# EXPLANATORY STATEMENT

*Health Insurance Act 1973*

*Health Insurance (Section 3C General Medical Services – Allied Health Services) Amendment (Chronic Condition Management) 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* (GMST).

This instrument relies on subsection 33(3) of the *Acts Interpretation Act 1901* (AIA). Subsection 33(3) of the AIA provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

**Purpose**

The purpose of the *Health Insurance (Section 3C General Medical Services – Allied Health Services) Amendment (Chronic Condition Management) Determination 2025* (the Amendment Determination) is to amend the *Health Insurance (Section 3C General Medical Services – Allied Health Services) Determination 2024* from 1 July 2025 to:

- implement changes to allied health items for chronic condition management services as part of broader amendments to chronic condition management arrangements, which will be predominantly implemented through amendments to the Table; and
- revise the referral requirements for specified allied health services.

<u>Amendments to chronic condition management arrangements</u>

If approved and on 1 July 2025, the *Health Insurance Legislation Amendment (2025 Measures No. 1) Regulations 2025* (the Amendment Regulations) update the arrangements for chronic condition management planning by general practitioners and prescribed medical practitioners under the Medicare Benefits Schedule (MBS) to modernise, streamline and simplify the arrangements for chronic condition management.

As part of these updated arrangements, the Amendment Determination will implement consequential changes to items in Groups M3, M9 and M11 to ensure patients have appropriate access to allied health services to assist in the treatment and management of chronic conditions. These changes to allied health services will:

- provide patients with access to relevant allied health services if the patient's care is being managed under a new GP chronic condition management plan;

- introduce a requirement for patients to have received a planning service or review service in the last 18 months to continue accessing allied health services under a GP chronic condition management plan;
- insert transitional provisions from 1 July 2025 to 30 June 2027 to allow patients to continue accessing allied health services under a GP Management Plan and Team Care Arrangements put in place prior to 1 July 2025; and
- update terminology to align with contemporary clinical practice.

These changes will also remove the requirement that a referral for a service to which an item in Subgroup 1 of Group M3 or in Group M9 or M11 applies must use a referral form that has been issued by the Department of Health, Disability and Ageing (department) or another referral form that contains all the components of the form issued by the department. From 1 July 2025, referrals for allied health services for chronic condition management will not need to use a specific form. Instead, referrals prepared on or after 1 July 2025 will need to meet the referral requirements as set out below.

The changes to chronic condition management arrangements were endorsed by the MBS Review Taskforce on the recommendation of the General Practice and Primary Care Clinical Committee (GPPCCC) and were announced by Government in the 2023-24 Budget under the *A Modern and Clinically Appropriate Medicare Benefits Schedule* measure.

Introduction of referral requirements for allied health services

The Amendment Determination will also introduce referral requirements for allied health services to which an item in one of the following Groups or Subgroups applies:

- Subgroup 1 of Group M3;
- Group M8;
- Group M9;
- Subgroup 1 of Group M10;
- Group M11.

These amendments are intended to provide clarity for medical practitioners and allied health practitioners regarding the referral requirements for allied health services and will ensure that allied health practitioners have sufficient information to provide appropriate treatment to referred patients.

The new requirements will only apply to referrals prepared on or after 1 July 2025 and will provide that a referral for a specified allied health service must:

- include certain particulars such as the name of the referring practitioner and the date on which the patient was referred to the treating practitioner;
- explain the reasons for referring the patient;
- be in writing; and
- be signed by the referring practitioner (includes electronic signatures).

These changes also provide requirements relating to lost referrals and the period of validity for referrals for chronic condition management services.

The new referral requirements for allied health services were agreed to by Government as part of the 2024-25 Budget under the *Strengthening Medicare – an effective and clinically appropriate Medicare Benefits Schedule (MBS)* measure.

**Consultation**
The GPPCCC undertook public consultation on the proposed changes to chronic condition management. Advice relating to the implementation of these changes, including to referral requirements, has also been sought from the sector through an Implementation Liaison Group and a Communications Working Group that was established to support communications with affected professions. Stakeholder feedback was largely supportive of the proposed changes.

