

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Health and Ageing

*Health Insurance Act 1973*

*Health Insurance (Extended Medicare Safety Net - Midwives) Amendment  
Determination 2010*

Section 10B of the *Health Insurance Act 1973* (“the Act”) provides that the Minister for Health and Ageing may, by legislative instrument, determine to which Medicare items subsections 10ACA(7A) and 10ADA(8A) of the Act apply, and the maximum increase in Medicare benefit payable for those items under the Extended Medicare Safety Net (‘EMSN’). The increase in the Medicare benefit payable under the EMSN is commonly referred to as the ‘EMSN benefit’.

Subsections 10ACA(7A) and 10ADA(8A) of the Act provide that where an item is listed in a determination made under section 10B of the Act, the EMSN benefit must not exceed the amount determined in relation to that item (“the EMSN benefit cap”).

In the 2009-10 Federal Budget it was announced that the Government would be placing an upper limit on the amount of Medicare benefit that will be paid under the EMSN for midwifery items. Medicare items for midwifery services will be introduced effective from 1 November 2010.

Three new obstetric services for services by medical practitioners will also to be introduced from 1 November 2010 to complement the Medicare midwifery items: an obstetric attendance for a woman who is 32-36 weeks pregnant, where the woman is referred by a midwife; an item for the management of vaginal birth where the woman is referred by a midwife; and management of caesarean birth where the woman is referred by a midwife. EMSN benefit caps already apply to current obstetric services. These new obstetric services will also be subject to EMSN benefit caps.

### **Background**

The EMSN provides an increased Medicare rebate for Australian families and singles who incur out-of-pocket costs for Medicare eligible out-of-hospital services and is provided for in sections 10ACA and 10ADA of the Act. The out-of-pocket cost is the difference between the fee charged by the doctor and the standard Medicare rebate (including any benefit received through the original Medicare safety net) that the patient receives from Medicare. Once the relevant annual threshold of out-of-pocket costs has been reached, Medicare will pay 80% of any future out-of-pocket costs for Medicare eligible out-of-hospital services for the remainder of the calendar year. However, where an item has an EMSN benefit cap, there is a maximum benefit payable for that item. For the 2010 calendar year, the annual EMSN threshold for concession cardholders and people who receive Family Tax Benefits (Part A) is \$562.90. For all other singles and families the annual threshold is \$1,260.00. These amounts are indexed by Consumer Price Index on 1 January each year.

### **Effect of the *Health Insurance (Extended Medicare Safety Net - Midwives) Amendment Determination 2010***

The *Health Insurance (Extended Medicare Safety Net - Midwives) Amendment Determination 2010* (the Determination) amends the *Health Insurance (Extended Medicare Safety Net)*

*Determination 2009* (the Principal Determination) to impose EMSN benefit caps on the new midwifery and associated new obstetric services, effective from 1 November 2010. EMSN caps currently apply to all obstetric services. The Determination also provides for indexation of the EMSN benefit caps for the new midwifery and obstetric services by the Consumer Price Index (CPI), effective from 1 January 2011, using the June 2010 CPI figure as the reference quarter.

Where an EMSN benefit cap for midwifery and associated obstetric services is imposed, a person's EMSN benefit is calculated as if they were claiming an uncapped item, that is, 80% of their out-of-pocket costs for the service once they have reached the applicable EMSN threshold. However, when the calculated EMSN benefit (i.e. 80% of out-of-pocket expenses) is greater than the amount of the EMSN benefit cap in the Principal Determination for that item, the EMSN benefit will be limited to the EMSN benefit cap specified in the Determination. When the EMSN benefit calculated is less than the EMSN benefit cap, the person will receive the EMSN benefit that is equal to the calculation.

For example, the Medicare Schedule fee as at 1 November 2010 for an initial antenatal attendance by a midwife (item 82100) will be \$51.35, the Medicare rebate will be \$43.65 and the EMSN benefit cap will be \$20.00.

Assuming that the patient has already qualified for EMSN benefit, if the midwife charges \$65.00 for this service, the patient will receive an EMSN benefit of up to \$17.10 (80% of their out-of-pocket cost) in addition to the \$43.65 rebate. This is \$60.75 in total.

