

EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance (Section 3C General Medical Services – Menopause and Perimenopause Health Assessment Services) Determination 2025

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 General Medical 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 4(1) of the Act. The most recent version of the regulations is the *Health Insurance (General Medical Services Table) Regulations 2021*.

Purpose

The purpose of the *Health Insurance (Section 3C General Medical Services – Menopause and Perimenopause Health Assessment Services) Determination 2025* (the Determination) is to introduce two new temporary items 695 and 19000 to the Medicare Benefits Schedule (MBS). These new items will improve patient access to healthcare services for menopause and perimenopause.

These services will be delivered by general practitioners (GPs) and prescribed medical practitioners (PMPs) in consulting rooms to patients of all ages experiencing symptoms of premature ovarian insufficiency, early menopause, perimenopause, or menopause, or undergoing treatment for their symptoms. Patients may access the services annually. The new items will attract a standard (single) bulk billing incentive payment and be subject to annual indexation.

This measure is part of the Australian Government's response to the Senate Community Affairs Reference Committee Report on *Issues Related to Menopause and Perimenopause*, released in September 2024, as announced in the Mid-Year Economic and Fiscal Outlook 2024-25 (MYEFO) budget statement under the *Addressing Inequalities and Improving Health Outcomes for Women and Girls* measure.

Consultation

The changes listed in Schedule 1 were informed by the findings and recommendations of the Senate Community Affairs References Committee's inquiry into *Issues Related to Menopause and Perimenopause*, with menopause and women's health bodies consulted in the development of the item descriptors.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*. The Determination commences on 1 July 2025.

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

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

ATTACHMENT

Details of the *Health Insurance (Section 3C General Medical Services – Menopause and Perimenopause Health Assessment Services) Determination 2025*Section 1 – Name

Section 1 provides for the Determination to be referred to as the *Health Insurance (Section 3C General Medical Services – Menopause and Perimenopause Health Assessment Services) Determination 2025*.

Section 2 – Commencement

Section 2 provides for the Determination to commence on 1 July 2025.

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 specifies how a clinically relevant service provided in accordance with the Determination is to be treated, for the relevant provisions of the *Health Insurance Act 1973* and *National Health Act 1953*, and regulations made under those Acts.

Paragraph 5(a) provides that the relevant service is to be treated as if it were both a professional service and a medical service.

Paragraph 5(b) provides that the relevant service is to be treated as if it were an item specified in the general medical services table.

Subparagraph 5(b)(i) provides that the item referred to in paragraph 5 (b) is to be treated as if it related to that service.

Subparagraph 5(b)(ii) provides that the item referred to in paragraph 5 (b) is to be treated as if it specified for the service a fee in relation to each State, being the fee specified in the Schedule in relation to that service.

Section 6 – Application of provisions of the general medical services table

Section 6 specifies provisions of the general medical services table that apply as if items 695 and 19000 were specified in the relevant provision in the general medical services table.

Paragraph 6(1)(a) provides that item 695 will be treated as if it was specified in subclause 2.15.1(1) of the general medical services table. Subclause 2.15.1 restricts the application of an

item to a service provided during a personal attendance by a single general practitioner on a single patient.

Paragraph 6(1)(b) provides that item 19000 will be treated as if it was specified in subclause 2.15.1(2) of the general medical services table. Subclause 2.15.1(2) restricts the application of an item to a service provided during a personal attendance by a single prescribed medical practitioner on a single patient.

Subsection 6(2) provides that items 695 and 19000 will be treated as if they were specified in clause 2.15.14 of the general medical services table.

Section 7 – Application of items

Section 7 provides that the 695 and 19000 apply only to eligible patients.

Paragraph 7(a) provides that items 695 and 19000 apply only to patients experiencing specified symptoms or undergoing treatment for those symptoms.

Paragraph 7(b) provides that items 695 and 19000 do not apply to a patient who has received the services listed under those items within the preceding 12 months from the date of receiving those services.

Section 8 – Repeal

Section 8 provides that the Determination is repealed at the end of 30 June 2027.

Section 9 – Schedules

Section 9 of the Determination 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 – Relevant services

The Schedule specifies the service and the associated fee for items 695 and 19000.

Statement of Compatibility with Human Rights

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

Health Insurance (Section 3C General Medical Services – Menopause and Perimenopause Health Assessment Services) Determination 2025

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 General Medical Services – Menopause and Perimenopause Health Assessment Services) Determination 2025* is to introduce two new temporary items to the Medicare Benefits Schedule (MBS). These new items will improve patient access to healthcare services for menopause and perimenopause.

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.

The right of equality and non-discrimination

The rights of equality and non-discrimination are contained in articles 2, 16 and 26 of the International Covenant on Civil and Political Rights (ICCPR). Article 26 of the ICCPR requires that all persons are equal before the law, are entitled without any discrimination to the equal protection of the law and in this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Analysis

This instrument advances the rights to health and social security by improving eligible patients' access to healthcare services for menopause and perimenopause. This instrument reflects contemporary clinical practice to ensure that patients continue to have access to health and social security through relevant subsidised medical services on the MBS.

Conclusion

This instrument is compatible with human rights as it maintains the right to health and the right to social security and the right of equality and non-discrimination.

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