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

The Amendment Determination commences immediately after commencement of the *Health Insurance Legislation Amendment (2025 Measures No. 1) Regulations 2025*.

Details of the Amendment 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 – Allied Health Services) Amendment (Chronic Condition Management) Determination 2025***

Section 1 – Name

Section 1 provides for the Amendment Determination to be referred to as the *Health Insurance (Section 3C General Medical Services – Allied Health Services) Amendment (Chronic Condition Management) Determination 2025* (the Amendment Determination).

Section 2 – Commencement

Section 2 provides for the Amendment Determination to commence on immediately after commencement of the *Health Insurance Legislation Amendment (2025 Measures No. 1) Regulations 2025* (the Amendment Regulations).

Section 3 – Authority

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

Section 4 – Schedules

Section 4 provides that each instrument that is specified in a Schedule to this Amendment Determination is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Amendment Determination has effect according to its terms.

Schedule 1 – Amendments

*Health Insurance (Section 3C General Medical Services – Allied Health Services) Determination 2024*

**Item 1** introduces a new definition for the term ***GP chronic condition management plan*** and amends the definition for ***GP Management Plan***.

The term ***GP chronic condition management plan*** will have the same meaning as specified in clause 3.1.1 of the Table, which will provide that this term means a plan under item 392, 965, 92029 and 92060. The definition for this term will be inserted into clause 3.1.1 of the Table by the Amendment Regulations.

The term ***GP Management Plan*** will be updated to specify that it relates to services provided prior to 1 July 2025. This term will be retained as part of the transitional arrangements for chronic condition management services to facilitate continued access to allied health services for patients who receive a planning or review service for a GP Management Plan before the new arrangements come into effect on 1 July 2025.

Note, changes to chronic condition management planning arrangements for general practitioners and prescribed medical practitioners will be implemented through the Amendment Regulations

and the *Health Insurance (Section 3C General Medical Services – Telehealth Attendances) Amendment (Chronic Condition Management) Determination 2025.*

**Item 2** inserts a definition for the term ***provider number***, which is relevant to new referral requirements for allied health services (refer to **item 4**). The term ***provider number*** will have the same definition as specified in section 4 of the *Health Insurance Regulations 2018*.

**Item 3** amends the definition for ***Team Care Arrangements*** to specify that it relates to services provided prior to 1 July 2025. This term will be retained as part of the transitional arrangements for chronic condition management services to facilitate continued access to allied health services for patients who receive a service to establish or review Team Care Arrangements before the new arrangements come into effect on 1 July 2025.

**Item 4** inserts new section 12, which provides referral requirements for services listed in Subgroup 1 of Group M3, Group M8, Group M9, Subgroup 1 of Group M10 and Group M11. The new requirements will only apply to referrals prepared on or after 1 July 2025.

Subsection 12(2) provides that a referral for a service listed in one of the Groups or Subgroups mentioned in subsection 12(1) must include:

- the name of the referring practitioner;
- the address of the place of practice, or the provider number in respect of the place of practice, of the referring practitioner;
- the date on which the patient was referred by the referring practitioner to the treating practitioner; and
- the period of validity of the referral, if relevant.

Subsection 12(3) provides that a referral for a service listed in one of the Groups or Subgroups mentioned in subsection 12(1) must be:

- in writing;
- signed by the referring practitioner (includes electronic signatures); and
- dated.

Subsection 12(4) provides that a referral for a service listed in one of the Groups or Subgroups mentioned in subsection 12(1) must explain the reasons for referring the patient, including any information about the patient's condition that the referring practitioner considers necessary to give to the treating practitioner.

Subsection 12(5) defines the terms ***referring practitioner*** and ***treating practitioner*** for the purposes of section 12.

Subsection 12(6) provides the requirements relating to lost referrals for the purposes of a service listed in one of the Groups or Subgroups mentioned in subsection 12(1).

Subsection 12(7) provides the period of validity for referrals for a service listed in Subgroup 1 of Group M3 or in Group M9 or M11.

