



# Human Services (Medicare) Regulations 2017

made under the

*Human Services (Medicare) Act 1973*

## Compilation No. 2

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## About this compilation

### This compilation

This is a compilation of the *Human Services (Medicare) Regulations 2017* that shows the text of the law as amended and in force on 21 April 2018 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1 Name

This instrument is the *Human Services (Medicare) Regulations 2017*.

### 3 Authority

This instrument is made under the *Human Services (Medicare) Act 1973*.

### 5 Definitions

(1) In this instrument:

*Act* means the *Human Services (Medicare) Act 1973*.

*Aged Care Act* means the *Aged Care Act 1997*.

*Aged Care Department* means the Department administered by the Aged Care Minister.

*Aged Care Minister* means the Minister administering the Aged Care Act.

*Aged Care Secretary* means the Secretary of the Aged Care Department.

*Aged Care Transitional Act* means the *Aged Care (Transitional Provisions) Act 1997*.

*approved supplier* has the meaning given by subsection 84(1) of the National Health Act.

*client* means a person who received a hearing service for which a claim has been made.

*contracted service provider* has the meaning given by section 4 of the *Hearing Services Administration Act 1997*.

*de-identified* has the meaning given by subsection 6(1) of the *Privacy Act 1988*.

*disclosure function* has the meaning given by subsection 24(5).

*education and prevention functions* has the meaning given by subsection 24(3).

*emergency* means an emergency or disaster that occurs in Australia, or that affects one or more Australian citizens or permanent residents, and includes:

- (a) an emergency or disaster that has been the subject of a declaration under section 80J or 80K of the *Privacy Act 1988*; and
- (b) any circumstance in relation to which the Australian Government has decided that a program of special assistance involving the provision of a service, benefit, program or facility is to be implemented.

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Note: Examples of an emergency include the following:

- (a) a natural disaster;
- (b) a terrorist act.

***evaluation and reporting functions*** has the meaning given by subsection 24(7).

***healthcare providers*** includes any of the following:

- (a) medical practitioners;
- (b) prescribers;
- (c) pharmacists;
- (d) approved suppliers;
- (e) dentists;
- (f) State and Territory health departments;
- (g) State and Territory mental health authorities;
- (h) private and public pain management clinics;
- (i) private and public alcohol or drug detoxification centres;
- (j) private and public hospitals.

***Health Department*** means the Department administered by the Minister administering the National Health Act.

***Health Insurance Act*** means the *Health Insurance Act 1973*.

***hearing services*** has the meaning given by section 4 of the *Hearing Services Administration Act 1997*.

***identification and detection functions*** has the meaning given by subsection 24(4).

***inappropriate practice*** has the meaning given by section 81 of the Health Insurance Act.

***lifetime health cover*** has the same meaning as in the Private Health Insurance Act.

***National Health Act*** means the *National Health Act 1953*.

***nominated prescriber***, in relation to a prescription shopper, means a prescriber nominated by the prescription shopper from time to time to be that person's main prescriber.

***PBS information*** means information collected for the administration of the Pharmaceutical Benefits Scheme established under Part VII of the National Health Act.

***person affected by an emergency*** has a meaning affected by section 6.

***personal information*** has the meaning given by subsection 6(1) of the *Privacy Act 1988*.

***Pharmaceutical Benefits Regulations*** means the *National Health (Pharmaceutical Benefits) Regulations 2017*.

**prescriber** means a person who is authorised to prescribe a pharmaceutical benefit or who purports to be authorised to prescribe a pharmaceutical benefit.

**prescription shopper** means a person who, within any 3 month period, has had supplied to him or her:

- (a) pharmaceutical benefits prescribed by 6 or more different prescribers (other than a prescriber who is a specialist within the meaning of subsection 3(1) of the Health Insurance Act and who has prescribed pharmaceutical benefits to a person in that capacity); or
- (b) a total of 25 or more target pharmaceutical benefits; or
- (c) a total of 50 or more pharmaceutical benefits.

**Prescription Shopping Program** means the program administered by the Department and the Health Department to reduce prescription shopping.

