

EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance (Section 3C Midwife and Nurse Practitioner Services) Amendment (Long Acting Reversible Contraceptive Services) Determination 2025

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

The GMST is established under the regulations made pursuant to subsection 4(1) of the Act. The current version of the GMST is set out in the *Health Insurance (General Medical Services Table) Regulations 2021*.

This instrument is made under subsection 33(3) of the *Acts Interpretation Act 1901* (AIA), which provides that a power to make a legislative or administrative instrument includes the power to repeal, rescind, revoke, amend, or vary any such instrument in the same manner and subject to the same conditions.

Purpose

The purpose of the *Health Insurance (Section 3C Midwife and Nurse Practitioner Services) Amendment (Long Acting Reversible Contraceptive Services) Determination 2025* (the Amendment Determination) is to amend the *Health Insurance (Section 3C Midwife and Nurse Practitioner Services) Determination 2020* (the Principal Determination) from 1 November 2025 to introduce new Medicare Benefits Schedule (MBS) items for the insertion and removal of long acting reversible contraceptives (LARC) where the services are provided by nurse practitioners.

The Amendment Determination will introduce:

- three new MBS procedural items (items 82201, 82202 and 82203) for eligible nurse practitioners to insert an Implanon or Intrauterine devices and remove an Implanon;
- one new MBS item (item 82204) to provide a loading fee of 40% of the fee for each relevant LARC procedural item (82201, 82202 or 82203) where all items associated with a patient's LARC care are bulk billed by an eligible nurse practitioner; and
- one new MBS item (item 82206) to cover instances where an eligible nurse practitioner providing a LARC procedural service is required to discontinue that procedure on clinical grounds.

The changes in the Amendment Determination were agreed to as part of the 2024-25 Mid-Year Economic and Fiscal Outlook (MYEFO) under the *Improving Contraceptive Choice, Access and Affordability* measure.

Consultation

Consultation was undertaken as part of an MBS Review Advisory Committee (MRAC) review on the changes to LARC services being implemented on 1 November 2025. As part of this review, the following peak bodies were consulted:

- Australian College of Midwives

- Australian College of Nurse Practitioners
- Royal Australian College of General Practitioners
- Australian Medical Association
- Royal Australian and New Zealand College of Obstetricians and Gynaecologists
- National Association of Obstetricians and Gynaecologists
- Australasian Sexual and Reproductive Health Alliance
- Congress of Aboriginal and Torres Strait Islander Nurses and Midwives

The stakeholders that were consulted did not raise any concerns with the amendments being made to LARC services.

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

The Amendment Determination commences immediately after the commencement of the *Health Insurance Legislation Amendment (2025 Measures No. 3) 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 Midwife and Nurse Practitioner Services) Amendment (Long Acting Reversible Contraceptive Services) Determination 2025*

Section 1 – Name

Section 1 provides for the instrument to be referred to as the *Health Insurance (Section 3C Midwife and Nurse Practitioner Services) Amendment (Long Acting Reversible Contraceptive Services) Determination 2025* (the Amendment Determination).

Section 2 – Commencement

Section 2 provides for the Amendment Determination to commence immediately after the commencement of the *Health Insurance Legislation Amendment (2025 Measures No. 3) Regulations 2025*.

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 Midwife and Nurse Practitioner Services) Determination 2020 (the Principal Determination)

Item 1 inserts definitions for the terms set out in the table being introduced by item 2 – specifically, the terms set out at column 3 for item 82206 (described below in further detail).

Item 2 inserts new Clause 2.1 to the Principal Determination, which provides the fee for new MBS item 82206 (which will be inserted into Group M14 by **amendment item 3** to the Amendment Determination). Clause 2.1 provides that for item 82206, ***amount under clause 2.1*** means 50% of the fee that would normally apply for item 82201 or 82202, if a service mentioned in the same item had not been discontinued before completion.

Item 3 inserts new MBS items 82201, 82202, 82203, 82204 and 82206 into a new Subgroup 4 for ‘Nurse practitioner procedures’, which is contained in Group M14.

Items 82201 and 82203 relate to services associated with the insertion of long acting reversible contraceptives (LARC), and item 82202 relates to a service associated with removal of an Implanon.

Item 82204 will be introduced to provide a 'loading' of 40% of the fee for each relevant LARC item (either item 82201, 82202 or 82203), where all items associated with a patient's LARC care are bulk-billed.

Item 82206 will be introduced for claiming in instances where an eligible nurse practitioner providing a LARC procedural service is required to discontinue a service being provided under items 82201 or 82202. The fee for item 82206 will be calculated as 50% of the fee that would have been applied for the relevant item (i.e. item 82201 or 82202), as set out in clause 2.1 (see **amendment item 2**).

Statement of Compatibility with Human Rights

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

*Health Insurance (Section 3C Midwife and Nurse Practitioner Services) Amendment
(Long Acting Reversible Contraceptive 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 Midwife and Nurse Practitioner Services) Amendment (Long Acting Reversible Contraceptive Services) Determination 2025* (the Amendment Determination) is to amend the *Health Insurance (Section 3C Midwife and Nurse Practitioner Services) Determination 2020* (the Principal Determination) from 1 November 2025 to introduce new Medicare Benefits Schedule (MBS) items for the insertion and removal of long acting reversible contraceptives (LARC) where the services are provided by nurse practitioners.

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The changes in the Amendment Determination were agreed to as part of the 2024-25 Mid-Year Economic and Fiscal Outlook (MYEFO) under the *Improving Contraceptive Choice, Access and Affordability* 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 will reflect contemporary clinical practice by ensuring that patients have access to subsidised medical services under the Medicare Benefits Schedule, in relation to services for the insertion and removal of LARC where those services are provided by eligible nurse practitioners.

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.

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