



Health Insurance (Section 3C Pathology Services – COVID-19) Determination 2020

made under subsection 3C(1) of the

Health Insurance Act 1973

Compilation No. 7

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About this compilation

This compilation

This is a compilation of the *Health Insurance (Section 3C Pathology Services – COVID-19) Determination 2020* that shows the text of the law as amended and in force on 19 March 2021 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1. Name

This instrument is the *Health Insurance (Section 3C Pathology Services – COVID-19) Determination 2020*

3. Cessation

Unless earlier revoked this instrument ceases on 31 December 2021.

4. Authority

This instrument is made under subsection 3C(1) of the *Health Insurance Act 1973*.

5. Definitions

(1) In this instrument:

Act means the *Health Insurance Act 1973*.

aged care service has the same meaning as defined by the *Aged Care Act 1997*.

approved collection centre has the meaning given by subsection 23DA(1) of the Act.

approved provider has the meaning as given by the *Aged Care Act 1997*.

bulk-billed: a pathology service is bulk-billed if:

- (a) a medicare benefit is payable to a person in relation to the service; and
- (b) under an agreement entered into under section 20A of the Act:
 - (i) the person assigns to the practitioner by whom, or on whose behalf, the service is provided, the person's right to the payment of the medicare benefit; and
 - (ii) the practitioner accepts the assignment in full payment of the practitioner's fee for the service provided.

driver has the same meaning as defined by the Heavy Vehicle National Law.

heavy vehicle has the meaning as given by the Heavy Vehicle National Law.

Heavy Vehicle National Law means the *Heavy Vehicle National Law Act 2012* (Qld) which has been adopted in New South Wales; *Heavy Vehicle National Law (ACT) Act 2013*; *Heavy Vehicle National Law (South Australia) Act 2013*; *Heavy Vehicle National Law (Tasmania) Act 2013*; and *Heavy Vehicle National Law Application Act 2013* (Vic).

Note: Although the Heavy Vehicle National Law has not commenced in Western Australia or the Northern Territory, the Heavy Vehicle National Law applies equally to

vehicles from those jurisdictions when they cross into one of the states or territories where the Heavy Vehicle National Law applies.

rail crew member means a person required to:

- (a) operate a vehicle as the driver or other necessary member of that vehicle; and
- (b) the vehicle operates or moves on a railway track and includes a locomotive, carriage, rail car, rail motor, light rail vehicle, tram, light inspection vehicle, self-propelled infrastructure maintenance vehicle, trolley, wagon or monorail vehicle; and
- (c) the vehicle is transporting goods, animals or persons.

relevant provisions means all provisions, of the Act and regulations made under the Act, and the *National Health Act 1953* and regulations made under the *National Health Act 1953*, relating to pathology services, professional services or items.

relevant service means a health service, as defined in subsection 3C(8) of the Act, that is specified in a Schedule.

pathology services table means the table prescribed under subsection 4A(1) of the Act.

Schedule means a Schedule to this instrument.

Note: The following terms are defined in subsection 3(1) of the Act:

- accredited pathology laboratory
 - clinically relevant service;
 - pathology services table;
 - item;
 - professional service.
- (2) Unless the contrary intention appears, a reference in this instrument to a provision of the Act or the *National Health Act 1953* or regulations made under the Act or under the *National Health Act 1953* as applied, adopted or incorporated in relation to specifying a matter is a reference to those provisions as in force from time to time and any other reference to provisions of an Act or regulations is a reference to those provisions as in force from time to time.

6. Treatment of relevant services

- (1) For a service to which items 69476, 69477, 69479 or 69480 applies, a relevant service, provided in accordance with this instrument and as a clinically relevant service, is to be treated, for the relevant provisions, as if:
- (a) were both a professional service and a pathology service; and

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- (b) there were an item in the pathology services table that:
 - (i) related to the service; and
 - (ii) specified for the service a fee in relation to each State, being the fee specified in the Schedule in relation to the service.
 - (2) For a service to which item 69501 applies, a relevant service, provided in accordance with this instrument and as a clinically relevant service, is to be treated, for the relevant provisions, as if:
 - (a) it were a pathology service, other than provisions of the Act relating to pathology requests; and
 - (b) were an item in the pathology services table that:
 - (iii) related to the service; and
 - (iv) specified for the service a fee in relation to each State, being the fee specified in the Schedule in relation to the service.
 - (3) For the purpose of paragraph 6(2)(a), provisions of the Act relating to pathology requests include (but are not limited to) section 16A (other than subsections 16A(2), (5AB), (6) to (10)).

7. Application of provisions of the pathology services table

- (1) Clause 1.2.9 of the pathology services table shall have effect as if items 69476, 69477, 69479 and 69480 of this Determination were specified in paragraph 1.2.9(2)(a) of the pathology services table.
- (2) Where a service is performed in circumstances described in item 69479 then item 69480 cannot be claimed.

