

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Health and Ageing

Health Insurance Act 1973

Health Insurance (Accreditation of Podiatric Surgeons) Guidelines PHB23/2004 Revocation Instrument

Authority

Subsection 3AAA(2) of the *Health Insurance Act 1973* (the Act) provides that the Minister may determine guidelines for making a decision as to whether a podiatrist is to be accredited. Subsection 33(3) of the *Acts Interpretation Act 1901* provides that, where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws), the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The *Health Insurance (Accreditation of Podiatric Surgeons) Guidelines PHB23/2004 Revocation Instrument* (the Revocation Instrument) revokes the *Health Insurance (Accreditation of Podiatric Surgeons) Guidelines 2004* (the Guidelines) pursuant to subsection 3AAA(2) of the Act.

Purpose

The purpose of the Revocation Instrument is to revoke the Guidelines.

The Guidelines commenced on 13 January 2005 and set out the criteria for making a decision as to whether a podiatrist is to be accredited under section 3AAA of the Act.

Section 3AAA of the Act was inserted by the *Health Legislation Amendment (Podiatric Surgery and Other Matters) Act 2004* for the purpose of enabling private health insurers to provide private health insurance benefits for hospital treatment costs (the accommodation and nursing care costs) associated with foot surgery performed on admitted patients by podiatric surgeons who have been accredited by the Minister as accredited podiatrists. The Minister will only accredit those podiatrists who have appropriate surgical qualifications.

Currently section 3AAA is referred to in the *Private Health Insurance (Accreditation) Rules 2008* (the Accreditation Rules), which is delegated legislation made under the *Private Health Insurance Act 2007*, for the purpose of setting the accreditation standard for treatment of a kind practised by a podiatric surgeon. Podiatric surgeons are podiatrists across the States and Territories who practise the specialty of podiatric surgery.

On 1 July 2010, all States and Territories adopted the National Law (which collectively refers to the Schedule of the *Health Practitioner Regulation National Law Act 2009* (Qld), as it applies to the States and Territories other than Western Australia, and to the *Health Practitioner Regulation National Law (WA) Act 2010*). The National Law provides for uniform registration requirements in the States and Territories for, amongst other things, practice in the specialty of podiatric surgery. The National Law provides a mechanism for

referring to those podiatrists who practise the specialty of podiatric surgery that can be used in the Accreditation Rules instead of the current references to podiatrists accredited under section 3AAA of the HI Act. The Accreditation Rules are adopting this mechanism, thereby rendering section 3AAA, and the Guidelines made under it, redundant. Accordingly, the Guidelines will now be revoked. The revocation of the Guidelines removes the administrative burden associated with podiatric surgeons applying to the Minister for accreditation under section 3AAA of the Act.

Consultation

No specific consultation took place with respect to the revocation of the Guidelines, as the Guidelines are redundant and its revocation will have no impact. However, in April 2011, the Department of Health and Ageing did consult with the Podiatry Board of Australia and the Australasian College of Podiatric Surgeons about aligning the criteria for the accreditation of podiatrists for private health insurance purposes with those standards for registration in the specialty of podiatric surgery which are set out in the National Law. That consultation resulted in the remaking of the Accreditation Rules and the redundancy of the Guidelines.

The instrument will take effect on the day after it is registered on the Federal Register of Legislative Instruments.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.