**Private Health Insurance Act** means the *Private Health Insurance Act 2007*.

**reappraisal period** is the period under section 27-2 of the Aged Care Act in which a reappraisal of the classification of the level of care needed by an aged care recipient must be made.

**recoverable amount** has the meaning given by subsections 95-1(1) and 95-1(3) of the Aged Care Act.

**State or Territory body** means:

- (a) a State or Territory Minister; or
- (b) a Department of State of a State or Territory; or
- (c) a body (whether incorporated or not) established for a public purpose under a law of a State or Territory.

**target pharmaceutical benefits** means pharmaceutical benefits in any of the following categories of the Anatomical Therapeutic Chemical classification system:

- (a) N02 (Analgesics);
- (b) N03 (Antiepileptics);
- (c) N04 (Anti-Parkinson Drugs);
- (d) N05 (Psycholeptics);
- (e) N06 (Psychoanaleptics);
- (f) N07 (Other central nervous system drugs);
- (g) R03 (Drugs for obstructive airway diseases);
- (h) C10A (Serum lipid reducing agents);
- (i) A02B (Drugs for peptic ulcer and gastro-oesophageal reflux diseases);
- (j) J01 (Antibacterials for systemic use);
- (k) M01 (Anti-inflammatory and antirheumatic products);
- (l) A10A (Insulin and analogues);
- (m) C02 (Antihypertensives).

Note: The Anatomical Therapeutic Chemical classification system is published by the World Health Organisation's Collaborating Centre for Drug Statistics Methodology.

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***voucher*** has the meaning given by section 4 of the *Hearing Services Administration Act 1997*.

- (2) An expression (other than ***recoverable amount***) used in Part 2 of this instrument and in the Aged Care Act has the same meaning in that Part as it has in that Act.

Note: The following expressions are defined in clause 1 of Schedule 1 to the Aged Care Act:

- (a) aged care service;
- (b) approved provider;
- (c) flexible care subsidy;
- (d) home care;
- (e) home care service;
- (f) protected information;
- (g) residential care service.

### 6 Person affected by an emergency

In this instrument, a reference to a ***person affected by an emergency*** includes any of the following:

- (a) a person who is directly or indirectly affected by the emergency;
- (b) an individual who has a family member who is directly or indirectly affected by the emergency;
- (c) an unincorporated organisation that is directly or indirectly affected by an emergency.



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## **Part 2—Prescribed functions relating to aged care**

### **7 Prescribed functions relating to aged care**

This Part prescribes functions of the Chief Executive Medicare relating to aged care for the purposes of paragraph 5(1)(e) of the Act.

### **8 Requesting information relating to payments**

- (1) The function of the Aged Care Secretary under section 9-3 (obligation to give information relevant to payments) of the Aged Care Act is a prescribed function of the Chief Executive Medicare.
- (2) To avoid doubt, in performing the prescribed function, the Chief Executive Medicare may request an approved provider to give specified information to the Chief Executive Medicare.

### **9 Classification etc. of care recipients**

- (1) The functions of the Aged Care Secretary under the following provisions of the Aged Care Act are prescribed functions of the Chief Executive Medicare:
  - (a) section 25-1 (classification of care recipients);
  - (b) section 26-2 (appraisals not received within the appropriate period—care other than respite care).
- (2) To avoid doubt, for the purposes of performing the prescribed functions, the Chief Executive Medicare may receive an appraisal in accordance with section 25-3, and for the purposes of sections 26-1 and 26-2, of the Aged Care Act.

### **10 Renewal and change of classifications**

The functions of the Aged Care Secretary under the following provisions of the Aged Care Act are prescribed functions of the Chief Executive Medicare:

- (a) section 27-6 (renewal of classification);
- (b) section 27-8 (reappraisal received after reappraisal period);
- (c) section 29-1 (changing classifications).

### **11 Payment of subsidies**

- (1) Subject to subsection (4), the functions of the Aged Care Secretary under the following provisions are prescribed functions of the Chief Executive Medicare:
  - (a) Parts 3.1 (residential care subsidies), 3.2 (home care subsidies) and 3.3 (flexible care subsidies) of the Aged Care Act;
  - (b) Parts 3.1 (residential care subsidies), 3.2 (home care subsidies) and 3.3 (flexible care subsidies) of the Aged Care Transitional Act.

