EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance (Section 3C Diagnostic Imaging Services – Cardiac Services) Determination 2020

Subsection 3C(1) of the *Health Insurance Act 1973* (the Act) provides that the Minister may, by legislative instrument, determine that a health service not specified in an item in the diagnostic imaging services table (the Table) shall, in specified circumstances and for specified statutory provisions, be treated as if it were specified in the Table.

The Table is set out in the regulations made under subsection 4AA(1) of the Act. The most recent version of the regulations is the *Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020.*

Purpose

The purpose of the *Health Insurance (Section 3C Diagnostic Imaging Services – Cardiac Services) Determination 2020* (the Determination) is to list 19 new Medicare Benefits Schedule (MBS) items for cardiac diagnostic imaging services from 1 August 2020.

The Determination lists 8 new ultrasound items for an echocardiographic examination, 4 new ultrasound items for stress echocardiography testing, and 7 new items for myocardial perfusion studies (MPS).

In the 2018-19 Mid-Year Economic and Fiscal Outlook (MYEFO) under the *Guaranteeing Medicare – strengthening primary care* measure, the Government agreed to a number of recommendations made by the clinician-led MBS Review Taskforce (the MBS Review Taskforce) to cardiac services.

The Government agreed that changes will be made to MBS items for cardiac imaging services to better clarify the clinical requirements and circumstances where this testing and repeat testing is appropriate, and to better align with clinical guidelines.

These changes aim to improve the quality of care, encourage high value care and reflect current best practice. The changes clarify when cardiac imaging tests should be performed, and ensure that testing is only performed where there is a clinical need and repeat testing is appropriate. This will reduce a patient's exposure to unnecessary testing and exposure to radiation.

The 19 new items for cardiac diagnostic imaging services will replace five echocardiographic items (55113, 55114, 55115, 55116 and 55117) and four nuclear medicine items (61302, 61303, 61306 and 61307), which will be removed from the MBS on 1 August 2020 by the *Health Insurance Legislation Amendment (2020 Measures No. 1) Regulations 2020* (the Amendment Regulations).

The *Health Insurance (Section 3C General Medical Services – Cardiac Services) Determination 2020* will list 10 new MBS items for cardiac diagnostic testing and

electrocardiography. These items will replace nine cardiovascular items (11700, 11701, 11702, 11708, 11709, 11710, 11711, 11712 and 11722) which will be removed from the MBS on 1 August 2020 by the Amendment Regulations.

Consultation
Consultation was undertaken on the cardiac changes that were recommended by the MBS Review Taskforce, and announced in the 2018-19 MYEFO under the *Guaranteeing Medicare – strengthening primary care* measure.

The MBS Review is conducted by expert committees and working groups focusing on specific areas of the MBS. The Cardiac Services Clinical Committee (CSCC) report on changes to cardiac services was released for public comment and further consideration taken based on stakeholder feedback. The CSCC report was then presented to the MBS Taskforce for finalisation and endorsement of the recommendations, before being presented to Government.

The Department has also undertaken consultation with key stakeholders on the cardiac changes, including the Cardiac Society of Australia and New Zealand, the Australian Medical Association, the Rural Doctors Association of Australia, the Royal Australian College of General Practice, the Australian and New Zealand Society of Cardiac and Thoracic Surgeons, the Australian Private Hospitals Association, as well as individual practitioners.

Details of the Determination are set out in the Attachment.

The Determination commences on 1 August 2020.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Authority: Subsection 3C(1) of the *Health Insurance Act 1973*

ATTACHMENT

Details of the *Health Insurance (Section 3C Diagnostic Imaging Services – Cardiac Services) Determination 2020*

Section 1 – Name

Section 1 provides for the Determination to be referred to as the *Health Insurance (Section 3C Diagnostic Imaging Services – Cardiac Services) Determination 2020*.

Section 2 – Commencement

Section 2 provides that the Determination commences on 1 August 2020.

Section 3 – Authority

Section 3 provides that the Determination is made under subsection 3C(1) of the *Health Insurance Act 1973*.

Section 4 – Definitions

Section 4 defines terms used in the Determination.

Section 5 – Treatment of relevant services

Section 5 provides that a clinically relevant service provided in accordance with the Determination shall be treated, for relevant provisions of the *Health Insurance Act 1973* and *National Health Act 1953*, and regulations made under those Acts, as if it were both a professional service and a diagnostic imaging service and as if there were an item specified in the diagnostic imaging services table for the service.

Section 6 – Application of provisions of the diagnostic imaging services table

Section 6 specifies provisions of the diagnostic imaging services table that apply as if items in Schedule 1 of this Determination were specified in the relevant provisions of the diagnostic imaging services table.

