



Health Insurance (Diagnostic Imaging Capital Sensitivity) Amendment Determination 2012

Health Insurance Act 1973

I, Dr Richard Bartlett, First Assistant Secretary, Medical Benefits Division, Department of Health and Ageing, make this Determination under subsection 3C (1) of the *Health Insurance Act 1973*.

Dated: 7 June 2012

DR RICHARD BARTLETT
First Assistant Secretary
Medical Benefits Division
Department of Health and Ageing

- 1 Name of Determination**
This Determination is the *Health Insurance (Diagnostic Imaging Capital Sensitivity) Amendment Determination 2012*.
- 2 Commencement**
This Determination commences on 1 July 2012.
- 3 Amendment of *Health Insurance (Diagnostic Imaging Capital Sensitivity) Determination 2011***
Schedule 1 amends the *Health Insurance (Diagnostic Imaging Capital Sensitivity) Determination 2011* (the Principal Determination).
- 4 Application provision**
If before the commencement of the amendments made by item 4 of Schedule 1 any exemptions were granted and in force under subsection 6(8) of the Principal Determination, those exemptions are taken to continue to be in force under subsection 6(5) of the Principal Determination as amended by this Determination.

Schedule 1 - Amendments (section 3)

[1] Subsection 3(1), Definitions, *DIST Regulations*

Omit

[2] **DIST Regulations**

The following provisions are amended by omitting ‘DIST Regulations’ and inserting ‘diagnostic imaging services table’:

- Subsection 3(1), definition of *DIST service*
- Section 5, Heading ‘Items in the DIST Regulations’
- Subsection 7(3)
- Subsection 7(4)
- Subsection 7(5)
- Note following Subsection 7(7)
- Schedule 1, item 55722
- Schedule 1, item 55726
- Schedule 2, item 1, Heading
- Schedule 2, item 1, title of Column 1
- Schedule 2, item 1, title of Column 2

[3] **Health Insurance (General Medical Services Table) Regulations 2010**

The following provisions are amended by omitting ‘*Health Insurance (General Medical Services Table) Regulations 2010*’ and inserting ‘general medical services table’:

- Subsection 7(7)
- Note following Subsection 7(7)

[4] **Section 6**

substitute

6. **NK items**

Application of NK items

- (1) Despite clause 1.2.4 of Schedule 1 to the diagnostic imaging services table, subject to subsections (2) to (8), an item in Schedule 1 that includes the symbol (*NK*) at the end of the item applies where:
 - (a) the age of the diagnostic imaging equipment used to perform the service exceeds the new effective life age for the diagnostic imaging

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equipment and the diagnostic imaging equipment has not been upgraded; or

- (b) the age of upgraded diagnostic imaging equipment used to perform the service exceeds the maximum extended life age for the diagnostic imaging equipment.

Exemption – outer regional, remote and very remote areas

- (2) An item in Schedule 1 that includes the symbol (**NK**) at the end of the item does not apply where:
 - (a) the diagnostic imaging equipment used to perform the service is ordinarily located at diagnostic imaging premises; and
 - (b) the diagnostic imaging premises are located in any of the following Remoteness Areas as defined in the ASGC:
 - (i) Outer Regional Australia (Remoteness Area 2);
 - (ii) Remote Australia (Remoteness Area 3);
 - (iii) Very Remote Australia (Remoteness Area 4).

Note Proprietors can identify what Remoteness Area they fall under at the Department's DoctorConnect website: www.doctorconnect.gov.au Proprietors should refer to the category names, rather than category numbers as the website uses different category numbers from those specified in this Determination.

- (3) An item in Schedule 1 that includes the symbol (**NK**) at the end of the item does not apply where:
 - (a) the diagnostic imaging equipment used to perform the service is ordinarily located at a base for mobile diagnostic imaging equipment when not in use;
 - (b) the diagnostic imaging equipment used to perform the service is not ordinarily located at diagnostic imaging premises; and
 - (c) the base for mobile diagnostic imaging equipment is located in any of the following Remoteness Areas as defined in the ASGC:
 - (i) Outer Regional Australia (Remoteness Area 2);
 - (ii) Remote Australia (Remoteness Area 3);
 - (iii) Very Remote Australia (Remoteness Area 4).

