

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 187

Health Insurance Act 1973

Health Insurance (General Medical Services Table) Regulations 2011

Health Insurance (General Medical Services Table) Amendment Regulations 2011 (No. 2)

Health Insurance Amendment Regulations 2011 (No. 4)

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 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) 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 2010* (the 2010 Regulations) currently prescribe such a table.

Subsection 4(2) of the Act provides that unless repealed earlier, these Regulations will cease to be in force and will be taken to have been repealed on the day following the 15th sitting day of the House of Representatives after the end of a 12 month period which begins on the day when the regulations are registered on the Federal Register of Legislative Instruments. The 2010 Regulations were registered on the Federal Register of Legislative Instruments on 28 October 2010 and commenced on 1 November 2010.

The purpose of the Regulations is to repeal the 2010 Regulations and prescribe a new table of general medical services for the 12 month period beginning on 1 November 2011, the 2011 Regulations.

The 2011 Regulations include a fee increase of 2 per cent for most items, the omission of four items, the inclusion of 31 new items, minor amendments to the descriptors for 77 items and consequential amendments to the rules governing the items.

The *Health Insurance (General Medical Services Table) Amendment Regulations 2011* (the January Regulations) remove six practice nurse items from the 2011 Regulations on 1 January 2012. Their removal is timed to coincide with the commencement of incentive payments to accredited medical practices to employ practice nurses in an expanded role.

Provisions in the Regulations also amend the *Health Insurance Regulations 1975* (the HI Regulations) by updating Schedule 6 (listing services for which the Medicare benefit is 100 per cent of the Schedule fee), and corrects a minor drafting error in that Schedule.

Details of the 2011 Regulations are set out in Attachment A, the January Regulations are set out in Attachment B and the amendments to the HI Regulations are set out in Attachment C.

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

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

The 2011 Regulations commence on 1 November 2011 and the January Regulations commence on 1 January 2012. Regulations 1 to 3 and Schedule 1 to the amendments to the HI Regulations commence on 1 November 2011 and Schedule 2 commences on 1 January 2012. Schedule 2 commences on the later date to coincide with the commencement of incentive payments to accredited medical practices to employ practice nurses in an expanded role.

Consultation

Consultation on implementing the *Better Access* initiative and the *Support for Practice Nurses* program was undertaken with all interested parties.

Better Access initiative: Australia Medical Association (AMA), Royal Australian College of General Practitioners (RACGP), Australian General Practice Network (AGPN), United General Practice Australia, Australian Psychological Society.

Support for Practice Nurses program: Australian Practice Nurses Association, Australian Nursing Federation, Royal Australian College of Nursing, AMA, RACGP, AGPN, Health Care Consumers Association.

The decisions to deny Medicare benefits for vertebroplasty and chondrocyte implantation, but to pay them for sacral nerve stimulation were made on recommendations of the Medical Services Advisory Committee which advises the Minister for Health and Ageing on evidence relating to the safety, effectiveness and cost-effectiveness of new medical technologies and procedures.

Authority: Subsection 133(1) of the *Health Insurance Act 1973*

ATTACHMENT A

DETAILS OF THE *HEALTH INSURANCE (GENERAL MEDICAL SERVICES TABLE) REGULATIONS 2011*Regulation 1 – Name of Regulations

This regulation provides for the Regulations to be referred to as the *Health Insurance (General Medical Services Table) Regulations 2011* (the 2011 Regulations).

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on 1 November 2011.

Regulation 3 – Repeal

This regulation repeals the *Health Insurance (General Medical Services Table) Regulations 2010*.

Regulation 4 – Dictionary

This regulation provides for a Dictionary at the end of the Regulations, which defines certain words and expressions used in the Regulations, and includes references to certain words and expressions which are defined elsewhere in the Regulations.

Regulation 5 – General medical services table

This regulation provides that the new table of general medical services (other than diagnostic imaging services and pathology services) set out in Schedule 1 be prescribed for subsection 4(1) of the Act.

Part 2 of Schedule 1 – Service Fees

This part of the 2011 Regulations contains the following changes:

[1] Two sets of items currently in the Medicare Benefits Schedule via Determinations are included in the 2011 Regulations:

- Items 14201 & 14202 via the *Health Insurance (Facial Injections of Poly-L-lactic acid) Determination 2011*.
- Twenty-five telehealth items via the *Health Insurance (Telehealth Services) Determination 2011*. These items may be divided into three groups:
 - Items claimed by specialists and consultant physicians who provide the telehealth consultation (items 99, 112, 149, 288, 389, 2820, 3015, 6016, 13210, 16399, 17609).
 - Items claimed by medical practitioners who attend the telehealth consultation with the patient (items 2100, 2122, 2125, 2126, 2137, 2138, 2143, 2147, 2179, 2195, 2199, 2220). A new group, A30, with associated rules is created for these items.
 - Items claimed by a practice nurse or an Aboriginal health worker who attends the telehealth consultation with the patient (items 10983, 10984). These items are placed in Group M12 and the group renamed from *Services provided by a practice nurse or a registered Aboriginal health worker* to *Services provided by a practice nurse, an Aboriginal health worker or a registered Aboriginal health worker*.

[2] The telehealth items provided by specialists, consultant physicians and medical practitioners are added to the items listed in sub-clauses 1.2.2(1), 1.2.3(1), 1.2.4(1), 1.2.4(3) and 1.2.5(1). These rules define *attendance* in relation to the listed items.

[3] Telehealth items 10983 and 1094 are listed in sub-clause 1.2.8(1) which lists the items whose services may be provided by persons other than medical practitioners. Also to be listed in sub-clause 1.2.8(1) are the items comprising Groups M12 (services provided by a practice nurse or a registered Aboriginal health worker) and M2 (services provided by a practice nurse). The addition of these items correct a drafting oversight.