Subsection 6(1) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.1.1 of the Table. Clause 1.1.1 of the Table provides that a reference to a diagnostic imaging service includes undertaking the diagnostic imaging procedure, which is used for rendering the service.

Subsection 6(2) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.1 of the Table. Clause 1.2.1 of the Table provides that an item cannot be claimed if the service is performed on old diagnostic imaging equipment that exceeds its applicable life age.

Subsection 6(3) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.2 of the Table. Clause 1.2.2 of the Table provides the life age in years for new equipment and the maximum extended life age in

years for upgraded equipment, including for ultrasound equipment and nuclear medicine imaging equipment (other than positron emission tomography).

Subsection 6(4) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.3 of the Table. Clause 1.2.3 of the Table provides that diagnostic imaging premises which are located in an outer regional, remote and very remote area or in Norfolk Island are automatically able to claim an item for diagnostic imaging services rendered, regardless of the age of the equipment.

Subsection 6(5) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.4 of the Table. Clause 1.2.4 of the Table provides the meaning of relevant proprietor for diagnostic imaging equipment.

Subsection 6(6) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.5 of the Table. Clause 1.2.5 of the Table provides requirements for inner regional areas to apply for an exemption to able to claim an item for diagnostic imaging services rendered on older equipment.

Subsection 6(7) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.6 of the Table. Clause 1.2.6 of the Table provides requirements for granting exemptions to inner regional areas in respect of diagnostic imaging equipment.

Subsection 6(8) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.7 of the Table. Clause 1.2.7 of the Table provides requirements for applying for an exemption for equipment that is unable to be replaced or upgraded before the end of its applicable life age.

Subsection 6(9) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.8 of the Table. Clause 1.2.8 of the Table provides requirements for granting exemptions for equipment that is unable to be replaced or upgraded before the end of its applicable life age.

Subsection 6(10) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.9 of the Table. Clause 1.2.9 of the Table provides requirements for applying for an extension to an exemption period for equipment that is unable to be replaced or upgraded before the end of its applicable life.

Subsection 6(11) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.10 of the Table. Clause 1.2.10 of the Table provides requirements for granting an extension to an exemption period for equipment that is unable to be replaced or upgraded before the end of its applicable life.

Subsection 6(12) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.11 of the Table. Clause 1.2.11 of the Table provides requirements for applying for a reconsideration of a decision to either refuse to grant an exemption period or to refuse to extend the exemption period for an exemption, in respect of diagnostic imaging equipment.

Subsection 6(13) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.12 of the Table. Clause 1.2.12 of the Table provides requirements for reconsidering a decision in relation to either refusing to grant an exemption period or refusing to extend the exemption period for an exemption, in respect of diagnostic imaging equipment.

Subsection 6(14) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.13 of the Table. Clause 1.2.13 of the Table provides that reconsideration decisions made in relation to exemptions in respect of diagnostic imaging equipment may be made to the Administrative Appeals Tribunal.

Subsection 6(15) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.14 of the Table. Clause 1.2.14 of the Table provides delegation powers to an SES employee or acting SES employee in the Department, in relation to granting or refusing exemptions in respect of diagnostic imaging equipment.

Subsection 6(16) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.16 of the Table. Clause 1.2.16 of the Table provides that a diagnostic imaging service is to be provided by a medical practitioner or by a person, other than a medical practitioner, who provides the service under the supervision of a medical practitioner in accordance with accepted medical practice.

Subsection 6(17) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.17 of the Table. Clause 1.2.17 of the Table provides that when a service is requested, the providing practitioner must provide a report of the service performed to the practitioner who requested the service.

Subsection 6(18) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.18 of the Table. Clause 1.2.18 of the Table provides that if services provided under certain items are not provided in a hospital and are bulk-billed, then the fee claimed for the service will be 95 per cent of the schedule fee of the item. This provision is applicable to services other than magnetic resonance imaging, including ultrasound services and nuclear medicine imaging services.

Subsection 6(19) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.21 of the Table. Clause 1.2.21 of the Table provides the calculation of fees if more than one diagnostic imaging service is provided on a patient on the same day.

Subsection 6(20) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.22 of the Table. Clause 1.2.22 of the Table provides that a service cannot be provided to a patient at the same time as, or in connection with, an injection of blood or a blood product that is autologous.

Subsection 6(21) of the Determination provides that items in Schedule 1 of this Determination will be treated as if the items were specified in clause 1.2.23 of the Table. Clause 1.2.23 of the Table provides that a service cannot be provided to a patient at the same time as, or in connection with, the harvesting, storage, in vitro processing or injection of non-haematopoietic stem cells.

