EXPLANATORY STATEMENT

Health Insurance Act 1973

Health Insurance Legislation Amendment (2026 Measures No. 3) Regulations 2026

The *Health Insurance Act 1973* (the Act) sets out the principles and definitions governing the Medicare Benefits Schedule (MBS). The Act provides for payments by way of medical benefits and for other purposes.

Subsection 133(1) of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Part II of the Act provides for the payment of Medicare benefits for professional services rendered to eligible persons. Section 9 of the Act provides that Medicare benefits be calculated by reference to the fees for medical services set out in prescribed tables.

Section 4AA of the Act provides that regulations may prescribe a table of diagnostic imaging services which sets out items of diagnostic imaging services, the fees applicable for each item, and rules for interpreting the table. The table made under this section is referred to as the diagnostic imaging services table (DIST). The most recent version of the regulations is the *Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020* (DIST Regulations).

Subsection 4(1) of the Act provides that regulations may prescribe a table of general medical services which sets out items of general medical services, the fees applicable for each item, and rules for interpreting the table. The table made under this subsection is referred to as the general medical services table (GMST). The most recent version of the regulations is the *Health Insurance (General Medical Services Table) Regulations 2021* (GMST Regulations).

Section 4A of the Act provides that regulations may prescribe a table of pathology services which set out items of pathology services, the fees applicable for each item, and rules for interpreting the table. The table made under this section is referred to as the pathology services table (PST). The most recent version of the regulations is the *Health Insurance (Pathology Services Table) Regulations 2020* (PST Regulations).

The *Health Insurance Regulations 2018* (HIR) provide the overarching policy framework supporting the provision of appropriate Medicare services. For the purposes of paragraph 10(2)(aa) of the Act, section 28 of the HIR prescribes items that have a Medicare benefit equal to 100 per cent of the fee in respect of the service.

Purpose

The purpose of the *Health Insurance Legislation Amendment (2026 Measures No. 3) Regulations 2026* (the Regulations) is to amend the DIST, GMST and PST Regulations and the HIR from 1 November 2026.

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The Regulations will implement changes to introduce and amend MBS services as agreed to in the 2026-27 Budget and through the Minister's delegation to approve certain Medical Services Advisory Committee recommendations outside a budget process and will also implement administrative and consequential changes including to align with the *Aged Care Act 2024* and 2023 Modified Monash location categories. Further details on the changes can be found below and at the Attachment.

The Regulations will:

- implement the new Medicare Healthy Kids Check for 3-year-olds to support early identification of health and developmental concerns and referrals for further assessment or support;
- make consequential amendments to reflect the introduction of four new chronic condition management telehealth phone items 92033, 92034, 92063 and 92064 and enable the benefit for these items to be claimed at 100% of their schedule fees;
- align definitions with the 2023 Modified Monash Model;
- replace all references to the term "residential aged care facility" with "residential care home" to align with terminology in the *Aged Care Act 2024;*
- enable the maximum benefit payable for item 61438 for patients accessing this nuclear medicine imaging service;
- amend item 61564 to apply once in a 12-month period;
- enable participating nurse practitioners to refer patients for bone mineral densitometry services described in items 12306 to 12322;
- expand ambulatory blood pressure monitoring item 11607 to include child and adolescent blood pressure measurements and thresholds;
- enable immunomodulating treatment item 14245 to be provided by a qualified health practitioner on behalf of the prescribing medical practitioner;
- amend item 18360 to include Xeomin treatment;
- amend item 45518 to enable the service to be performed outside of a hospital setting;
- remove the requirement for specialist paediatricians to consult a clinical geneticist before requesting genetic testing for childhood syndromes under items 73358, 73359 and 73360;
- enable the use of the Crithidia method as a choice of testing for double-stranded DNA antibody assessment under item 71099; and
- make other administrative amendments to correct a typographical error in item 10997; modernise language in items 45515 and 45518; amend section 52 of the HIR to include reference to additional items in line with policy intention; and amend clause 1.2.11 of the GMST to include item 15990 and remove item 41764.

Consultation

The Department of Health, Disability and Ageing consulted with relevant stakeholders on the changes in the Regulations by way of public consultation and targeted consultation with individual stakeholders. All stakeholders who responded to consultation were supportive of the changes, and no concerns were raised about the changes contained in the Regulations.