Note Proprietors can identify what Remoteness Area they fall under at the Department's DoctorConnect website: www.doctorconnect.gov.au Proprietors should refer to the category names, rather than category numbers as the website uses different category numbers from those specified in this Determination.

Exemption – inner regional areas

- (4) An item in Schedule 1 that includes the symbol (**NK**) at the end of the item does not apply where:
 - (a) the Department has notified the relevant proprietor of the receipt of a valid application under subsection (6) in respect of the diagnostic imaging equipment used to perform the service and a decision has not been made by the Secretary under subsection (5); or

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- (b) the Secretary has granted an exemption in respect of the diagnostic imaging equipment used to perform the service under subsection (5); or
 - (c) the Secretary has notified the relevant proprietor that he or she has refused to grant an exemption under subsection (5) and either:
 - (i) if the proprietor has not yet applied for reconsideration under section 8, the period to apply for reconsideration has not yet expired; or
 - (ii) if the proprietor has applied for reconsideration under section 8, the Secretary has not yet notified the proprietor of his or her reconsideration decision.
- (5) The Secretary may grant an exemption in writing in respect of diagnostic imaging equipment where the Secretary is satisfied that the diagnostic imaging equipment is operated on a rare and sporadic basis and provides crucial patient access to diagnostic imaging services.
- (6) The Secretary must make a decision under subsection (5) within 28 days of the day on which the relevant proprietor was notified of the receipt of a valid application by the Department referred to in paragraph 4(a).
- (7) A relevant proprietor may only apply for an exemption under subsection (5) if:
- (a) the age of the diagnostic imaging equipment exceeds the maximum extended life age for the diagnostic imaging equipment by less than three years; and
 - (b) either:
 - (i) all of the following apply:
 - (A) the diagnostic imaging equipment is ordinarily located at diagnostic imaging premises;
 - (B) the diagnostic imaging premises are located in Inner Regional Australia (Remoteness 1) as defined in the ASGC; and
 - (C) the diagnostic imaging premises are located in an area classified as RRMA 4 or 5 (small rural centres and other rural areas) under the Rural, Remote and Metropolitan Areas Classification; or
 - (ii) all of the following apply:
 - (A) the diagnostic imaging equipment is ordinarily located at a base for mobile diagnostic imaging equipment when not in use;
 - (B) the diagnostic imaging equipment is not ordinarily located at diagnostic imaging premises;
 - (C) the base for mobile diagnostic imaging equipment is located in Inner Regional Australia (Remoteness 1) as defined in the ASGC; and
 - (D) the base for mobile diagnostic imaging equipment is located in an area classified as RRMA 4 or 5 (small rural centres and other rural areas) under the Rural, Remote and Metropolitan Areas Classification.

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Note Proprietors can identify what Remoteness Area they fall under at the Department's DoctorConnect website: www.doctorconnect.gov.au Proprietors should refer to the category names, rather than category numbers as the website uses different category numbers from those specified in this Determination.

- (8) An application under subsection (6) must be made in writing to the Department.

[5] Section 8

substitute

8. Reconsideration of decisions

- (1) If the Secretary refuses to grant an exemption under subsection 6(5) the proprietor who applied for the exemption may apply to the Secretary for reconsideration of the decision within 28 days after the date of issue of the notice of the decision to the proprietor (or, if the Secretary is satisfied that special circumstances exist, within such further period (if any) as the Secretary allows).
- (2) In the application for reconsideration, the proprietor:
 - (a) must identify the decision for reconsideration and set out the reasons for the application; and
 - (b) may provide new material for the Secretary to consider.
- (3) The Secretary must, within 28 days after receipt of an application, reconsider the decision and:
 - (a) affirm the decision;
 - (b) vary the decision; or
 - (c) set aside the decision and make a decision in substitution for it.
- (4) The Secretary must notify the proprietor of a reconsideration decision under subsection (3).

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.
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