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- (2) Subject to subsection (4), the Chief Executive Medicare also has the prescribed function, on behalf of the Commonwealth, to make payments of subsidies, and do anything necessary for the purpose of making such payments, in accordance with any of the provisions mentioned in paragraphs (1)(a) and (b).
- (3) The Chief Executive Medicare also has the following prescribed functions:
  - (a) to make a record of information obtained in performing a prescribed function referred to in subsection (1) or (2);
  - (b) to disclose that information to the Aged Care Minister, Aged Care Secretary or an officer of the Aged Care Department for use by that person in the exercise of powers under the Aged Care Act or the Aged Care Transitional Act.
- (4) It is not a prescribed function of the Chief Executive Medicare under subsection (1) or (2) to do any of the following:
  - (a) to approve a form that the Aged Care Secretary is required to or permitted to approve under:
    - (i) Part 3.1 (residential care subsidies) or 3.2 (home care subsidies) of the Aged Care Act; or
    - (ii) Part 3.1 (residential care subsidies) or 3.2 (home care subsidies) of the Aged Care Transitional Act;
  - (b) to make a determination under section 42-5 of the Aged Care Act;
  - (c) to revoke a determination under section 42-6 of the Aged Care Act;
  - (d) to make a determination under:
    - (i) subsection 44-20(5) or (6) of the Aged Care Act; or
    - (ii) subsection 44-20(5) or (6) of the Aged Care Transitional Act;
  - (e) under section 44-20A of the Aged Care Act:
    - (i) to require a person to give information or produce a document; or
    - (ii) to make a determination;
  - (f) to perform a function or exercise a power of the Aged Care Minister in relation to the determination or payment of a subsidy under any of the provisions mentioned in subsection (1);
  - (g) to enter into an agreement in relation to the payment of flexible care subsidy, in accordance with Part 2 of Chapter 4 of the *Subsidy Principles 2014*.

## 12 Financial hardship

- (1) Subject to subsection (2), the functions of the Aged Care Secretary under the following provisions are prescribed functions of the Chief Executive Medicare:
    - (a) Division 52K (financial hardship) of the Aged Care Act;
    - (b) section 57-14 (accommodation bond in cases of financial hardship) of the Aged Care Transitional Act;
    - (c) section 57-15 (revocation of determinations of financial hardship) of the Aged Care Transitional Act;
    - (d) section 57A-9 (accommodation charge in cases of financial hardship) of the Aged Care Transitional Act;
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- (e) section 57A-10 (revocation of determinations of financial hardship) of the Aged Care Transitional Act.
- (2) It is not a prescribed function of the Chief Executive Medicare under subsection (1) to approve a form that the Aged Care Secretary is required or permitted to approve under a provision mentioned in paragraphs (1)(a), (b) and (d).

### **13 Receiving notifications of start and end of care**

A prescribed function of the Chief Executive Medicare is to receive a notification that is required to be given to the Aged Care Secretary in accordance with the following provisions:

- (a) subsection 63-1B(2) (responsibility relating to recording entry of new residents) of the Aged Care Act;
- (b) Division 2 of Part 3 (information about home care services) of the *Accountability Principles 2014*;
- (c) subsection 21G(3) (requirement to provide notice) of the *User Rights Principles 2014*.

### **14 Reconsideration and review of decisions**

- (1) The functions of the Aged Care Secretary under the following provisions are prescribed functions of the Chief Executive Medicare:
  - (a) Part 6.1 (reconsideration and review of decisions) of the Aged Care Act, but only in relation to the following reviewable decisions mentioned in the table in section 85-1 of that Act:
    - (i) items 28 to 31;
    - (ii) items 39AA and 39AB;
    - (iii) items 45 to 49B;
    - (iv) items 53 to 53D;
    - (v) items 53F to 53H;
  - (b) Part 6.1 (reconsideration and review of decisions) of the Aged Care Transitional Act, but only in relation to the following reviewable decisions mentioned in the table in section 85-1 of that Act:
    - (i) items 39AA to 41;
    - (ii) items 44 to 46;
    - (iii) items 48 to 53C.
- (2) The Chief Executive Medicare also has the prescribed function of bringing or defending any legal proceeding relating to the functions mentioned paragraph (a) or (b).