For changes to the DIST Regulations, the consulted stakeholders included:

- Astrazeneca
- Australasian Association of Nuclear Medicine Specialists
- Australian and New Zealand Society of Nuclear Medicine
- Australian Diagnostic Imaging Association

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- Bayer
- Clinical Oncology Society of Australia
- Movember
- Novartis
- Prostate Cancer Foundation of Australia
- Royal Australian and New Zealand College of Radiologists
- Rural Alliance in Nuclear Scintigraphy
- Telixpharma
- Urological Society of Australia and New Zealand

For changes to the GMST Regulations, the consulted stakeholders included:

- Australian and New Zealand Bone and Mineral Society
- Australian and New Zealand Society for Geriatric Medicine
- Australia and New Zealand Society of Nuclear Medicine
- Australian Association of Nuclear Medicine Specialists Australian College of Nurse Practitioners
- Australian College of Rural and Remote Medicine
- Australian Diagnostic Imaging Association
- Australian Medical Association
- Australian Orthopaedic Association
- Australian Primary Health Care Nurses Association
- Australian Rheumatology Association
- Australian Society of Plastic Surgeons
- Australian Society of Plastic Surgeons Continuous Improvement (via the Committee for Plastic and Reconstructive Surgery)
- Clinical community
- Diagnostic Imaging and Monitoring Association
- Endocrine Society of Australia
- Geriatric Care Australia
- Healthy Bones Australia
- National Aboriginal Community Controlled Health Organisation
- National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners
- Royal Australian and New Zealand College of Radiologists
- Royal Australian College of General Practitioners
- Rural Alliance for Nuclear Scintigraphy
- Australia and New Zealand Society of Paediatric Nephrology
- BPOzKids
- Hypertension Australia
- Medicare Benefits and Digital Health Division (MBDHD) Medical Advisors
- Movement Disorders Society of Australia and New Zealand
- Rehabilitation Medicine Society of Australia and New Zealand
- Stroke Foundation

For changes to the PST Regulations, the consulted stakeholders included:

- Australasian Society of Diagnostic Genomics

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- Australian Pathology
- Murdoch Children's Research Institute
- Public Pathology Australia
- Royal Australasian College of Physicians
- Royal College of Pathologists of Australasia

No consultation was undertaken for the changes to the HIR, as the change are administrative and machinery in nature.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

Details of the Regulations are set out in the Attachment.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations will commence on 1 November 2026.

Authority: Subsection 133(1) of the *Health Insurance Act 1973*

ATTACHMENT

Details of the *Health Insurance Legislation Amendment (2026 Measures No. 3) Regulations 2026*

Section 1 – Name

This section provides for the instrument to be referred to as the *Health Insurance Legislation Amendment (2026 Measures No. 3) Regulations 2026* (the Regulations).

Section 2 – Commencement

This section provides for the Regulations to commence on 1 November 2026.

Section 3 – Authority

This section provides that the Regulations are made under the *Health Insurance Act 1973* (the Act).

Section 4 – Schedules

This section 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— Amendments

Part 1—Thriving kids

Health Insurance (General Medical Services Table) Regulations 2021

Items 1 and 2 make amendments to introduce the Medicare Healthy Kids Check for 3-year-olds to support early identification of health and developmental concerns, and where necessary referrals for further assessment or support. Specifically, these amendment items insert a new paragraph (h) at the end of subclause 2.15.2(1) to specify this new type of health assessment for the specified cohort (**item 1**), and a new clause 2.15.11 to prescribe the clinical requirements for this new type of health assessment (**item 2**). The Medicare Healthy Kids Check will be provided under existing time-tiered MBS health assessment items 224, 225, 226, 227, 701, 703, 705 and 707 provided by general practitioners and prescribed medical practitioners.

Part 2—Telehealth phone items for chronic condition management plans

Health Insurance (General Medical Services Table) Regulations 2021

The following items make consequential amendments resulting from the introduction of four new telehealth phone items 92033, 92034, 92063 and 92064 for preparation and review of a general practitioner chronic condition management plan which commence on 1 November 2026.

Items 3 and 12 amend the descriptors for MBS items 235 - 240 and 735 - 758, by inserting reference to the new telehealth phone items 92033, 92034, 92063 and 92064 into the current restrictions on the application of those items.

Items 4 and 5 amend clause 2.16.11 by inserting reference to the new telehealth phone items 92033, 92034, 92063 and 92064. This is to include reference to those new items in the heading to the clause, and to restrict the items set out under paragraphs 2.16.11(a) to (f) from being provided by a practitioner on the same day for the same patient as the new items 92033, 92034, 92063 and 92064.