**Item 5** repeals and replaces paragraph 1.1.1(1)(a) of Schedule 2 to remove the requirement that a referral for a service to which an item in Subgroup 1 of Group M3 applies must use a referral form that has been issued by the Department of Health, Disability and Ageing (department) or

another referral form that contains all the components of the form issued by the department. From 1 July 2025, referrals for allied health services for chronic condition management will not need to use a specific form. Instead, referrals prepared on or after 1 July 2025 will need to meet the requirements set out in section 12 (refer to **item 4**).

**Item 6** amends the heading of clause 1.1.2 of Schedule 2 to replace the reference to "Chronic disease management" with "Chronic condition management" to align with updated terminology for chronic condition management arrangements.

**Item 7** amends the heading for Subgroup 1 of Group M3 to replace the reference to "Chronic disease management" with "Chronic condition management" to align with updated terminology for chronic condition management arrangements.

**Item 8** amends allied health items 10950 10951, 10952, 10953, 10954, 10956, 10958, 10960, 10962, 10964, 10966, 10968 and 10970 for chronic condition management services to provide that services under the items will only be available if:

- the patient has a chronic condition and complex care needs being managed by a medical practitioner (other than a specialist or consultant physician) under:
    - a GP chronic condition management plan that has been prepared or reviewed in the last 18 months; or
    - until the end of 30 June 2027 —a GP Management Plan and Team Care Arrangements prepared prior to 1 July 2025; or
    - a multidisciplinary care plan; and
- the service is recommended in the patient's plan or arrangements as part of the management of the patient's chronic condition and complex care needs.

The changes to items 10950 10951, 10952, 10953, 10954, 10956, 10958, 10960, 10962, 10964, 10966, 10968 and 10970 will align these allied health services with new arrangements for chronic condition management services. Until the end of 30 June 2027, patients will continue to have access to services under these items using existing GP Management Plans prepared before 1 July 2025. From 1 July 2027, patients will be required to have a GP chronic condition management plan or a multidisciplinary care plan to access services under items 10950 to 10970.

**Item 9** amends the heading for Subgroup 2 of Group M3 to replace the reference to "Chronic disease management" with "Chronic condition management" to align with updated terminology for chronic condition management arrangements.

**Items 10 to 12** amend allied health items 81100, 81110 and 81120 for assessing a patient's suitability for group services to provide that services under the items will only be available to patients who are:

- being managed by a medical practitioner (other than a specialist or consultant physician) under:
    - a GP chronic condition management plan that has been prepared or reviewed in the last 18 months; or

    - until the end of 30 June 2027—a GP Management Plan prepared prior to 1 July 2025; or
    - a multidisciplinary care plan; and
- referred to the eligible allied health provider by the medical practitioner managing the patient's care under the relevant plan or arrangements.

The changes to items 81100, 81110 and 81120 will align these allied health services with new arrangements for chronic condition management services and the revised referrals requirements for relevant allied health services. Patients will continue to have access to services under these items using existing GP Management Plans prepared before 1 July 2025 until the end of 30 June 2027. From 1 July 2027, patients will be required to have a GP chronic condition management plan or a multidisciplinary care plan to access services under items 81100, 81110 and 81120.

**Item 13**amends paragraph 6.1.1(1)(a) of Schedule 2 to remove the requirement that a referral for a service to which an item in Group M11 applies must use a referral form that has been issued by the department or another referral form that contains all the components of the form issued by the department. From 1 July 2025, referrals for allied health services for chronic condition management will not need to use a specific form. Instead, referrals prepared on or after 1 July 2025 will need to meet the requirements set out in section 12 (refer to **item 4**).

**Item 14** amends allied health items 81300 to 81360 for services provided to patients of Aboriginal or Torres Strait Islander descent to provide access to services under these items if:

- the patient has a chronic condition and complex care needs being managed by a medical practitioner (other than a specialist or consultant physician) under:
    - a GP chronic condition management plan that has been prepared or reviewed in the last 18 months; or
    - until the end of 30 June 2027—a GP Management Plan and Team Care Arrangements prepared prior to 1 July 2025; or
    - a multidisciplinary care plan; and
- the service is recommended in the patient's plan or arrangements as part of the management of the patient's chronic condition and complex care needs.