### **15 Disclosure of certain information**

The functions of the Aged Care Secretary under the following provisions of the Aged Care Act are prescribed functions of the Chief Executive Medicare:

- (a) section 86-3 (disclosure of protected information for other purposes);

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- (b) section 86-9 (information about aged care service).

### 16 Appointment of authorised officers etc.

- (1) It is a prescribed function of the Chief Executive Medicare:
- (a) to appoint, in accordance with the definition of *authorised officer* in section 90-3 of the Aged Care Act, an officer of the Health Department to be an authorised officer for the purposes of a matter referred to in paragraph 93-1(2)(b) of that Act; and
  - (b) to cause an identity card to be issued to such an approved officer in accordance with section 94-1 of that Act; and
  - (c) to ensure that the identity card specifies that the person to whom the card is issued is appointed as an authorised officer for the purposes of a matter referred to in paragraph 93-1(2)(b) of that Act.
- (2) The functions of the Aged Care Secretary under section 93-1 (power to obtain information and documents) of the Aged Care Act is a prescribed function of the Chief Executive Medicare, but only in relation to a matter referred to in paragraph 93-1(2)(b) of that Act

### 17 Investigation and recovery of recoverable amounts

The Chief Executive Medicare has the following prescribed functions:

- (a) to investigate whether the Commonwealth has paid to a person, by way of subsidy under Chapter 3 of the Aged Care Act or Chapter 3 of the Aged Care Transitional Act, an amount that is a recoverable amount;
- (b) on behalf of the Commonwealth, to take action to recover a recoverable amount (or part of it):
  - (i) in accordance with section 95-2 of the Aged Care Act; or
  - (ii) by any other means.

### 18 Recoverable amounts and refunds

It is a prescribed function of the Chief Executive Medicare to make decisions for the purposes of any of the following provisions:

- (a) section 95-3 (recovery by deductions from amounts payable to debtor) of the Aged Care Act;
- (b) section 95-4 (recovery where there is a transfer of places) of the Aged Care Act;
- (c) section 95-5 (refund to transferee if Commonwealth makes double recovery) of the Aged Care Act.

### 19 Write-off and waiver of debt

The function of the Aged Care Secretary under section 95-6 (write-off and waiver of debt) of the Aged Care Act is a prescribed function of the Chief Executive Medicare, but only in relation to a debt or class of debts arising, or an amount of a debt payable, under:

- (a) Chapter 3 (subsidies) of that Act; or
- (b) Chapter 3 (subsidies) of the Aged Care Transitional Act.

**20 Withdrawal of applications**

- (1) The functions of the Aged Care Secretary under the following provisions are prescribed functions of the Chief Executive Medicare:
  - (a) paragraph 96-7(2)(b) of the Aged Care Act;
  - (b) paragraph 96-7(2)(b) of the Aged Care Transitional Act.
- (2) To avoid doubt, in performing the prescribed functions under subsection (1), the Chief Executive Medicare may receive and consider requests from applicants to extend the period for giving further information.

**21 Functions to be performed in accordance with Principles under the Aged Care Act and the Aged Care Transitional Act**

- (1) This section applies if:
  - (a) under this Part, a function of the Aged Care Secretary is a prescribed function of the Chief Executive Medicare; and
  - (b) the performance of that function by the Aged Care Secretary requires or permits the Aged Care Secretary to act under, or in accordance with, a provision of any Principles made under section 96-1 of the Aged Care Act or section 96-1 of the Aged Care Transitional Act.
- (2) The Chief Executive Medicare must perform the prescribed function in accordance with the relevant provision of the Principles.
- (3) This section is for the avoidance of doubt.

## Part 3—Other prescribed functions

### 22 Other prescribed functions

This Part prescribes functions of the Chief Executive Medicare for the purposes of paragraph 5(1)(e) of the Act.

### 23 Delegated functions

- (1) A prescribed function of the Chief Executive Medicare is to perform functions delegated to the Chief Executive Medicare under:
  - (a) a law of the Commonwealth; or
  - (b) a law of a State or Territory.
- (2) Paragraph (1)(b) applies only if the Chief Executive Medicare is permitted by sections 8AD and 8AE of the Act to perform the function.