Items 6 to 11 amend table items 1, 2, 3, 4 in the table to subclause 2.16.12(3) by inserting reference to the new telehealth phone items 92033, 92034, 92063 or 92064, as appropriate, to the conditions relating to the timing of services for items 729, 231, 731, 232, 965, 392, 967 and 393.

Items 13 and 14 amend the definitions of ***GP chronic condition management plan*** and ***person with a chronic condition*** in clause 3.1.1 for the purpose of item 10997 by inserting reference to the new telehealth phone items 92033 and 92063 to include a plan under these items.

Item 15 amends the descriptor for item 11607 to insert reference to the new telehealth phone items 92033, 92034, 92063 and 92064 in the list of items in sub-subparagraph (g)(ii)(J) which do not apply in association with item 11607.

Health Insurance Regulations 2018

Item 15A amends the table to subsection 28(1) to insert reference to the four new telehealth phone items 92033, 92034, 92063 and 92064 for preparation and review of a general practitioner chronic condition management plan in column 2 to item 28H, such that the benefit for each of those items will be paid at 100% of the schedule fee.

Part 3—Modified Monash Model amendments

Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020

Items 16 and 17 make amendments to clause 3.1 relating to Modified Monash (MM) location classifications to align with the 2023 MM Model developed by the Department of Health, Disability and Ageing (the department) for categorising metropolitan, regional, rural and remote locations according to both geographical remoteness and population size based on population data published by the Australian Bureau of Statistics, ensuring that the MBS applies the most recent MM location categories. Specifically, **item 16** inserts the definition of ***2023 MM category*** into clause 3.1 to have the same meaning as in the GMST (see amendment **item 19** below), and **item 17** repeals and substitutes the definition of ***Modified Monash 1 area*** in clause 3.1 to mean an area with a 2023 MM category known as a Modified Monash 1 area or MM 1.

Health Insurance (General Medical Services Table) Regulations 2021

Items 18 to 27 make amendments to clause 7.1.1 relating to MM location classifications to align with the 2023 MM Model developed by the department for categorising metropolitan, regional, rural and remote locations according to both geographical remoteness and population size based on population data published by the Australian Bureau of Statistics, ensuring that the MBS applies the most recent MM location categories. Specifically, **item 18** repeals the definition of ***2016***

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estimated resident population; **item 19** inserts the definition of ***2023 MM category***; **item 20** repeals the definition of ***ASGS*; items 21 to 26** repeal and substitute the definitions of ***Modified Monash 2-7 areas*** to mean areas with 2023 MM categories for each area; and **item 27** repeals the definition of ***Urban Centre and Locality***.

Part 4—Consequential amendments arising from enactment of *Aged Care Act 2024*

Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020

Items 28 to 33 make administrative amendments to clause 2.3.3 to replace all references to the term "residential aged care facility" with "residential care home" and all instances of the term "residential aged care facilities" with "residential care homes" to align with terminology in the *Aged Care Act 2024*. Specifically, these administrative amendments are to the heading to clause 2.3.3 and paragraphs 2.3.3(2)(a), 2.3.3(2)(c), 2.3.3(3)(a) and 2.3.3(3)(b) and subclause 2.3.3(4).

Item 34 omits the term "residential aged care facilities" and substitutes the term "residential care homes" in paragraph 2.7.1(2)(b), to align with terminology in the *Aged Care Act 2024*.

Items 35 and 36 amend clause 3.1 to repeal the definition of ***residential aged care facility*** (**item 35**) and insert a definition of ***residential care home*** **(item 36**), to align with terminology in the *Aged Care Act 2024*.

Health Insurance (General Medical Services Table) Regulations 2021

Items 37 and 38 make administrative amendments to the descriptors for items 232 and 731 by repealing and substituting paragraphs (a) to replace all references to the term "residential aged care facility" with "residential care home", to align with terminology in the *Aged Care Act 2024*.

Items 39 and 40 amend clause 7.1 to repeal the definition of ***residential aged care facility*** (**item 39**) and insert a definition of ***residential care home*** (**item 40**), to align with terminology in the *Aged Care Act 2024*.

Item 41 amends listed provisions as set out in the table for all items in the GMST which reference "residential aged care facility"' by repealing and substituting this term with "residential care home" and repealing and substituting subsequent references to "in the facility" with "in the residential care home". These are solely administrative amendments to align with terminology in the *Aged Care Act 2024*.

