

EXPLANATORY STATEMENT

National Health Act 1953

National Health (Additional Community Supply Support Payment) Amendment Determination 2025

PB 70 of 2025

Authority

Paragraph 98B(1)(b) of the *National Health Act 1953* (Act) provides that a function of the Pharmaceutical Benefits Remuneration Tribunal (Tribunal) is to determine, by legislative instrument:

- the kinds of supplies by approved pharmacists of pharmaceutical benefits (if any) that are Additional Community Supply Support (ACSS) eligible supplies; and
- the amount of the ACSS payment for any or all ACSS eligible supplies, or the manner in which that amount is to be worked out.

Subsection 98BAA(1A) of the Act requires that, where the Commonwealth and the Pharmacy Guild of Australia (Guild) have entered into an agreement relating to the kinds of supplies made by approved pharmacists that are ACSS eligible supplies, and the amount of the ACSS payment for ACSS eligible supplies, or the manner in which that amount is to be worked out, the Tribunal, when making a determination pursuant to paragraph 98B(1)(b) of the Act, is to give effect to the terms of that agreement, while the agreement is in force.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, 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 *National Health (Additional Community Supply Support Payment) Amendment Determination 2025* (Amendment Determination) amends the *National Health (Additional Community Supply Support Payment) Determination 2024* (Principal Determination) to adjust, from 1 July 2025, the amounts of payments for ACSS eligible supplies, in accord with indexation and adjustment provisions for ACSS payments, as set out under clause 4.1.4, clause 5 and Appendix A of the Eighth Community Pharmacy Agreement (Eighth Agreement). A copy of the Eighth Agreement can be found on the Department of Health, Disability and Ageing's website at: www.health.gov.au/topics/primary-care/what-we-do/8cpa.

The Eighth Agreement between the Commonwealth and the Guild, which commenced on 1 July 2024 and expires on 30 June 2029, includes an agreement between the Commonwealth and the Guild for the purposes of subsection 98BAA(1A) of the Act, setting out the manner in which the ACSS payment is to be calculated.

From 1 July 2025, the amount payable by the Commonwealth to approved pharmacists for ACSS eligible supplies will increase:

- from \$4.79 to **\$4.91** for each Commonwealth subsidised supply, at the maximum quantity, of a ‘section 85 medicine’ with increased dispensing quantity; and
- from \$0.78 to **\$1.57** for each Commonwealth subsidised supply of a ‘section 85 medicine’.

This Amendment Determination also makes changes from 1 October 2025, to insert references to the following special arrangements, expected to be made under Section 100 of the Act, under which supplies of pharmaceutical benefits are not intended to qualify as ACSS eligible supplies:

- *National Health (Botulinum Toxin Program) Special Arrangement 2025;*
- *National Health (Growth Hormone Program) Special Arrangement 2025;*
- *National Health (IVF Program) Special Arrangement 2025.*

Consultation

The Eighth Agreement includes an agreement between the Commonwealth and the Guild, for the purposes of subsection 98BAA(1A) of the Act, regarding the kinds of supplies that are ACSS eligible supplies, and the amount of the ACSS payment for ACSS eligible supplies. The Guild has been consulted in relation to the content of this Amendment Determination as it relates to that agreement. Services Australia has also been consulted in relation to implementation of the PBS payment systems changes managed by Services Australia, to support making ACSS payments to approved pharmacists, as provided for by this Amendment Determination.

Commencement

Sections 1 to 4 of this Instrument commence the day after this Instrument is registered.

Schedule 1 to this Instrument (which contains the amendments to the amounts of ACSS payments payable by the Commonwealth) commences on 1 July 2025.

Schedule 2 to this Instrument (which contains the amendments to the names of certain special arrangements made under section 100 of the Act in respect of ACSS eligible supplies) commences on 1 October 2025.

General

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

Details of this Amendment Determination are outlined in **Attachment A**.

This Amendment Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

Details of the *National Health (Additional Community Supply Support Payment) Amendment Determination 2025*

Section 1 – Name

This section provides that the name of the instrument is the *National Health (Additional Community Supply Support Payment) Amendment Determination 2025*, which may also be cited as PB 70 of 2025.

Section 2 – Commencement

This section provides that:

- sections 1 to 4 of the instrument commence the day after the instrument is registered;
- Schedule 1 of the instrument commences on 1 July 2025; and
- Schedule 2 of the instrument commences on 1 October 2025.

Section 3 – Authority

This section provides that the instrument is made under paragraph 98B(1)(b) of the *National Health Act 1953* (Act).