### 24 Prescription shoppers

- (1) The following are prescribed functions of the Chief Executive Medicare:
    - (a) to detect persons who are prescription shoppers;
    - (b) to take appropriate preventative measures in relation to persons who are prescription shoppers;
    - (c) the education and prevention functions;
    - (d) the identification and detection functions;
    - (e) the disclosure function;
    - (f) the evaluation and reporting functions.
  - (2) The Chief Executive Medicare may use PBS information (including personal information) for the performance of the functions mentioned in subsection (1).
  - (3) The *education and prevention functions* are as follows:
    - (a) to promote awareness of the Prescription Shopping Program to healthcare providers, prescription shoppers and the general public;
    - (b) to promote measures to assist healthcare providers to manage prescription shoppers or people who may be at risk of becoming prescription shoppers;
    - (c) to educate healthcare providers and prescription shoppers about the law and requirements relating to the Prescription Shopping Program;
    - (d) to encourage prescription shoppers to have a nominated prescriber;
    - (e) to encourage prescribers to become nominated prescribers;
    - (f) to encourage communication between prescribers, approved suppliers and pharmacists;
    - (g) to discourage inefficient and improper use of pharmaceutical benefits.
  - (4) The *identification and detection functions* are as follows:
    - (a) to identify the following:
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- (i) prescription shoppers;
  - (ii) prescribers who prescribe pharmaceutical benefits to prescription shoppers;
  - (iii) approved suppliers supplying pharmaceutical benefits to prescription shoppers;
- (b) to establish and maintain databases containing information about prescription shoppers;
  - (c) to detect and identify prescription shoppers who may be improperly using, stockpiling, swapping, diverting or illegally dealing with pharmaceutical benefits.
- (5) The **disclosure function** is to disclose PBS information about whether a person is or is not a prescription shopper, or about a person who is a prescription shopper, to the following:
- (a) the person;
  - (b) a prescriber, in order to assist the prescriber to make decisions about prescribing to the person if the person visits the prescriber or is a patient of that prescriber;
  - (c) an approved supplier who is proposing to supply, or has supplied, pharmaceutical benefits to the person, in order to assist the approved supplier (or a pharmacist employed by the approved supplier) to make decisions about supplying pharmaceutical benefits to that person.
- (6) The Chief Executive Medicare may perform the disclosure function for the following purposes:
- (a) administering and enforcing the Chief Executive Medicare's functions under the following:
    - (i) the National Health Act;
    - (ii) this section;
  - (b) protecting public revenue;
  - (c) discouraging inefficient and improper use of pharmaceutical benefits.
- (7) The **evaluation and reporting functions** are to use PBS information and information collected by the Chief Executive Medicare under the National Health Act to:
- (a) evaluate the Prescription Shopping Program; and
  - (b) report (using de-identified PBS information) to the Health Department and other bodies on the administration and outcomes of the Program.

## 25 Provision of emergency services

- (1) The following are prescribed functions of the Chief Executive Medicare:
- (a) to provide a service, benefit, program or facility to a person affected by an emergency (an **emergency service**);
  - (b) to participate in disaster policy and planning activities, including activities undertaken by disaster policy and planning committees.

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- (2) Without limiting subsection (1), the Chief Executive Medicare may perform the functions mentioned in that subsection for, or under an arrangement with, a State or Territory body.
- (3) The function mentioned in paragraph (1)(a) in relation to an emergency includes the following:
  - (a) establishing and maintaining a register of persons affected by the emergency;
  - (b) receiving, processing, investigating, deciding and paying claims for assistance;
  - (c) operating a telephone enquiry line;
  - (d) operating an online enquiry service;
  - (e) providing call centre assistance;
  - (f) providing online assistance;
  - (g) making arrangements for health assessments and other assistance in relation to health care;
  - (h) referring a person to another organisation if the person requires assistance provided by that organisation;
  - (i) working with, and providing information to, other government and non-government bodies in relation to the provision of assistance;
  - (j) providing information to a State or Territory body about a person affected by the emergency that will assist the State or Territory body to provide a payment, benefit or other assistance to the person;
  - (k) undertaking action (including starting legal proceedings) to recover payments that should not have been made;
  - (l) disclosing statistical information (including de-identified information from the register mentioned in paragraph (a)) about assistance provided;
  - (m) undertaking compliance, audit, review, investigation, enforcement and recovery services ancillary to the emergency service.
- (4) Use or disclosure of personal information under this regulation is authorised for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6 set out in Schedule 1 to the *Privacy Act 1988*.
- (5) If the Chief Executive Medicare provides an emergency service to a person, or the person makes a request for an emergency service, the Chief Executive Medicare may:
  - (a) collect information about the person or the person's family, including personal information; and
  - (b) maintain records about the emergency service or the request.



