

EXPLANATORY STATEMENT

MRCA Treatment Principles (In-Home Telemonitoring for Veterans Initiative) Instrument 2012

EMPOWERING PROVISION

Subsection 286(3) of the *Military Rehabilitation and Compensation Act 2004* (the Act).

PURPOSE

The attached instrument (M11/2012) amends the *MRCA Treatment Principles*. The *MRCA Treatment Principles* (the Principles) is a legislative instrument made under subsection 286(3) of the Act and sets out the circumstances in which the Military Rehabilitation and Compensation Commission (the Commission) may accept financial liability for treatment provided to entitled persons (members of the Defence Force (including former members) or their dependants).

The purpose of the attached instrument is to enable the Commission to arrange a treatment-initiative for entitled persons with chronic conditions.

The initiative is known as “telemonitoring” and it utilises the National Broadband Network (NBN) to establish a home monitoring health care service.

Under the initiative the entitled persons in question will be electronically-connected to their medical practitioner via the NBN. The medical practitioner or his or her practice nurse will monitor the condition of the entitled person using data supplied by the person. In some cases the medical practitioner or the practice nurse may directly assess a person’s condition via a video-conference with the person.

The aim of the telemonitoring initiative is to ascertain the benefits and costs of telemonitoring with a view to the development of a delivery model of the concept that can be adopted on a NBN-wide basis.

The hypothesis to be tested by the initiative is that telemonitoring over high quality high speed broadband is a safe, effective and efficient complement to traditional health services, supporting entitled persons with specific chronic conditions to continue living in their own homes for longer, improving quality of life and realising net budget savings to the health system in the longer term.

RETROSPECTIVE

The attached instrument could commence before registration. If that occurs subsection 12(2) of the *Legislative Instruments Act 2003* (legislative instrument of no effect if it takes effect before registration and disadvantages a person or imposes liabilities on a person) would not be contravened because the instrument is benevolent in nature.

CONSULTATION

Yes. Clinical Reference Group members representing the following organisations: Australian Medical Association, Rural Doctors Association of Australia, Royal Australian College of General Practitioners, Royal Australasian College of Physicians, Australian General Practice Network, Royal College of Nursing Australia, Australian Practice Nursing Association and the Returned and Services League; and the Department of Broadband, Communications and the Digital Economy and the Department of Health and Ageing. The nature of the consultation was meetings and email.

DOCUMENTS INCORPORATED-BY-REFERENCE

No.

HUMAN RIGHTS STATEMENT

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The attached legislative instrument does engage an applicable right or freedom. It relates to the Right to Health contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights.

The Right to Health is the right to the enjoyment of the highest attainable standard of physical and mental health. The UN Committee on Economic Social and Cultural Rights has stated that health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.

The attached legislative instrument engages with, and promotes, the Right to Health. In the first instance the health initiative introduced by the instrument could benefit the health of the relevant veterans or dependants. In the longer term, depending on the success of the initiative, the health of the broader community could be enhanced if the outcome of the initiative leads to telemonitoring on a wider scale.

The instrument does impose conditions on the availability of telemonitoring treatment, in particular it is only available to entitled persons who are eligible for treatment of any condition (not just war-caused conditions) and who have chronic conditions.

The UN Committee on Economic Social and Cultural Rights has stated that qualifying conditions for benefits must be reasonable, proportionate and transparent.

It is considered that the conditions are reasonable in the context of the treatment (i.e. a trial with cost limitations), particularly the requirement that recipients of the treatment have chronic conditions, given that a major aim of the initiative is to determine if it results in reducing emergency hospital admissions and shorter hospital stays for the people in question. This will assist eligible participants and GPs to be more proactive about their health through regular monitoring to target early symptoms as they arise

If the initiative is successful it could be extended to other entitled persons.

Conclusion

The attached legislative instrument is considered to be compatible with the human right to health because it promotes that right (creates a new treatment) and the conditions it imposes on the availability of the treatment are reasonable in the circumstances.

Warren Snowdon
Minister for Veterans' Affairs
Rule-Maker

FURTHER EXPLANATION

Attachment A.

Attachment A

Items	Explanation
[1]	sets out the name of the instrument.
[2]	provides that the instrument commences, or is taken to have commenced, on 1 September 2012.

Schedule

1. is a definition section.
2. inserts a new Part 6B into the Principles.

6B.1.1 establishes telemonitoring treatment and authorises the Commission to arrange it for an entitled person in accordance with Part 6B.

6B.1.2 sets out the services that may be telemonitoring treatment. Where the Commission arranges telemonitoring treatment, the Department of Veterans' Affairs (DVA) may pay the person who provided it.