The changes to items 81300 to 81360 will align these allied health services with new arrangements for chronic condition management services. Until the end of 30 June 2027, patients will continue to have access to services under these items using existing GP Management Plans prepared before 1 July 2025. Patients will continue to be able to access services under items 81300 to 81360 if they have had a health assessment.

# 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 – Allied Health Services) Amendment (Chronic Condition Management) 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 – Allied Health Services) Amendment (Chronic Condition Management) Determination 2025* (the Amendment Determination) is to amend the *Health Insurance (Section 3C General Medical Services – Allied Health Services) Determination 2024* from 1 July 2025 to:

- implement changes to allied health items for chronic condition management services as part of broader amendments to chronic condition management arrangements, which will be predominantly implemented through amendments to the general medical services table (Table); and
- revise the referral requirements for specified allied health services.

Amendments to chronic condition management arrangements

If approved and on 1 July 2025, the *Health Insurance Legislation Amendment (2025 Measures No. 1) Regulations 2025* (the Amendment Regulations) update the arrangements for chronic condition management planning by general practitioners and prescribed medical practitioners under the Medicare Benefits Schedule (MBS) to modernise, streamline and simplify the arrangements for chronic condition management.

As part of these updated arrangements, the Amendment Determination will implement changes to items in Groups M3, M9 and M11 to ensure patients have appropriate access to allied health services to assist in the treatment and management of chronic conditions. These changes to allied health services will:

- provide patients with access to relevant allied health services if the patient's care is being managed under a new GP chronic condition management plan;
- introduce a requirement for patients to have received a planning service or review service in the last 18 months to continue accessing allied health services under a GP chronic condition management plan;
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- update terminology to align with contemporary clinical practice.

These changes will also remove the requirement that a referral for a service to which an item in Subgroup 1 of Group M3 or in Group M9 or M11 applies must use a referral form that has been issued by the Department of Health, Disability and Ageing (department) or another referral form that contains all the components of the form issued by the department. From 1 July 2025, referrals for allied health services for chronic condition management will not need to use a specific form. Instead, referrals prepared on or after 1 July 2025 will need to meet the referral requirements as set out below.

The changes to chronic condition management arrangements were endorsed by the MBS Review Taskforce on the recommendation of the General Practice and Primary Care Clinical Committee (GPPCCC) and were announced by Government in the 2023-24 Budget under the *A Modern and Clinically Appropriate Medicare Benefits Schedule* measure.

Introduction of referral requirements for allied health services

The Amendment Determination will also introduce referral requirements for allied health services to which an item in one of the following Groups or Subgroups applies:

- Subgroup 1 of Group M3;
- Group M8;
- Group M9;
- Subgroup 1 of Group M10;
- Group M11.

These amendments are intended to provide clarity for medical practitioners and allied health practitioners regarding the referral requirements for allied health services and will ensure that allied health practitioners have sufficient information to provide appropriate treatment to referred patients.

The new requirements will only apply to referrals prepared on or after 1 July 2025 and will provide that a referral for a specified allied health service must:

- include certain particulars such as the name of the referring practitioner and the date on which the patient was referred to the treating practitioner;
- explain the reasons for referring the patient;
- be in writing; and
- be signed by the referring practitioner (includes electronic signatures).

These changes also provide requirements relating to lost referrals and the period of validity for referrals for chronic condition management services.

The new referral requirements for allied health services were agreed to by Government as part of the 2024-25 Budget under the *Strengthening Medicare – an effective and clinically appropriate Medicare Benefits Schedule (MBS)* measure.

**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 maintains the rights to health and social security and the right of equality and non-discrimination as it ensures patients continue to have access to Medicare benefits for allied health services related to chronic condition management and provides clarity relating to the requirements for referrals for allied health services.

**Conclusion**

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

**Louise Riley**
**Assistant Secretary**
**MBS Policy and Reviews Branch**
**Medicare Benefits and Digital Health Division**
**Health Resourcing Group**
**Department of Health, Disability and Ageing**