Schedule 1 – relevant services

Group P3 – Microbiology		
Column 1	Column 2	Column 3
Item	Pathology service	Fee (\$)
69476	Detection of a SARS-CoV-2 nucleic acid 1 or more tests if the service was bulk-billed between 13 March 2020 and 31 March 2020 where: (a) the person was a private patient in a recognised hospital; or (b) the person received the service from a prescribed laboratory as described in 2.10.1 of the Pathology Services Table Supplementary item in addition to item 69485	21.25
69477	Detection of a SARS-CoV-2 nucleic acid 1 or more tests if the service was bulk-billed between 13 March 2020 and 31 March 2020 where: (a) the person was not a private patient in a recognised hospital; or (b) the person did not receive the service from a prescribed laboratory as described in 2.10.1 of the Pathology Services Table Supplementary item in addition to item 69485	71.25
69479	Detection of a SARS-CoV-2 nucleic acid 1 or more tests if: (a) the person is a private patient in a recognised hospital; or (b) the person receives the service from a prescribed laboratory as described in 4.1 of the Pathology Services Table Where the service is bulk-billed	50.00
69480	Detection of a SARS-CoV-2 nucleic acid 1 or more tests if: (a) the service is not covered by item 69479 Where the service is bulk billed	100.00
69501	Detection of a SARS-CoV-2 nucleic acid 1 or more tests if: (a) the person is employed, hired, retained or contracted; (i) by an approved provider, or works in an aged care service, in Victoria; or (ii) to travel interstate as a driver of a heavy vehicle; or (iii) to travel interstate as a rail crew member; and (b) the person is informed of the results of the tests within 24 hours of receipt of the specimen at an accredited pathology laboratory; and (c) the results of the test are reported in adherence with the applicable State or Territory reporting requirements within 24 hours of receipt of the specimen at an accredited pathology laboratory; and (d) the person is not a private patient in a recognised hospital; and (e) the person is not an admitted patient of a hospital; and (f) the service is not performed in a prescribed laboratory as described in 4.1 of the pathology services table Other than a service to which an item in this instrument or an item in the pathology services tables applies. Where the service is bulk-billed.	110.00

Note: The payments mentioned in Column 3 for items 69476 and 69477 are additional payments for providing SARS-COV-2 testing under previous item 69485 during the time period mentioned in Column 2.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Health Insurance (Section 3C Pathology Services – COVID-19) Determination 2020	12 Mar 2020 (F2020L00250)	13 Mar 2020 (s 2(1) item 1)	
Health Insurance (Section 3C Pathology Services – COVID-19) Amendment Determination 2020	16 Mar 2020 (F2020L00258)	17 Mar 2020 (s 2(1) item 1)	—
Health Insurance (Section 3C Pathology Services – COVID-19) Amendment (No. 2) Determination 2020	31 Mar 2020 (F2020L00373)	1 Apr 2020 (s 2(1) item 1)	—
Health Insurance (Section 3C Pathology Services – COVID-19) Amendment (No. 3) Determination 2020	20 May 2020 (F2020L00592)	1 May 2020 (s 2(1) item 1)	—
Health Insurance (Section 3C Pathology Services – COVID-19) Amendment (No. 4) Determination 2020	28 July 2020 (F2020L00954)	28 July 2020 (s 2(1) item 1)	—
Health Insurance (Section 3C Pathology Services – COVID-19) Amendment (No. 5) Determination 2020	3 Aug 2020 (F2020L00981)	3 Aug 2020 (s 2(1) item 1)	—
Health Insurance Legislation Amendment (Extend Cessation Date of Temporary COVID-19 Items) Determination 2020	21 Sept 2020 (F2020L01190)	Sch 1 (items 4–6): 22 Sept 2020 (s 2(1) item 2)	—
Health Insurance Legislation Amendment (Extend Cessation Date of Temporary COVID-19 Items) Determination 2021	19 Mar 2021 (F2021L00267)	Sch 1 (item 3): 19 Mar 2021 (s 2(1) item 1)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 2	rep LA s 48D
s 3	am F2020L01190; F2021L00267
s 5	am F2020L00954
	ed C4
	am F2020L00981
	ed C5
	am F2020L01190
	ed C6
s 6	am F2020L00954
s 7	am F2020L00373; F2020L00592
Schedule 1	
Schedule 1	am F2020L00258; F2020L00373; F2020L00592; F2020L00954; F2020L0981; F2020L01190

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Subsection 5(1) (note to the definition of *Heavy Vehicle National Law*)**Kind of editorial change**

Correct typographical errors

Details of editorial change

The note to the definition of *Heavy Vehicle National Law* in subsection 5(1) reads as follows:

Note: Although the Heavy Vehicle National Law has not commenced in Western Australia or the Northern Territory, the Heavy Vehicle National Law applies equally to vehicles from those jurisdictions when they cross into one of the states or territories where the Heavy Vehicle National Law applies.

This compilation was editorially changed to omit “Heavy Vehicle National Law” (twice occurring) and substitute “Heavy Vehicle National Law” and omit “Northern” and substitute “Northern” to correct the typographical errors.