Health Insurance (Pathology Services Table) Regulations 2020

Items 42 and 43 amend the descriptors for items 73932, 73933, 73934 and 73935 to replace references to the term "residential aged care facility" with the term "residential care home", which are administrative amendments to align with terminology in the *Aged Care Act 2024*. Specifically, **item 42** repeals the term "residential aged care facility" in paragraph (b) of the descriptors for items 73932 and 73933 and substitutes with the term "residential care home"; and **item 43** repeals the term "residential aged care facility" in paragraph (a) of the descriptors for items 73934 and 73935 and substitutes with the term "residential care home".

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Item 44 repeals and substitutes paragraphs (k) and (l) in the definition of ***care institution*** in clause 4.1 to replace references to "residential aged care facility" with "residential care home", which are administrative amendments to align with terminology in the *Aged Care Act 2024*.

Items 45 and 46 amend clause 4.1 to repeal the definition of ***residential aged care facility*** (**item 45**) and insert a definition of ***residential care home*** (**item 46**), to align with terminology in the *Aged Care Act 2024*.

Part 5—Other amendments

Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020

Item 46A inserts item 61438 to subclause 1.2.18(3) to enable a bulk billing incentive to be payable for this item, thereby maximising the Medicare benefit payable to patients accessing nuclear medicine imaging services under this item.

Item 47 amends the descriptor for item 61564 by changing the frequency restriction for the service from "twice per lifetime" to "once in any 12 month period" for prostate-specific membrane antigen positron emission tomography studies for the restaging of recurrent prostate adenocarcinoma. This amendment will improve patient access to clinically necessary repeat imaging, ensuring timely and appropriate care for patients with recurrent or progressive disease.

Health Insurance (General Medical Services Table) Regulations 2021

Item 48 amends the list of items in subclause 1.2.11(1) of services which may be provided by persons other than medical practitioners. Specifically, it inserts reference to item 14245, which will enable a qualified health practitioner to provide a service described under item 14245 (that is, to administer an immunomodulating agent by intravenous infusion lasting at least two hours) on behalf of the prescribing medical practitioner, and makes an administrative amendment to insert reference to item 15990 to align with the original policy intent that this item can also be administered by persons other than medical practitioners. Additionally, it makes an administrative amendment to remove reference to item 41764, ensuring alignment with the intention of clause 5.10.19AB that item 41764 can only be provided by a medical practitioner or by a speech pathologist on behalf of an otolaryngology head and neck surgeon,

Item 49 amends the descriptor for item 10997 to correct a typographical error by repealing the reference to item "92301" and substituting with "93201".

Items 50 and 51 make amendments to enable participating nurse practitioners to refer patients for bone mineral densitometry services described under items 12306 and 12322. Specifically, **item 50** inserts the words "or referred by a participating nurse practitioner" at the end of subclause 4.1.4(2) which describes who can refer a patient for items 12306 to 12322; and **item 51** inserts the words "or a participating nurse practitioner" at the end of paragraph 4.1.4(3)(d) which describes other circumstances in which items 12306 to 12322 apply to a service.

Item 52 repeals and substitutes paragraph (a) in the descriptor for item 11607 to expand ambulatory blood pressure monitoring to include child and adolescent blood pressure measurements and thresholds.

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Items 53 and 54 make amendments in relation to the operation of item 14245 for administration of an immunomodulating agent supplied under the pharmaceutical benefits scheme. Specifically, **item 53** repeals clause 5.2.8 pertaining to practitioner and timing restrictions for item 14245, as the restriction in subclause 5.2.8(1) is no longer relevant to the item and the restriction in subclause 5.2.8(2) that the service is applicable once per day is included in the amended descriptor to item 14245 (**item 54**). **Item 54** also makes amendments to more accurately reflect the operation of item 14245.

Items 55 amends the descriptor for item 18360 to provide treating clinicians access to a third pharmaceutical option (Xeomin) to treat patients with moderate to severe focal spasticity associated with a previously diagnosed neurological disorder.

Items 56 and 57 make administrative amendments to the descriptors for items 45515 and 45518 by repealing the reference to "non-rebatable procedure" in paragraphs (c) and substituting with "procedure which does not attract a medicare benefit" to align with preferred MBS terminology.

Item 58 amends the descriptor for item 45518 by repealing the "(H)" flag to enable surgical services provided under this item to be performed outside of a hospital setting.

Health Insurance (Pathology Services Table) Regulations 2020

Item 59 amends the descriptor for item 71099 by repealing the reference to "other than the Crithidia method" to allow the use of the Crithidia method as a choice of testing for double-stranded DNA antibody assessment under this item.