Subsection 6(22) of the Determination provides that ultrasound items 55126, 55127, 55128, 55129, 55132, 55133, 55134, 55137, 55141, 55143, 55145 and 55146 were specified in clause 2.1.1 of the Table. Clause 2.1.1 of the Table provides that ultrasound items are to be provided by a medical practitioner, or on behalf of a medical practitioner by a person whose name is entered on the Register of Sonographers kept by the Chief Executive Medicare. The Register of Sonographers can be accessed on the Australian Sonographer Accreditation Register website at www.asar.com.au/sonographer-info/find-a-sonographer/.

Subsection 6(23) of the Determination provides that ultrasound items 55126, 55127, 55128, 55129, 55132, 55133, 55134, 55137, 55141, 55143, 55145 and 55146 were specified in clause 2.1.2 of the Table. Clause 2.1.2 of the Table provides that R-type ultrasound services generally need to be provided under the professional supervision of a specialist or consultant physician.

Subsection 6(24) of the Determination provides that nuclear medicine imaging items 61321, 61324, 61325, 61329, 61345, 61349 and 61357 will be treated as if the items were specified in clause 2.4.1 of the Table. Clause 2.4.1 of the Table provides that nuclear scanning services (other than positron emission tomography, which is covered under clause 2.4.2 of the Table) are to be performed by a specialist or consultant physician whose name is included in a register, given to the Chief Executive Medicare by the Joint Nuclear Medicine Credentialling and Accreditation Committee (JNMCAC), of participants in the Joint Nuclear Medicine Specialist Credentialling Program of the JNMCAC, or a person acting on behalf of a specialist or consultant physician. The final report is also to be compiled by the specialist or consultant physician who performed the preliminary examination.

Schedule 1 – Relevant services

The purpose of the Determination is to create 19 new items for cardiac imaging services which are restructured to reduce low value care, to better align with clinical guidelines and to reduce unnecessary exposure to radiation.

Division 1.1 – Services and fees – ultrasound services

Division 1.1 of the Determination lists the following eight ultrasound items that will provide an echocardiographic examination of the heart:

- Item 55126 is for a baseline initial echocardiogram examination that is an entry point for patients who may require ongoing echocardiographic examinations.
- Items 55127 and 55128 are for repeat serial valve investigations. Item 55127 is to be requested by a specialist or consultant physician. Item 55128 is to be requested by a medical practitioner (other than a specialist or consultant physician), at or from a practice that is located in a Modified Monash 3 to 7 area. This will enable better access to patients in these areas who are unable to see a specialist or consultant physician, but who require a request for repeat valvular echocardiographic examinations. The service for both items will be able to be provided anywhere to ensure adequate access to patients.
- Item 55129 is for a repeat serial structural and heart failure investigation, which excludes valvular dysfunction (when it is a primary condition).
- Item 55132 is for a serial real time echocardiographic examination for patients aged under 17 years, or patients of any age with complex congenital heart disease. This service can only be provided by a specialist or consultant physician in cardiology.

- Item 55133 is for frequent repetition serial real time echocardiographic examinations for patients with isolated pericardial effusion or pericarditis, or for patients who have commenced medication for non-cardiac purposes that have cardiotoxic side effects.
- Item 55134 is for a repeat real time echocardiographic examination for rare cases that do not meet indications of the other new echocardiographic items. This will ensure access to this service is available to all patients, where it is clinically appropriate.
- Item 55137 is for a serial real time echocardiographic examination for a fetus that is suspected of having congenital heart disease. This service can only be provided by a specialist or consultant physician in cardiology with advanced training and expertise in fetal cardiac imaging.

Division 1.1 of the Determination also lists four ultrasound items that will provide stress echocardiography testing services. The items for stress echocardiography testing articulate the specific symptoms or indications of cardiac ischemia, and define when it is appropriate to conduct a stress echocardiogram for the assessment of a defined number of cardiac indications. The new items are for the following:

- Item 55141 is for an exercise stress echocardiography focused study, which can only be provided once in a 24 month period.
- Item 55143 is for a repeat pharmacological or exercise stress echocardiography service. This item is for patients who have had a stress echocardiography service provided under item 55141, 55145 or 55146 in the previous 24 months, and where symptoms of ischemia have evolved and are not adequately controlled with optimal medical therapy. This service will provide additional access to stress echocardiography where it is clinically necessary, and can only be provided once in a 12 month period
- Items 55145 and 55146 are for pharmacological stress echocardiography studies. Item 55145 is to be provided as the initial pharmacological stress echocardiography study. Item 55146 is to be provided if the patient has had an exercise stress echocardiography focused study provided in the previous four weeks, where the test has failed due to an inadequate heart rate response.

