

EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance (General Medical Services Table) Amendment (Bulk-Billed Services) Regulations 2017

Subsection 133(1) of 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 regulations may prescribe a table of medical 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) Regulation 2017* (GMST) currently prescribes such a table.

Purpose

In the 2017-18 Budget the Government announced it will commence indexation of Medicare rebates under the 'Medicare Benefits Schedule - indexation' measure. The purposes of the *Health Insurance (General Medical Services Table) Amendment (Bulk-Billed Services) Regulations 2017* is to amend the GMST to commence the first phase of this measure from 1 July 2017.

This will index the fee of three GP bulk-billing incentive items, including:

- Amending the fee for item 10990 to \$7.30. This service can be claimed by GPs for providing a service in metropolitan areas provided to a Commonwealth concession card holder or child under 16.
- Amending the fee for item 10991 to \$11.00. This service can be claimed by GPs for providing a service in regional areas provided to a Commonwealth concession card holder or child under 16.
- Amending the fee for item 10992 to \$11.00. This service can be claimed by GPs for providing an after-hours service in regional areas to a Commonwealth concession card holder or child under 16.

Consultation

Consultation was undertaken with peak bodies representing general practice as part of the 2017-18 Budget Measure.

Details of the Regulations are set out in the [Attachment](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 1 July 2017.

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

ATTACHMENT

Details of the *Health Insurance (General Medical Services Table) Amendment (Bulk-Billed Services) Regulations 2017*

Section 1 – Name

This section provides for the Regulations to be referred to as the *Health Insurance (General Medical Services Table) Amendment (Bulk-Billed Services) Regulations 2017*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 July 2017.

Section 3 – Authority

This section provides that the Regulations are made under the *Health Insurance Act 1973*.

Section 4 – Schedule(s)

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

This part of the Regulations amends the existing general medical services table, which is currently prescribed by the *Health Insurance (General Medical Services Table) Regulations 2017*.

This will index the fee of three GP bulk-billing incentive items, including:

- Amending the fee for item 10990 to \$7.30. This service can be claimed by GPs for providing a service in metropolitan areas provided to a Commonwealth concession card holder or child under 16.
- Amending the fee for item 10991 to \$11.00. This service can be claimed by GPs for providing a service in regional areas provided to a Commonwealth concession card holder or child under 16.
- Amending the fee for item 10992 to \$11.00. This service can be claimed by GPs for providing an after-hours service in regional areas to a Commonwealth concession card holder or child under 16.

Statement of Compatibility with Human Rights

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

Health Insurance (General Medical Services Table) Amendment (Bulk-Billed Services) Regulations 2017

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 Regulations amend the GMST to resume indexation of three GP bulk-billing incentive items from 1 July 2017. This is part of the 2017-18 Budget measure ‘Medicare Benefits - Schedule indexation’.

Human rights implications

The Regulations engage Articles 9 and 12 of the International Covenant on Economic Social and Cultural Rights (ICESCR), specifically the rights to health and social security.

The Right to Health

The right to the enjoyment of the highest attainable standard of physical and mental health is contained in Article 12(1) of the ICESCR. The UN Committee on Economic Social and Cultural Rights (the Committee) has stated that the right to health is not a right for each individual to be healthy, but is a right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

The Committee reports that the ‘*highest attainable standard of health*’ takes into account the country’s available resources. This right may be understood as a right of access to a variety of public health and health care facilities, goods, services, programs, and conditions necessary for the realisation of the highest attainable standard of health.

The Right to Social Security

The right to social security is contained in Article 9 of the ICESCR. It requires that a country must, within its maximum available resources, ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care. Countries are obliged to demonstrate that every effort has been made to use all resources that are at their disposal in an effort to satisfy, as a matter of priority, this minimum obligation.

The Committee reports that there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under ICESCR. In this context, a retrogressive measure would be one taken without adequate justification that had the effect of reducing existing levels of social security benefits, or of denying benefits to persons or groups previously entitled to them. However, it is legitimate for a Government to re-direct its limited resources in ways that it considers to be more effective at meeting the general health needs of all society, particularly the needs of the more disadvantaged members of society.

Analysis

The Regulations will maintain rights to health and social security by ensuring access to publicly subsidised health services which are clinically effective and cost-effective.

Conclusion

The Legislative Instrument is compatible with human rights because it maintains existing arrangements and the protection of human rights.

Greg Hunt

Minister for Health