**26 Lifetime health cover**

- (1) A prescribed function of the Chief Executive Medicare is to assist the Health Department with communications to members of the public about lifetime health cover, including:
  - (a) identifying persons who have become subject to, or will soon become subject to, the operation of lifetime health cover; and
  - (b) providing persons identified under paragraph (a) with information about lifetime health cover received by the Chief Executive Medicare from the Health Department; and
  - (c) providing information and reports on matters relating to lifetime health cover to the Health Department.
- (2) In performing the function under subsection (1), the Chief Executive Medicare may use personal information collected for the performance of the Chief Executive Medicare's medicare functions.

**27 Inappropriate practices**

- (1) The following are prescribed functions of the Chief Executive Medicare:
  - (a) to devise and implement measures to:
    - (i) prevent practitioners and other persons from engaging in inappropriate practice; and
    - (ii) detect cases where practitioners or other persons have engaged in inappropriate practice in relation to rendering or initiating services; and
    - (iii) prevent or detect activities relating to claims for medicare benefits, or receipt of medicare benefits, that may constitute an offence under the Health Insurance Act, the *Crimes Act 1914* or the *Criminal Code*;
  - (b) if there are reasonable grounds to suspect that a person has engaged in inappropriate practice—to investigate the conduct of the person to decide whether to make a request under subsection 86(1) of the Health Insurance Act for the provision of services by the person to be reviewed;
  - (c) to investigate cases where there are reasonable grounds to suspect that:
    - (i) an act in relation to a claim for medicare benefits, or receipt of medicare benefits, may constitute an offence under the Health Insurance Act, the *Crimes Act 1914* or the *Criminal Code*; or
    - (ii) a person may have committed an offence against section 23DP, 106D or 106EA, or subsection 19D(2), 19D(7), 106E(1) or 106E(2), of the Health Insurance Act;
  - (d) if an investigation under paragraph (c) discloses enough evidence for a prosecution—to refer the case and the evidence to the Australian Federal Police or the Director of Public Prosecutions;
  - (e) to take action (including starting legal proceedings) to recover from a person an amount of medicare benefit that is recoverable by the Commonwealth, including under the Health Insurance Act.
- (2) In this section:

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*practitioner* has the meaning given by section 81 of the Health Insurance Act.

*service* has the meaning given by section 81 of the Health Insurance Act.

### 28 Provision of pharmaceutical benefits

- (1) The following are prescribed functions of the Chief Executive Medicare:
  - (a) to process claims for payment relating to the provision of pharmaceutical benefits under Part VII of the National Health Act, and to make payments of those claims;
  - (b) to devise and implement measures to prevent or detect contraventions of Part VII of the National Health Act or the Pharmaceutical Benefits Regulations;
  - (c) to investigate cases where there are reasonable grounds to suspect that an act in relation to the provision of a pharmaceutical benefit may constitute an offence under the National Health Act, the Pharmaceutical Benefits Regulations, the *Crimes Act 1914* or the *Criminal Code*;
  - (d) if an investigation under paragraph (c) discloses enough evidence for a prosecution—to refer the case and the evidence to the Australian Federal Police or the Director of Public Prosecutions;
  - (e) to undertake action (including starting legal proceedings) to recover from a person an amount relating to a pharmaceutical benefit that is recoverable by the Commonwealth, including under the National Health Act or the Pharmaceutical Benefits Regulations.
- (2) The following functions of the Repatriation Commission under the *Veterans' Entitlements Act 1986* and the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* are prescribed functions of the Chief Executive Medicare:
  - (a) processing claims for payment relating to the provision of pharmaceutical benefits under those Acts;
  - (b) making payments of those claims.
- (3) The following functions of the Military Rehabilitation and Compensation Commission under the *Military Rehabilitation and Compensation Act 2004* are prescribed functions of the Chief Executive Medicare:
  - (a) processing claims for payment relating to the provision of pharmaceutical benefits under that Act;
  - (b) making payments of those claims.
- (4) The following functions of the Military Rehabilitation and Compensation Commission under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* are prescribed functions of the Chief Executive Medicare:
  - (a) processing claims for payment relating to the provision of pharmaceutical benefits under that Act;
  - (b) making payments of those claims.