Clause 1.1.1 of the Determination provides the application of the new ultrasound items. Subclause 1.1.1(1) and subclause 1.1.1(2) provides that if an echocardiographic examination service provided under item 55126, 55127, 55128, 55129, 55132, 55133, 55134 or 55137 is performed on the same patient on the same day by the same medical practitioner as a stress echocardiographic service provided under 55141, 55143, 55145 or 55146, then the item with the lesser fee will be reduced by 40 per cent of the fee. The relevant multiple services rule under clause 1.2.21 of the diagnostic imaging services table will also apply as a general rule.

Subclause 1.1.1(3) provides that a service provided under item 55141, 55143, 55145 or 55146 can only be provided if the patient displays one or more symptoms of typical or atypical angina, or one or more indications in relation to suggested cardiac ischemia or valvular pathology, or for patients at intermediate to high cardiovascular risk undergoing pre-operative assessment for high-risk surgery. This provision will ensure that the provision of the stress echocardiography services are based on the clinical risk of the patient, and that the services are not provided inappropriately.

Subclause 1.1.1(4) provides that the request for the provision of a service under items 55141, 55143, 55145 or 55146 must identify the relevant symptom/s or indication/s of the patient, which are outlined in subclause 1.1.1(3) of the Determination.

Subclause 1.1.1(5) provides that stress echocardiography items 55141, 55143, 55145 or 55146 can only be provided if the diagnostic imaging procedure is performed by a person trained in exercise testing and cardiopulmonary resuscitation who is in personal attendance during the procedure, and if a second person who is also trained in exercise testing and cardiopulmonary resuscitation, is located at the diagnostic imaging premise where the procedure is performed and is immediately available to respond at the time the exercise test is performed on the patient. At least one of these people must be a medical practitioner, and the diagnostic imaging procedure can only be performed on premises equipped with resuscitation equipment, which includes a defibrillator. This will ensure patient safety during a test that can present significant risk and will maximise the results obtained for the purpose of reporting and subsequent treatment.

Subclause 1.1.1(6) provides that a repeat stress echocardiography service provided under 55143, which can be provided for either a pharmacological stress echocardiography or an exercise stress echocardiography, must provide the same requirements as the exercise stress echocardiography item 55141, or the pharmacological stress echocardiography item 55145.

Subclause 1.1.1(7) provides that an attendance service cannot be provided with an echocardiographic examination service (items 55126, 55127, 55128, 55129, 55132, 55133, 55134, 55137, 55141, 55143, 55145 or 55146) on the same day. The exception to this is if the attendance service is provided after the echocardiographic examination service where clinical management decisions are made, or if the decision to perform the echocardiographic examination service on the same day was made during the attendance service subject to clinical assessment.

Clause 1.1.2 of the Determination provides limitations on the provision of stress echocardiography services provided under items 55141, 55143, 55145 and 55146 to ensure that these services are not provided inappropriately. A service under these items cannot be provided if any of the following applies:

- if the patient has body habitus or other physical condition/s (including heart rhythm disturbance) where a stress echocardiography would not provide adequate information; or
- if the patient is unable to exercise where a stress echocardiography would not provide adequate information; or
- if results of a previous imaging service indicate that a stress echocardiography service would not provide adequate information.

<u>Division 1.2 – Services and fees – nuclear imaging services</u>

Division 1.2 of the Determination lists the following seven items that will provide myocardial perfusion studies (MPS), which aim to improve patient access to targeted MPS investigations, and improve the quality of results for informing optimal patient care:

- Item 61321 is for a single rest MPS study to assess the extent of myocardial injury in patients with previous or evolving pathology. This service is to use a single rest technetium-99m (Tc-99m) protocol and can only be requested by a specialist or consultant physician.
- Item 61324 is for a single stress MPS to investigate cardiac ischemia, which can only be requested by a specialist or consultant physician.
- Item 61325 is for a single rest MPS study to assess the extent of myocardial injury in patients with previous or evolving pathology. An initial rest study followed by redistribution study on the same day is also to be performed, and the service is to use a

thallous chloride-201 (Tl-201) protocol. The service can only be requested by a specialist or consultant physician.

