule 9(1)

This item amends the specified rule so that the definition of *professional attendance* also applies in obstetric items 16401, 16404, 16590 and 16591 which were introduced on 1 January 2010.

Item [3] Schedule 1, subrule 13(3)

This item amends the specified rule to include items 16590 and 16591 in a group of items whose services may be provided by medical practitioners excepting a medical practitioner employed in a public hospital unless the medical practitioner is working out of their public hospital employment. The purpose of identifying these items is to prevent them from being used to shift service costs from the state/territory health systems to medicare.

Item [4] Schedule 1, rule 82

This item amends the specified rule to clarify the fact that it was intended to include semen preparation in the definition of 'embryology laboratory services'.

Item [5] Schedule 1, rule 88

This item amends the specified rule so that the specific definition of 'delivery' also applies in obstetric items 16590 and 16591.

Services and Fees

Items [6] to [8] Schedule 1, items 104, 16401, 16590 and 16591

These items amends the descriptors in items 104, 16401, 16590 and 16591 to give effect to measures in the 2009-10 Budget, which cap patient benefits under the extended Medicare safety net for obstetric services.

Item [9] Schedule 1, item 37220

This item amends the descriptor in item 37220 so that a fee is payable for anaesthesia provided in conjunction with the prostate cancer treatment specified in that item.