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**29 Hearing services**

- (1) If a declaration under section 21 of the *Hearing Services Administration Act 1997* is in force specifying that the Chief Executive Medicare is the claims acceptance body for the purposes of that section, then it is a prescribed function of the Chief Executive Medicare to act as the claims acceptance body for the purposes of that section.
- (2) If a declaration under section 21 of the *Hearing Services Administration Act 1997* is in force specifying that the Chief Executive Medicare is the claims payment body for the purposes of that section, then it is a prescribed function of the Chief Executive Medicare to act as the claims payment body for the purposes of that section.
- (3) The Chief Executive Medicare's functions prescribed by subsections (1) and (2) include:
  - (a) on behalf of the Commonwealth, recovering a service provider debt under section 24 of the *Hearing Services Administration Act 1997* if:
    - (i) the debt is apparent from the records of the Chief Executive Medicare;  
or
    - (ii) the Health Department notifies the Chief Executive Medicare of the debt; and
  - (b) disclosing the following information to the Health Department about a claim accepted, paid or rejected by the Chief Executive Medicare:
    - (i) client number;
    - (ii) voucher number;
    - (iii) date on which the claim was submitted;
    - (iv) date on which the claim was accepted, paid or rejected;
    - (v) date of the service to which the claim relates;
    - (vi) provider number;
    - (vii) practitioner number;
    - (viii) site identification;
    - (ix) item number;
    - (x) hearing loss details for right and left ears;
    - (xi) details of the device fitted to the client, whether fitted to the left or right ear, and fitting configuration;
    - (xii) date on which the device was fitted;
    - (xiii) details of top-up devices;
    - (xiv) contracted service provider's certification details;
    - (xv) client certification details;
    - (xvi) cost to the client;
    - (xvii) payment details;
    - (xviii) if the claim is rejected—a code showing the reason the claim or an element of the claim was rejected;
    - (xix) any other details about the processing of the claim.

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### 30 Military compensation

The following functions of the Military Rehabilitation and Compensation Commission are prescribed functions of the Chief Executive Medicare:

- (a) processing claims for compensation under Chapter 6 of the *Military Rehabilitation and Compensation Act 2004* or section 16 of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*;
- (b) making payments for those claims.

### 31 Claims for treatment provided under certain legislation

(1) The following functions of the Repatriation Commission and the Military Rehabilitation and Compensation Commission are prescribed functions of the Chief Executive Medicare:

- (a) processing claims for payment in relation to:
  - (i) the provision of medical treatment under Division 2 of Part IV of the *Seamen's War Pensions and Allowances Regulations*, as in force on 30 June 1994; and
  - (ii) the provision of treatment under the Acts specified in subsection (2);
- (b) making payments for those claims.

(2) For the purposes of subparagraph (1)(a)(ii), the following Acts are specified:

- (a) the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*;
- (b) the *Military Rehabilitation and Compensation Act 2004*;
- (c) the *Safety, Rehabilitation and Compensation Act 1988*;
- (ca) the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*;
- (d) the *Veterans' Entitlements Act 1986*.

### 32 Registration of sonographers

A prescribed function of the Chief Executive Medicare is to establish and maintain a register of sonographers.

### 33 Mental health care by medical practitioners

A prescribed function of the Chief Executive Medicare is to establish and maintain a register of medical practitioners who may provide focused psychological strategies under the initiative known as the Better Access to Psychiatrists, Psychologists and General Practitioners through the Medicare Benefits Schedule (Better Access) Initiative administered by the Health Department.

