PB 66 of 2010

National Health (Indigenous Chronic Disease — PBS Co-payment Measure) Special Arrangements Instrument 2010

National Health Act 1953

I, Andrea Kunca, Acting Assistant Secretary, Community Pharmacy Branch, Department of Health and Ageing, delegate of the Minister for Health and Ageing, make these special arrangements under subparagraph 100 (1) (b) (ii) of the National Health Act 1953.

Dated 21 June 2010

Andrea Kunca
Acting Assistant Secretary, Community Pharmacy Branch, Department of Health and Ageing
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### 1 Name of Instrument

(1) This Instrument is the *National Health (Indigenous Chronic Disease — PBS Co-payment Measure) Special Arrangements Instrument 2010*.

(2) This Instrument may also be cited as PB 66 of 2010.

### 2 Commencement

This Instrument commences on 1 July 2010.

### 3 Definitions

In this Instrument:

*Aboriginal Community Controlled Health Service*, or ACCHS, means a primary health care service:

(a) established by a local Aboriginal community to deliver holistic, comprehensive and culturally appropriate health care to the Aboriginal community; and

(b) controlled by a board of management the members of which:
   
   (i) belong to the local Aboriginal community; and
   
   (ii) are elected by the local Aboriginal community; and

(c) operated by the local Aboriginal community.

*Act* means the *National Health Act 1953*. 
**chronic disease**, for a person, means a disease that has been, or is likely to be, present in the person for at least 6 months, including arthritis, asthma, cancer, diabetes, heart disease and stroke.

**comorbidity**, for a patient, means the presence of 1 or more diseases or disorders in addition to a primary disease or disorder in the patient, including the effect of the additional disease or disorder on the patient.

**general practitioner** has the meaning given by the *Health Insurance Act 1973*.

**Indigenous Health Service** means a medical practice, an Aboriginal Community Controlled Health Service or a health clinic that meets the requirements mentioned in section 7.

**medical practitioner** has the meaning given by the *Health Insurance Act 1973*.

**Medicare Australia CEO** means the Chief Executive Officer of Medicare Australia.

**professional service** has the meaning given by the *Health Insurance Act 1973*.

**RACGP** means the Royal Australian College of General Practitioners.

*Note* Several other words and expressions used in this Instrument have the meaning they have in the Act, for example:

- approved supplier
- PBS prescriber
- pharmaceutical benefit
- special pharmaceutical product.

### 4 Application

This Instrument applies to a drug or medicinal preparation declared under subsection 85 (2) of the Act.

### 5 Prescribing special pharmaceutical products

(1) This section applies to a PBS prescriber who is a member, employee or contractor of:

(a) a general practice that meets the requirements in section 6; or

(b) an Indigenous Health Service that meets the requirements in section 7.

(2) The PBS prescriber may write a prescription for the supply of special pharmaceutical products, to a patient registered under subsection 8 (2), in accordance with this Instrument.

*Note* A drug or medicinal preparation that has been declared under subsection 85 (2) of the Act and that is subject to a special arrangement under section 100 of the Act is a special pharmaceutical product — see sections 100 and 100AA of the Act.
6 General practices
(1) For paragraph 5 (1) (a), the requirements are that:
(a) the general practice:
(i) is accredited by an accrediting body as meeting the RACGP standards for general practices and maintains that accreditation; or
(ii) has been registered with an accrediting body to be assessed for accreditation (as mentioned in subparagraph (i)), for less than 12 months, and has not previously been refused accreditation; and
(b) the general practice has public liability indemnity insurance in relation to its medical practice; and
(c) the members of the general practice, or the general practitioners it employs or contracts, have professional indemnity insurance; and
(d) the general practice is approved by the Medicare Australia CEO to participate in the program known as the Practice Incentives Program, Indigenous Health Incentive, administered by the Department.

(2) In this section:
accrediting body means:
(a) Australian General Practice Accreditation Ltd (ABN 60 077 562 406); or
(b) Quality Practice Accreditation Pty Ltd (ABN 26 081 986 932).

7 Indigenous Health Services
For paragraph 5 (1) (b), the requirements are that the medical practice, ACCHS, or health clinic:
(a) provides primary health care services to a predominantly Aboriginal or Torres Strait Islander population or both; and
(b) provides professional services for which Medicare benefit is payable under the Health Insurance Act 1973, including because of a direction given under subsection 19 (2) of that Act; and
(c) is located in an area the Department classifies as a metropolitan or a rural area, as defined in the document titled Rural, Remote and Metropolitan Areas Classification, 1991 Census Edition, dated November 1994, published by the Department of Primary Industries and Energy and the Department of Human Services and Health; and
(d) is approved by the Minister as an Indigenous Health Service.

8 Registering patients
(1) This section applies to:
(a) a general practitioner who is a member, employee or contractor of a general practice mentioned in section 6; and
(b) a medical practitioner who is a member, employee or contractor of an Indigenous Health Service.

(2) The practitioner may register, for the supply of special pharmaceutical products under this Instrument, a patient:
   (a) who identifies himself or herself to the practitioner as being of Aboriginal or Torres Strait Islander descent; and
   (b) whom the practitioner assesses as meeting the eligibility criteria in subsection (3); and
   (c) who provides consent to receive supplies under this Instrument to:
      (i) the practitioner; or
      (ii) the general practice or Indigenous Health Service that employs or contracts the practitioner or of which the practitioner is a member; and
   (d) who completes the form approved by Secretary for the purpose.

