

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 297

Health Insurance Act 1973

Health Insurance (Pathology Services Table) Amendment Regulation 2012 (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.

The Act provides, in part, for payments of Medicare benefits in respect of professional services rendered to eligible persons. Section 9 of the Act provides that Medicare benefits shall be calculated by reference to the fees for medical services, including pathology services, set out in prescribed tables.

Section 4A of the Act provides that the regulations may prescribe a table of pathology services that sets out items of pathology services, the amount of fees applicable in respect of each item, and rules for interpretation of the pathology services table. The *Health Insurance (Pathology Services Table) Regulation 2012* (the Principal Regulation), recently amended, currently prescribes such a table.

The regulation decreases the fees for all the items in Groups P1 to P11 of the pathology services table to recover the amount of 2011/12 expenditure incurred over the agreed 2011/12 funding cap in the Pathology Funding Agreement. The Pathology Funding Agreement governs the Australian Government outlays for pathology services and specifies the action to be taken when the yearly caps are exceeded or not achieved. The Pathology Funding Agreement's signatories, the Australian Government (represented by the Department of Health and Ageing), the Australian Association of Pathology Practices, the Royal College of Pathologists of Australasia and the National Coalition of Public Pathology agreed to the percentage decrease that would apply to the fees in the table.

The Act specifies no conditions that need to be satisfied before the power to make the regulation may be exercised.

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

The regulation commences on 1 January 2013.

Consultation

These changes relate to the ongoing maintenance of the Pathology Services Table (PST) to reflect evidence-based best practice and appropriate funding.

The decrease in fees for Groups 1 to 11 of the PST was negotiated between the signatories of the Pathology Funding Agreement; the Australian Government (represented by the Department of Health and Ageing), the Royal College of Pathologists of Australasia, the Australian Association of Pathology Practices and the National Coalition of Public Pathologists.

The Department of Human Services was consulted concerning the impact of the changes on their business operations. The Department of Veterans' Affairs was advised of the changes to ensure that their schedule of benefits for veterans could be amended if necessary.

It has been concluded that the changes will have minimal impact on pathology practice in terms of costs to business and will lead to a closer correspondence between Medicare benefit structure and pathology practice.

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

Statement of Compatibility with Human Rights

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

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The regulation will amend the current table of pathology services in the *Health Insurance (Pathology Services Table) Regulation 2012*, as part of the ongoing management of the table. The fees for all Group P1 to P11 items will be decreased to recover the overspend in 2011-12 pathology expenditure in accordance with the Pathology Funding Agreement between the Australian Government and the major pathology stakeholders.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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Minister for Health