Telemonitoring treatment may be a service provided by a participating Local Medical Officer (i.e. a Local Medical Officer approved by the Commission to provide telemonitoring treatment) or by the participating Local Medical Officer's Practice Nurse on behalf of the Local Medical Officer, and the service would consist of:

- monitoring the health of a participant in the telemonitoring treatment initiative (participant) in accordance with the care plan for the person
- taking any appropriate health care action in response to health data provided by a participant
- disclosing a participant's health data to DVA or to a consultant of DVA engaged for the telemonitoring treatment initiative
- taking incidental action in order to facilitate the actions above

The Note to paragraph 6B.1.2 makes it clear that if a participating Local Medical Officer authorises a member of his or her Practice to provide telemonitoring treatment then the treatment is taken to have been provided by the participating Local Medical Officer.

Telemonitoring treatment may be a service provided by the "data repository controller" (a consultant engaged by DVA to maintain health data for the purposes of the telemonitoring treatment initiative). The service would consist of:

- training a participating Local Medical Officer and his or her staff in the operating of the equipment needed to provide telemonitoring treatment

- training a participant in the operation of the equipment needed to provide details of the participant's health to the data repository (in-home telemonitoring equipment)
- supplying (including leasing) in-home telemonitoring equipment to a participant
- maintaining in-home telemonitoring equipment and providing technical assistance to participants when necessary
- maintaining the data repository (the facility where the health data of participants is electronically stored)
- taking incidental action in order to facilitate the actions above

Telemonitoring treatment may be a service provided by a contractor to DVA involving the training of a Practice Nurse or a participating Local Medical Officer in the evaluation of health data provided by a participant and in care planning and care planning coordination based on the evaluation.

Telemonitoring treatment may be a service provided by an ISP provider (Internet Service Provider) involving connecting a participant's computer to the National Broadband Network.

6B.2.1 sets out the eligibility criteria for an entitled person who seeks to participate in the In-Home Telemonitoring for Veterans Initiative. The person must:

- hold a "Gold Card" (a DVA identification card denoting that the holder is entitled to treatment of all conditions not just service related conditions)
- be admitted to (or, in the opinion of the participating Local Medical Officer for the person, likely to be admitted to) the DVA treatment program known as the "Coordinated Veterans' Care program" (a program aimed at reducing hospital admissions for gold card holders with certain chronic conditions)
- have a relevant chronic condition
- not have a severe unstable co morbidity
- not be receiving residential care
- have been assessed by a participating Local Medical Officer for the person as being suitable for participation in the In-Home Telemonitoring for Veterans Initiative, in particular as having the skills to operate in-home telemonitoring equipment

The Note to paragraph 6B.2.1(e) makes it clear that where a person (e.g. carer) will be operating in-home telemonitoring equipment on behalf of a participant, that person needs to be assessed by the participating Local Medical Officer to determine if they have the skills to operate the equipment.

- have a telemonitoring care plan (a care plan prepared by the participating Local Medical Officer for the person which is specifically designed for the In-Home Telemonitoring for Veterans Initiative)
- reside in a NBN wave site (an area covered by the National Broadband Network)

- have nominated a residence for the purposes of the In-Home Telemonitoring for Veterans Initiative
- consent to the disclosure of personal health data to the relevant entities, obtained during the In-Home Telemonitoring for Veterans Initiative.

The Note to paragraph 6B.2.1 makes it clear that the participating Local Medical Officer for the person is to obtain the person's consent to disclosure of personal health data and is to keep evidence of that consent.

6B.2.2 provides that an entitled person's participation in the In-Home Telemonitoring for Veterans Initiative must be approved by the Commission.

6B.2.3 requires the Commission to notify the participating Local Medical Officer for an entitled person if it has approved or not the person's participation in the In-Home Telemonitoring for Veterans Initiative.

6B.2.4 provides that where the Commission notifies a participating Local Medical Officer for an entitled person that it has approved the person's participation in the In-Home Telemonitoring for Veterans Initiative, the participating Local Medical Officer is to enrol the person in the initiative.

6B.2.5 states that the act of enrolling an entitled person in the In-Home Telemonitoring for Veterans Initiative consists of the participating Local Medical Officer for the person making a record (which may be an electronic record) to that effect.

6B.2.6 requires a record of an entitled person's enrolment in the In-Home Telemonitoring for Veterans Initiative to be dated and stored by the participating Local Medical Officer and states that the date on the record is the enrolment day for the entitled person.

6B.3.1 sets out the conditions subject to which the Commission may approve a Local Medical Officer as a participating Local Medical Officer i.e. a Local Medical Officer who may participate in the In-Home Telemonitoring for Veterans Initiative.

The Local Medical Officer must have been nominated by his or her Practice as a participating LMO and the nomination must have been contained in the relevant form lodged with the Department of Human Services. The relevant form is the "Application for Practice and Provider registration to In-Home Telemonitoring for Veterans Initiative".