(3) For subsection (2), the eligibility criteria are that the patient, in the opinion of the practitioner:
   (a) has an existing chronic disease, or is at risk of developing a chronic disease; and
   (b) would experience setbacks in the prevention or ongoing management of the disease if the patient did not adhere to a course of treatment (involving a pharmaceutical benefit) for the disease; and
   (c) is unlikely to adhere to the course of treatment without assistance under this Instrument.

9 Annotating prescriptions

A PBS prescriber must annotate a prescription for the supply of a special pharmaceutical product:
   (a) manually, using a form approved by the Secretary for the purpose; or
   (b) electronically, using the software approved by the Secretary for the purpose; or
   (c) in another way approved by the Secretary.

10 Co-payment reduction

(1) Section 87 of the Act applies to the supply of special pharmaceutical products, as if a special pharmaceutical product were a pharmaceutical benefit, but with the modifications set out in this section.
Co-payment of nil

(2) The amount that an approved supplier may charge for the supply of a special pharmaceutical product is nil if:

(a) the special pharmaceutical product would have been a pharmaceutical benefit otherwise than under this Instrument; and

(b) paragraph 87 (2) (a), (b) or (c) of the Act would otherwise have applied to the supply of the pharmaceutical benefit.

Co-payment of $5.40

(3) The amount that an approved supplier may charge for the supply of a special pharmaceutical benefit is $5.40 if:

(a) the special pharmaceutical product would have been a pharmaceutical benefit otherwise than under this Instrument; and

(b) either:

(i) paragraph 87 (2) (e) of the Act would otherwise have applied to the supply of the pharmaceutical benefit; or

(ii) it is a supply that is described in paragraph 99 (2A) (a) of the Act.

Note 1 The figure expressed is periodically adjusted — see section 12 (indexation).

Note 2 Under the Act, a supply described in subsection 99 (2A) of the Act is deemed to be a supply and receipt otherwise than under Part VII of the Act (other than for the purposes of Division 1A of that Part).

The general patient safety net

(4) For the purpose of calculating an amount for the general patient safety net (within the meaning of section 99F of the Act), and despite subsections (2) and (3):

(a) a special pharmaceutical product is treated as if it were a pharmaceutical benefit supplied under Part VII of the Act; and

(b) if paragraph 87 (2) (a), (b) or (c) of the Act would otherwise have applied to its supply — the amount charged is taken to be the amount mentioned in the paragraph that applies; and

(c) if paragraph 87 (2) (e) of the Act would otherwise have applied to its supply — the amount charged is taken to be the amount mentioned in that paragraph; and

(d) if paragraph 99 (2A) (a) of the Act would have operated for the supply — the amount charged is taken to be the amount worked out for the pharmaceutical benefit under subsection 84C (7) of the Act; and

(e) the indexation provisions of Division 4A of Part VII of the Act apply to the amount as if the special pharmaceutical product were a pharmaceutical benefit.
11 **Eligibility for concession and entitlement cards under the Act**

Section 84C of the Act applies to a patient:

(a) as if a special pharmaceutical product supplied to the patient were a pharmaceutical benefit; and

(b) in accordance with subsection 10 (4).

12 **Indexation**

Division 4A of Part VII of the Act applies to an amount mentioned in subsection 10 (3) or 13 (2), or to the amount of $27.90 mentioned in subsection 13 (3), as if:

(a) it were an amount appearing in the CPI Indexation Table in subsection 99G (1) of the Act; and

(b) the indexation day for the amount were 1 January; and

(c) the reference quarter for the amount were September.

13 **Payment for supply of special pharmaceutical products**

(1) Section 99 of the Act applies as if a special pharmaceutical product were a pharmaceutical benefit but with the modifications set out in this section.

*If the co-payment is nil*

(2) If the amount that an approved supplier is entitled to charge for the supply by the supplier of a special pharmaceutical product is nil under subsection 10 (2), the supplier is entitled to be paid by the Commonwealth the amount of $5.40 in addition to what the supplier is entitled to be paid for the supply under subsection 99 (2) of the Act.

*Note* The figure expressed is periodically adjusted — see section 12 (indexation).

*If the co-payment is $5.40 under subparagraph 10 (3) (b) (i)*

(3) If the amount that an approved supplier is entitled to charge for the supply by the supplier of a special pharmaceutical product is $5.40 under subparagraph 10 (3) (b) (i), the supplier is entitled to be paid by the Commonwealth the amount of $27.90 in addition to what the supplier is entitled to be paid for the supply under subsection 99 (2) of the Act.

*Note* The figure expressed is periodically adjusted — see section 12 (indexation).
Section 14

**If the co-payment is $5.40 under subparagraph 10 (3) (b) (ii)**

(4) If the amount that an approved supplier is entitled to charge for the supply by the supplier of a special pharmaceutical product is $5.40 under subparagraph 10 (3) (b) (ii), the supplier is entitled to be paid by the Commonwealth the amount (if any) by which the price of the pharmaceutical benefit under subsection 84C (7) of the Act exceeded the amount charged.

14  **Claim for payment for supply**

(1) An approved supplier who wants to receive payment from the Commonwealth for the supply of a special pharmaceutical product must make a claim for payment to the Secretary.

(2) The claim must be made:

(a) in accordance with section 99AAA of the Act as if a special pharmaceutical product were a pharmaceutical benefit; and

(b) if it is for the supply of a special pharmaceutical product under subsection 13 (4) — in accordance with section 99AAA of the Act, as if the supply were a supply to which Part VII of the Act applies.

**Note**