

EXPLANATORY STATEMENT

NATIONAL HEALTH ACT 1953

DETERMINATION UNDER SUBSECTION 84AAE(3)

National Health (Eligible midwives) Determination 2010

Purpose and Operation

This legislative instrument is made pursuant to subsection 84AAE(3) of the *National Health Act 1953* (the Act) and determines the requirements that a midwife must meet in order to be an 'eligible midwife' for the purposes of Part VII of the Act.

This instrument is part of the implementation of the *Health Legislation Amendment (Midwives and Nurse Practitioners) Act 2010* (the Midwives and Nurse Practitioners Act) which commenced on the Royal Assent on 12 April 2010 and provides for new arrangements to enhance and expand the role of nurse practitioners and midwives, allowing them to take a greater role in providing quality health care.

The Midwives and Nurse Practitioners Act amends both the Act and the *Health Insurance Act 1973* to enable nurse practitioners and appropriately qualified and experienced midwives to request appropriate diagnostic imaging and pathology services for which Medicare benefits may be paid. It allows these health professionals to be authorised as PBS prescribers able to prescribe certain medicines under the Pharmaceutical Benefits Scheme (PBS). Secondary legislation will also provide for such matters as the creation of new Medicare items and referrals under the Medicare Benefits Schedule (MBS).

Access to MBS services and PBS subsidised medicines will be available to patients of appropriately qualified and experienced midwives and nurse practitioners from 1 November 2010. To be authorised to prescribe under the PBS midwives and nurse practitioners will need to be able to prescribe medicines under State or Territory law, within the practitioner's scope of practice.

The Act (as amended by the Midwives and Nurse Practitioners Act) allows midwives who are approved as an 'authorised midwife' to prescribe certain medicines under the PBS. Subsection 84(1) defines 'authorised midwife' as an 'eligible midwife' in relation to whom an approval is in force under section 84AAF, so far as the eligible midwife provides midwifery treatment in a collaborative arrangement of a kind or kinds specified in a legislative instrument made by the Minister for the purpose of the definition of 'authorised midwife', with one or more medical practitioners of a kind or kinds specified in the legislative instrument.

Section 84AAE of the Act provides that 'eligible midwife' means a person who is a 'midwife' and who meets the additional requirements specified in a determination made for the purpose of subsection 84AAE(3). If there is no determination in force under subsection 84AAE(3), a person cannot be an 'eligible midwife' for the purposes of the Act (subsection 84AAE(2)).

A 'midwife' is a person who has been registered or authorised (however described) to practise midwifery under State or Territory law (subsection 4(1) of the Act).

Section 4 of this legislative instrument provides that a person will only satisfy the definition of 'eligible midwife' for the purposes of the Act if they meet a registration standard for an eligible midwife developed by the Nursing and Midwifery Board of Australia (the Board) for the purpose of subsection 38(2) of the National Law.

The National Law is set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009 (Qld)* and is the means of implementing the National Registration and Accreditation Scheme for health professionals.

In order to satisfy the requirements in section 4, a midwife must demonstrate to Medicare Australia that he or she meets a registration standard for an eligible midwife developed by the Board for the purposes of subsection 38(2) of the National Law. This will be done by the midwife providing evidence that he or she satisfies the Board that he or she has the relevant qualifications and experience required by the registration standard. The Board may notate the Register of Midwives, provide a letter of assessment or other form of evidence once satisfied that the standard has been met.

The current registration standard for eligible midwives is made under subsection 38(2) of the National Law and contains requirements relating to a midwife's qualifications and experience. This standard was approved by the Australian Health Workforce Ministerial Council and is publicly available on the Board's website at: <http://www.nursingmidwiferyboard.gov.au/index.php> .

This legislative instrument commences on the later of 1 July 2010, or, the day after it is registered.

Consultation

Consultation regarding implementation of the arrangements for access by patients to midwife and nurse practitioner Medicare services and PBS prescribing occurred via advisory groups established to advise on specific issues and technical aspects. The advisory groups included practitioners from relevant medical and health professions, with experience in midwifery, nursing, general practice, obstetrics, and representatives from registration bodies, state and territory health services, regional and remote health services, Indigenous populations, and consumers. Advice included advice on Medicare and PBS eligibility, collaborative arrangements with medical professionals, authorisation as PBS prescribers, and medicines suitable for PBS prescribing.

Advice on the level of experience and qualifications required to ensure a midwife is able to safely and competently participate in and access Medicare services and PBS prescribing, as well as access the government supported professional indemnity insurance, was gathered through the Maternity Services Advisory Group and an associated Technical Working Group. The consensus views of this group were provided to the National Nursing and Midwifery Board (NMBA) to consider. The NMBA, as the professional body responsible for determining standards and professional conduct, was considered to be the most appropriate body to consider,

assess and advise on the suitability of a midwife for access to any extended areas of practice. The NMBA has engaged in broad public consultations regarding the content and requirements for accessing these areas of practice through the gaining of 'eligible midwife' status. The NMBA has provided a registration standard for an eligible midwife that reflects contemporary professionally relevant criteria.

ATTACHMENT

DETAILS OF THE NATIONAL HEALTH (ELIGIBLE MIDWIVES) DETERMINATION 2010

Part 1 Preliminary

Section 1 Name of Determination

Section 1 provides that the title of this Determination is the *National Health (Eligible midwives) Determination 2010* (the Determination).

Section 2 Commencement

Section 2 provides that the Determination commences on the later of 1 July 2010, or, the day after it is registered.

Section 3 Definitions

Section 3 defines relevant terms used in the Determination.

Section 4 Eligibility requirements

Section 4 provides that for section 84AAE(3) of the *National Health Act 1953*, the additional requirement for a midwife to be an 'eligible midwife' is that the midwife must meet any registration standard for an eligible midwife developed by Nursing and Midwifery Board of Australia for section 38(2) of the National Law.