The Commission must be satisfied the necessary steps have been taken to enable the participating LMO and the LMO's Practice Nurse to effectively participate in the In-Home Telemonitoring for Veterans Initiative such as appropriate staff training and the installation of the necessary telemonitoring equipment.

6B.4.1 states that the terms of payment of a participating Local Medical Officer (including the Local Medical Officer's Practice Nurse) for providing telemonitoring treatment to a person eligible for the treatment are set out in the

DVA document: “Department of Veterans’ Affairs Fee Schedules for Medical Services”.

The Note 1 to paragraph 6B.4.1 makes it clear that payments to a participating Local Medical Officer for telemonitoring treatment are in addition to any payments to the Local Medical Officer (or his or her Practice Nurse) for services under the DVA treatment program known as the Coordinated Veterans’ Care program or for consultations (including teleconsultations) provided other than pursuant to a telemonitoring care plan i.e. the consultation is not for the purposes of the In-Home Telemonitoring for Veterans Initiative.

The Note 2 to paragraph 6B.4.1 gives details of the payments that can be made to a participating Local Medical Officer for providing telemonitoring treatment, namely:

- a DVA telemonitoring practice incentive. This is the payment referred to in the “Department of Veterans’ Affairs Fee Schedules for Medical Services” and which is payable once only to the Practice of a participating Local Medical Officer where all necessary steps have been taken to enable the Local Medical Officer (and any Practice Nurse of the Local Medical Officer) to effectively participate in the In-Home Telemonitoring for Veterans Initiative.
- such other relevant payments set out in the “Department of Veterans’ Affairs Fee Schedules for Medical Services”.

Note 3 to paragraph 6B.4.1 provides that the other relevant payments will be made on the similar basis as payments are made to Local Medical Officers under the DVA treatment program known as the “Veterans’ Coordinated Care Program” i.e. quarterly payments in arrears.

6B.4.2 sets out a condition for the payment of the DVA telemonitoring practice incentive to the Authorised Representative of the Practice in which a participating Local Medical Officer is employed, namely that the Commission must be satisfied that all necessary steps have been taken to enable the participating Local Medical Officer (including any Practice Nurse of the Local Medical Officer) to effectively participate in the In-Home Telemonitoring for Veterans Initiative. Details of the Authorised Representative for a participating LMO are set out in the form: “Application for Practice and Provider registration to In-Home Telemonitoring for Veterans Initiative”, lodged with the Department of Human Services.

6B.4.3 states that the terms of payment for telemonitoring treatment provided by the data repository controller (controller) are those agreed to between DVA and the controller.

6B.4.4 states that the terms of payment for telemonitoring treatment provided by a person contracted to DVA (contractor) to train Practice Nurses for the purposes of the In-Home Telemonitoring for Veterans Initiative i.e. training in data evaluation, care planning, care planning coordination, are those agreed to between DVA and the contractor.

6B.4.5 states that the payment for telemonitoring treatment (connection to NBN) provided by an Internet Service Provider (ISP) to an entitled person is to be the reasonable costs of the treatment where it is provided on or after the enrolment day for the person in the In-Home Telemonitoring for Veterans Initiative and for the duration of the time the entitled person participates in the initiative.

The Note to paragraph 6B.4.5 makes it clear that DVA will only pay an ISP provider for the cost of an NBN connection arranged for an entitled person. The entitled person will not be paid or reimbursed for the cost of a connection. Further the payment for the ISP provider can only be in respect of a connection on or after the enrolment day for the entitled person in the In-Home Telemonitoring for Veterans Initiative.

6B.5.1 has the effect of applying, to the extent practical, the rules (applicable rules) in the DVA treatment program known as the Veterans' Coordinated Care Program to participating Local Medical Officers and entitled persons in the In-Home Telemonitoring for Veterans Initiative.

The Note to paragraph 6B.5.1 makes it clear that the applicable rules would include those governing patient transfers between participating Local Medical Officers in the In-Home Telemonitoring for Veterans Initiative. This is particularly relevant in relation to payments to the Local Medical officers.

6B.6.1 ensures that where the Treatment Principles refer to:

- the Commission arranging telemonitoring treatment with a participating LMO (including the LMO's Practice Nurse) or taking incidental action in respect of the participating LMO (including the LMO's Practice Nurse);
- the making of payments to a participating LMO (including the LMO's Practice Nurse) for telemonitoring treatment or the taking of incidental action thereto;

if the Commission arranges the telemonitoring treatment or any incidental matter with the Authorised Representative for the Practice in which the LMO or Practice Nurse is employed, or if payments for the participating LMO (including for the LMO's Practice Nurse) are made to the Authorised Representative or other action in relation to the payments are taken with the Authorised Representative, then the arranging of treatment and any incidental matter with the Authorised Representative and the making of payments to the Authorised Representative and the taking of any incidental action with the Authorised Representative satisfies the Treatment Principles as if done directly with the LMO or Practice Nurse.