Items 60 to 62 amend the descriptors for items 73358, 73359 and 73360 by repealing the words ", following consultation with a clinical geneticist" in subparagraphs (a)(ii). These amendments remove the mandatory requirement for specialist paediatricians to consult a clinical geneticist before requesting genetic testing for childhood syndromes under these items.

Health Insurance Regulations 2018

Item 63 repeals and substitutes subsection 52(1), making administrative amendments to give effect to the policy intention that all items currently in Group T2 (Radiation Oncology) and Group T3 (Therapeutic Nuclear Medicine) of the GMST are subject to section 52 (which sets out prescribed particulars of a person rendering a service and a person claiming or receiving fees).

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Statement of Compatibility with Human Rights

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

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These Regulations are 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 Disallowable Legislative Instrument

The purpose of the *Health Insurance Legislation Amendment (2026 Measures No. 3) Regulations 2026* (the Regulations) is to amend from 1 November 2026 the *Health Insurance (Diagnostic Imaging Services Table) Regulations (No. 2) 2020* (DIST Regulations), the *Health Insurance (General Medical Services Table) Regulations 2021* (GMST Regulations), the *Health Insurance (Pathology Services Table) Regulations 2020* (PST Regulations) and the *Health Insurance Regulations 2018* (HIR).

The Regulations will implement changes to introduce and amend Medicare Benefits Schedule (MBS) services as agreed to in the 2026-27 Budget and through the Minister's delegation to approve certain Medical Services Advisory Committee recommendations outside a budget process; as well as implement administrative and consequential changes to align with the *Aged Care Act 2024* and 2023 Modified Monash location categories. Further details on the changes can be found below and at the Attachment.

The Regulations will:

- implement the new Medicare Healthy Kids Check for 3-year-olds to support early identification of health and developmental concerns and referrals for further assessment or support;
- make consequential amendments to reflect the introduction of four new chronic condition management telehealth phone items 92033, 92034, 92063 and 92064 and enable the benefit for these items to be claimed at 100% of their schedule fees;
- align definitions with the 2023 Modified Monash Model;
- replace all references to the term "residential aged care facility" with "residential care home" to align with terminology in the *Aged Care Act 2024;*
- enable the maximum benefit payable for item 61438 for patients accessing this nuclear medicine imaging service;
- amend item 61564 to apply once in a 12-month period;
- enable participating nurse practitioners to refer patients for bone mineral densitometry services described in items 12306 to 12322;
- expand ambulatory blood pressure monitoring item 11607 to include child and adolescent blood pressure measurements and thresholds;
- enable immunomodulating treatment item 14245 to be provided by a qualified health practitioner on behalf of the prescribing medical practitioner;
- amend item 18360 to include Xeomin treatment;
- amend item 45518 to enable the service to be performed outside of a hospital setting;
- remove the requirement for specialist paediatricians to consult a clinical geneticist before requesting genetic testing for childhood syndromes under items 73358, 73359 and 73360;

- enable the use of the Crithidia method as a choice of testing for double-stranded DNA antibody assessment under item 71099; and
- make other administrative amendments to correct a typographical error in item 10997; modernise language in items 45515 and 45518; amend section 52 of the HIR to include reference to additional items in line with policy intention; and amend clause 1.2.11 of the GMST to include item 15990 and remove item 41764.

Human rights implications

The Regulations engage Articles 3, 9 and 12 of the International Covenant on Economic Social and Cultural Rights (ICESCR) and Articles 2, 16 and 26 the International Covenant on Civil and Political Rights (ICCPR), specifically the rights to health and social security as well as equality and non-discrimination.

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 right of equality and non-discrimination is contained in Article 3 of ICESCR and Articles 2, 16 and 26 of ICCPR.

Article 3 of ICESCR requires the equal right of men and women to the enjoyment of all economic, social and cultural rights in the ICESCR.

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Article 2 of ICCPR requires all individuals within its territory and subject to its jurisdiction to have their rights recognised without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 16 of ICCPR requires everyone to have the right to recognition everywhere as a person before the law. Meanwhile, 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

The Regulations maintain the rights to health, social security as well as equality and non-discrimination by ensuring access to publicly subsidised medical services that are clinically relevant and cost-effective consistent with a universal health insurance program. The Regulations also advance these rights by introducing new services which will be available as publicly subsidised medical services.

Conclusion

This instrument is compatible with human rights because it maintains and advances arrangements for publicly subsidised medical services.

Mark Butler

Minister for Health and Ageing