[4] The inclusion of the telehealth items in the 2011 Regulations also requires entries in the Dictionary (at the end of the Regulations) for the following terms: *Aboriginal health worker, care recipient, inner metropolitan area, participating in a video consultation, residential care service*.

[5] Changes resulting from the implementation Government's *Better Access Initiative*:

- Items 2702 and 2710 currently pay a medical practitioner a fee for preparing a mental health treatment plan, and are untimed items. They are replaced by timed items 2700, 2701 and 2715, 2717, respectively. The rules in the following clauses and sub-clauses are amended to reflect these items changes: 2.20.3(1), 2.20.6, 2.20.7, 2.20.8.
- The fees for items 2712 (review of a GP mental health treatment plan) and 2713 (mental health consultation) are substantially reduced.
- The Dictionary entry for *preparation of a GP mental health treatment plan* and the rules in clauses 2.20.3, 2.20.6 and 2.20.7, which govern items 2702 and 2710 are amended to replace reference to these items with reference to items 2700, 2701, 2715 and 2717.

[6] Participating nurse practitioners and midwives may refer patients to specialists and consultant physicians (regulations 2, 2B and 2F of the *Health Insurance Regulations 1975* apply). To avoid ambiguity in the 2011 Regulations, the descriptors of 75 specialist and consultant physician items in Groups A4 (all items), A8 (all items), A12 (all items), A24 (sub-groups 1 and 3), A28 (all items) and A29 (items 135, 137) are amended. Specifically, the term *medical practitioner* in the descriptor is replaced by *referring practitioner* (i.e. a medical practitioner or a nurse practitioner or a midwife), or the term *a participating nurse practitioner* is included after *medical practitioner*.

[7] *Non-medicare service*

Under *non-medicare service* in the Dictionary is a list of medical services for which medicare benefit is not available and for either clinical or cost reasons. Vertebroplasty and chondrocyte implantation are added to this list. Consequently, vertebroplasty items 35400 and 35402 are removed from the 2011 Regulations and the descriptors for items 49557 and 49563 are amended to clarify policy intent that they not be used for chondrocyte implantation.

Sacral nerve stimulation for urinary incontinence is removed from the list of *non-medicare services* because this treatment now attracts medicare benefit (items 36663 to 36668 inclusive, apply).

[8] Minor rule amendments

- The *3 Step Mental Health Process* is no longer a component of MBS items so its Dictionary entry, its definition in clause 2.20.1 and its governing rule in sub-clause 2.20.8(1) are removed from the 2011 Regulations.
- Focused psychological strategies is a term relevant to the items in sub-group 2 of Group A20. The definition of *focused psychological strategies* in clause 2.20.1 is amended to clarify its policy intent.
- In clause 2.17.5, heading and sub-clause (1), a drafting error is corrected: *a GP management plan* is replaced by *team care arrangements*.
- In paragraph 2.20.6(4)(a) and sub-clause 2.20.6(6), item references are up-dated: *734 to 779* are replaced by *735 to 758*.
- In clause 2.31.1, the publication date of the Australian Standard Geographical Classification is up-dated.

ATTACHMENT B**DETAILS OF THE *HEALTH INSURANCE (GENERAL MEDICAL SERVICES TABLE) AMENDMENT REGULATIONS 2011 (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 2011 (No. 2)*.

Regulation 2 - Commencement

This regulation provides for the Regulations to commence on 1 January 2012.

Regulation 3 – Amendment of the *Health Insurance (General Medical Services Table) Regulations 2011*

This regulation provides that Schedule 1 amends the *Health Insurance (General Medical Services Table) Regulations 2011* (the 2011 Regulations).

Schedule 1 – Amendments**Item [1] – Schedule 1, subclause 1.2.8 (1)**

This item removes all Group M2 items from the list in this sub-clause because these items are removed from the 2011 Regulations at this time.

Item [2] – Schedule 1, clause 2.19.1

This item is a consequential amendment from item [3] and removes a regulation associated with the Group M2 items.

Item [3] – Schedule 1, Division 2.32

This item removes all Group M2 items and their governing rules from the 2011 Regulations.

Item [4] – Dictionary, definition of *preventive check*

This item removes a term associated with the Group M2 items.

ATTACHMENT C**DETAILS OF THE *HEALTH INSURANCE AMENDMENT REGULATIONS 2011* (No. 4)****Regulation 1 – Name of Regulations**

This Regulation provides that the title of the Regulations is the *Health Insurance Amendment Regulations 2011* (No. 4).

Regulation 2 - Commencement

This Regulation provides for the Regulations to commence as follows:

- (a) 1 November 2011 — Regulations 1 to 3 and Schedule 1;
- (b) 1 January 2012 — Schedule 2.

Regulation 3 – Amendment of the *Health Insurance Regulations 2011*

This Regulation provides that Schedules 1 and 2 amend the *Health Insurance Regulations 1975*.

Schedule 1 - Amendments**Item [1] – Subregulation 11B(2)**

This item removes MBS item 55768 from the list of MBS items to which it was erroneously added.

Item [2] – Schedule 6, item 2A

This item removes item 2A as MBS item 139 has been relocated to Group A29.

Item [3] – Schedule 6, item 12

This item replaces MBS item 2702 with MBS items 2700 and 2701, and MBS item 2710 with MBS items 2715 and 2717. These are consequential amendments from the replacement of untimed MBS items 2702 and 2710 by timed MBS items 2700, 2701, 2715 and 2717.

Schedule 2 - Amendment**Item [1] – Schedule 6, item 17**

This item removes the Group M2 MBS items from 1 January 2012 when they are removed from the 2011 Regulations.