Section 4 – Schedules

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

Schedule 1 – Amendments

National Health (Additional Community Supply Support Payment) Determination 2024

Item 1 – Subsection 6(1)

This item replaces subsection 6(1) in the Principal Determination (not including the note at the end of the subsection) with a new subsection 6(1) with amended values for the amounts of ACSS payments payable by the Commonwealth from 1 July 2025.

This change has the effect of increasing the relevant ACSS payment amounts:

- under paragraph 6(1)(a), from \$0.78 to **\$1.57**; and
- under subparagraph 6(1)(b)(ii), from \$4.79 to **\$4.91**.

Schedule 2 – Amendments

National Health (Additional Community Supply Support Payment) Determination 2024

Item 1 – Paragraph 5(a)

This item inserts a reference to a new special arrangement, made under section 100 of the Act, the *National Health (Botulinum Toxin Program) Special Arrangement 2025*, which will commence operation from 1 October 2025. The purpose of this amendment is to ensure that supplies of pharmaceutical benefits under this new special arrangement will not qualify as ACSS eligible supplies.

Item 2 – Paragraph 5(c)

This item inserts a reference to a new special arrangement, made under section 100 of the Act, the *National Health (Growth Hormone Program) Special Arrangement 2025*, which will commence operation from 1 October 2025. The purpose of this amendment is to ensure that supplies of pharmaceutical benefits under this new special arrangement will not qualify as ACSS eligible supplies.

Item 3 – Paragraph 5(e)

This item inserts a reference to a new special arrangement, made under section 100 of the Act, the *National Health (IVF Program) Special Arrangement 2025*, which will commence operation from 1 October 2025. The purpose of this amendment is to ensure that supplies of pharmaceutical benefits under this new special arrangement will not qualify as ACSS eligible supplies.

Statement of Compatibility with Human Rights

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

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This disallowable 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 purpose of this Disallowable Legislative Instrument, made under paragraph 98B(1)(b) of the *National Health Act 1953* (the Act) is to amend the *National Health (Additional Community Supply Support Payment) Determination 2024*, by which the Pharmaceutical Benefits Remuneration Tribunal (Tribunal) determines the kinds of supplies by approved pharmacists of pharmaceutical benefits that are Additional Community Supply Support (ACSS) eligible supplies and the amount of ACSS payment for any or all such supplies.

The basis for the ACSS payment is an agreement under the Eighth Community Pharmacy Agreement (Eighth Agreement) between the Commonwealth and the Pharmacy Guild of Australia to establish a payment to approved pharmacists, in addition to the Commonwealth price, to provide the necessary level of support for the dispensing of Pharmaceutical Benefits Scheme (PBS) and Repatriation Pharmaceutical Benefits Scheme (RPBS) medicines, including for increased dispensing quantities, to ensure continued access to these medicines while providing cheaper medicines to patients.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, 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.

This legislative instrument, the *National Health (Additional Community Supply Support Payment) Amendment Determination 2025* (Amendment Determination) effects increases from 1 July 2025 to the amounts payable by the Commonwealth to approved pharmacists for ACSS eligible supplies, in accord with provisions under the Eighth Agreement.

This legislative instrument also inserts references to the following special arrangements, with effect from 1 October 2025:

- *National Health (Botulinum Toxin Program) Special Arrangement 2025*;
- *National Health (Growth Hormone Program) Special Arrangement 2025*;
- *National Health (IVF Program) Special Arrangement 2025*.

Human rights implications

This Disallowable Instrument engages Articles 2, 7, 9 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The legislative instrument assists with the provision of favourable conditions of work to ensure remuneration for workers with fair wages. In addition, it also assists in the progressive realisation by all appropriate means of

the right of everyone to social security, and the enjoyment of the highest attainable standard of physical and mental health.

The PBS is a benefit scheme which assists with providing subsidised access for people to medicines. This is a positive step towards attaining the highest standard of health for all Australians. Efficient operational arrangements for the PBS support effective administration of the scheme.

The ACSS payment included in the 8CPA provides a means through which the Commonwealth is able to provide the necessary level of financial support to community pharmacies for the dispensing of PBS medicines, without increasing the costs of medicines for some patients.

The amendments made by the Amendment Determination are only in relation to the additional amounts for ACSS eligible supplies described above and in relation to continuation of existing provisions for ACSS eligible supplies. It does not change the protection of human rights to health and social security by all Australians under the PBS implemented under the Principal Determination.

Conclusion

This Instrument is compatible with human rights because it promotes the protection of human rights to health and social security, and favourable work conditions.

Judith Wright

Chairperson

Pharmaceutical Benefits Remuneration Tribunal