- Item 61329 is for a combined rest and stress MPS study to investigate cardiac ischemia, which can only be requested by a medical practitioner (other than a specialist or consultant physician).
- Item 61345 is for a combined rest and stress MPS study, to allow the comparison of previous myocardial injury (single rest) with evolving myocardial ischemia, which can only be requested by a specialist or consultant physician.
- Item 61349 is for a repeat combined rest and stress MPS study, which can only be provided once a year to patients with evolving symptoms who are not adequately controlled with optimal medical therapy, following a revascularisation procedure. The service can only be requested by a specialist or consultant physician.
- Item 61357 is for a single stress MPS to investigate cardiac ischemia, which can only be requested by a medical practitioner (other than a specialist or consultant physician).

Clause 1.2.1 of the Determination provides application provisions for the MPS items. Subclause 1.2.1(1) provides that a service provided under item 61324, 61329, 61345, 61349 or 61357 can only be provided if the patient displays one or more symptoms of typical or atypical angina, or one or more indications in relation to suggested cardiac ischemia or valvular pathology, or for patients at intermediate to high cardiovascular risk undergoing pre-operative assessment for high-risk surgery. This provision will ensure that the delivery of those MPS services are based on the clinical risk of the patient, and that services are not provided inappropriately.

Subclause 1.2.1(2) provides that the request for the provision of a service under items 61324, 61329, 61345, 61349 or 61357 must identify the relevant symptom/s or indication/s of the patient, which are outlined in subclause 1.2.1(1) of the Determination.

Subclause 1.2.1(3) provides that a services provided under items 61324, 61329, 61345, 61349 or 61357 can only be provided if the diagnostic imaging procedure is performed by a person trained in cardiopulmonary resuscitation who is in personal attendance during the procedure, and if a second person who is also trained in cardiopulmonary resuscitation as well as exercise testing, is located at the diagnostic imaging premise where the procedure is performed and is immediately available to respond at the time the exercise test is performed on the patient. At least one of these people must be a medical practitioner, and the diagnostic imaging procedure can only be performed on premises equipped with resuscitation equipment, which includes a defibrillator. This will ensure patient safety during a test that can present significant risk and will maximise the results obtained for the purpose of reporting and subsequent treatment.

Subclause 1.2.1(4) provides that an attendance service cannot be provided with a nuclear imaging service (items 61321, 61324, 61325, 61329, 61345, 61349 or 61357) on the same day. The exception to this is if the attendance service is provided after the nuclear imaging service where clinical management decisions are made, or if the decision to perform the nuclear imaging service on the same day was made during the attendance service subject to clinical assessment.

Clause 1.2.2 provides limitations on the provision of items 61321, 61324, 61325, 61329, 61345 and 61357. Subclause 1.2.2(1) provides that a service under items 61321, 61324, 61329, 61345 or 61357 can only be provided once every two years if the patient is 17 years old or older. Subclause 1.2.2(2) provides that a service under item 61325 can only be provided twice every two years if the patient is 17 years old or older.

Statement of Compatibility with Human Rights

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

Health Insurance (Section 3C Diagnostic Imaging Services – Cardiac Services) Determination 2020

This 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 Determination

The purpose of the *Health Insurance (Section 3C Diagnostic Imaging Services – Cardiac Services) Determination 2020* (the Determination) is to list 19 new Medicare Benefits Schedule (MBS) items for cardiac diagnostic imaging services from 1 August 2020.

The Determination lists 8 new ultrasound items for an echocardiographic examination, 4 new ultrasound items for stress echocardiography testing, and 7 new items for myocardial perfusion studies (MPS).

In the 2018-19 Mid-Year Economic and Fiscal Outlook (MYEFO) under the *Guaranteeing Medicare – strengthening primary care* measure, the Government agreed to a number of recommendations made by the clinician-led MBS Review Taskforce (the MBS Review Taskforce) to cardiac services.

The Government agreed that changes will be made to MBS items for cardiac imaging services to better clarify the clinical requirements and circumstances where this testing and repeat testing is appropriate, and to better align with clinical guidelines.

These changes aim to improve the quality of care, encourage high value care and reflect current best practice. The changes clarify when cardiac imaging tests should be performed, and ensure that testing is only performed where there is a clinical need and repeat testing is appropriate. This will reduce a patient's exposure to unnecessary testing and exposure to radiation.

Human rights implications

This instrument engages 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

This instrument advances the right to health and the right to social security by listing new cardiac items which will improve the quality of care, encourage high value care and reflect current best practice. The new services will clarify when cardiac imaging tests should be performed, and will ensure that testing is only performed where there is a clinical need and in circumstances where repeat testing is appropriate. This will also reduce a patient's exposure to unnecessary testing and exposure to radiation.

Conclusion

This instrument is compatible with human rights as it maintains the right to health and the right to social security.

Andrew Simpson
Assistant Secretary
MBS Reviews Unit
Medical Benefits Division
Health Financing Group
Department of Health