However, if the patient is charged \$70.00 and the EMSN benefit cap is set at \$20.00, then the patient will receive the maximum EMSN benefit of \$20.00 in addition to the \$43.65 Medicare rebate (\$63.65 in total).

The EMSN benefit caps will apply at the item level. This means that where an EMSN benefit cap applies to a service, the cap will apply to every patient who receives that service. Patients will be eligible to receive up to the EMSN benefit cap amount each time that they have a particular service, provided that they have reached the applicable EMSN threshold.

This Determination will not have an impact on small business. The EMSN benefit is a patient benefit. Practitioners will not be required to complete any additional activities to comply with the change. The level of the EMSN benefit cap will be automatically applied by Medicare Australia at the time that a patient's claim is submitted.

The EMSN benefit caps will be publicly available for patients and practitioners through the MBS Online website. This website is a commonly used resource which sets out the item descriptor and the Medicare Schedule fees and rebates for all Medicare items. The EMSN benefit cap will be clearly displayed in the item descriptor of the applicable items to ensure that practitioners and patients are well informed of patient entitlements related to the Medicare services.

Details of the Determination are set out in the [Attachment](#).

## **Commencement**

Schedule 1 of this Determination will commence on 1 November 2010 to coincide with the introduction of the new midwifery and associated obstetric services. Schedule 2 of this Determination, which indexes the EMSN benefit caps for these services, will start on 1 January 2011 to coincide with the start of the EMSN year, which is based on a calendar year.

**Consultation**

This Determination will apply EMSN benefit capping to midwifery services to be introduced under the More Choice For Women - Expanding Medicare Support For Midwives measure announced in the 2009-10 Federal Budget and extend EMSN benefit capping to the associated new obstetric items in line with current EMSN capping of existing obstetric services implemented under the Medicare Benefits Schedule - capping Extended Medicare Safety Net benefits for items with excessive fees and capping Extended Medicare Safety Net benefits for items with excessive fees-obstetrics services, also announced in the 2009-10 Federal Budget.

The Department of Health and Ageing has held extensive discussion and negotiation on the midwifery items and associated obstetric services with the Maternity Services Advisory Group and associated technical advisory groups.

## ATTACHMENT

**Details of the *Health Insurance (Extended Medicare Safety Net - Midwives) Amendment Determination 2010*****1. Name of Determination**

Section 1 provides that the title of the Determination is the *Health Insurance (Extended Medicare Safety Net - Midwives) Amendment Determination 2010*.

**2. Commencement**

Section 2 provides that the Determination commences as follows:

- (a) on 1 November 2010 – sections 1 to 3 and Schedule 1;
- (b) on 1 January 2011 – Schedule 2.

**3. Amendment of the *Health Insurance (Extended Medicare Safety Net) Determination 2009***

Section 3 provides that Schedule 1 and 2 of this Determination amend the *Health Insurance (Extended Medicare Safety Net) Determination 2009*.

**Schedule 1 – Amendments commencing 1 November 2010****[1] and [2] Maximum increases for items under section 10ACA and 10ADA of the Act**

Subsection 4(1) of the *Health Insurance (Extended Medicare Safety Net) Determination 2009* sets out a table specifying the Medicare items from the *Health Insurance (General Medical Services Table) Regulations 2010* (“the GMST”) to which an EMSN benefit cap will apply and the amount of the EMSN benefit cap that will apply to each of those items.

This Determination amends that table to specify EMSN benefit caps for new items in the GMST relating to obstetric services (items 16404, 16527 and 16528). It also amends the table to specify EMSN benefit caps for seven new midwifery services (items 82100 – 82115 and 82130 – 82140) to be introduced through a determination made under section 3C of the Act, which enables services specified in that determination to be treated as if they were items in the GMST.

**Schedule 2 – Amendments commencing 1 January 2011****[1] - [9] Maximum increases for items under section 10ACA and 10ADA of the Act**

Schedule 2 of this Determination applies indexation under the CPI to the EMSN benefit caps for the items listed in Schedule 1.