### 34 National Bowel Cancer Screening Register

(1) The following are prescribed functions of the Chief Executive Medicare:

- (a) to establish, maintain and administer a register of:

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- (i) bowel cancer screening test results; and
  - (ii) the screening and detection history of people specified in subsection (2); and
  - (iii) other relevant information in relation to such people;
  - (b) to invite people to undergo bowel cancer screening at appropriate intervals;
  - (c) to supply faecal occult blood test kits to people;
  - (d) to provide personal information about a person's bowel cancer screening and detection history to a medical practitioner to assist the medical practitioner in advising the person about options for the person's clinical management;
  - (e) to provide personal information about a person to the Department administered by the Minister administering the *Health Insurance Act 1973* to assist in investigating complaints and other matters raised by, or concerning, the person;
  - (f) to provide personal information to the Australian Institute of Health and Welfare to assist in:
    - (i) assessing the accuracy of screening tests; and
    - (ii) monitoring and evaluating the effectiveness of the National Bowel Cancer Screening Register;
  - (g) to provide personal information to State and Territory Departments and authorities with responsibility for health matters, to assist in arranging follow-up of people who have had positive screening test results;
  - (h) to provide de-identified information to:
    - (i) the Department administered by the Minister administering the *Health Insurance Act 1973*; and
    - (ii) the Australian Institute of Health and Welfare;
 to assist in monitoring and evaluating the effectiveness of the National Bowel Cancer Screening Register;
  - (i) to make payments on behalf of the Commonwealth to medical practitioners, or other persons authorised by medical practitioners to receive the payments, for the transfer of information.
- (2) For the purposes of subparagraph (1)(a)(ii), the following are specified:
- (a) people undergoing bowel cancer screening;
  - (b) people whom the Chief Executive Medicare invites to undergo bowel cancer screening;
  - (c) people whom the Chief Executive Medicare:
    - (i) considers inviting to undergo bowel cancer screening; but
    - (ii) decides not to invite to undergo the screening.
- (3) The following information may be used for the purposes of performing the functions mentioned in subsection (1):
- (a) information acquired by a person in the performance of the person's duties, or in the exercise of the person's powers or functions, under the *Health Insurance Act 1973*;
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- (b) information acquired by a person in the performance of the person's duties, or in the exercise of the person's powers or functions, under the *Veterans' Entitlements Act 1986*.
- (4) The program constituted by the functions mentioned in subsection (1) is to be known as the ***National Bowel Cancer Screening Register***.

**35 Allocation of identification numbers**

A prescribed function of the Chief Executive Medicare is to allocate identification numbers for the purposes of the Health Insurance Act to the following persons in relation to their places of practice:

- (a) practitioners;
- (b) approved pathology practitioners;
- (c) participating midwives;
- (d) participating nurse practitioners;
- (e) participating optometrists;
- (f) persons providing health services determined under section 3C of that Act.

## **Part 4—Miscellaneous**

### **36 Prescribed period**

For the purposes of paragraph 41C(8)(a) of the Act, the prescribed period is the period of 2 years that commenced on 1 January 1981.

## Part 5—Transitional provisions

### 37 Definitions

In this Part:

*commencement day* means the day on which this Part commences.

*old regulations* means the *Human Services (Medicare) Regulations 1975* as in force immediately before the commencement day.

### 38 Things done by, or in relation to, the Chief Executive Medicare

If, before the commencement day, a thing was done by, or in relation to, the Chief Executive Medicare under the old regulations, then the thing is taken, on and after that day, to have been done by, or in relation to, the Chief Executive Medicare under this instrument.

### 39 Things started but not finished by the Chief Executive Medicare

- (1) This section applies if:
  - (a) before the commencement day, the Chief Executive Medicare started doing a thing under the old regulations; and
  - (b) immediately before that day, the Chief Executive Medicare had not finished doing that thing.
- (2) The Chief Executive Medicare may, on and after the commencement day, finish doing the thing under this instrument.



## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Human Services (Medicare) Regulations 2017	11 Aug 2017 (F2017L01008)	12 Aug 2017 (s 2(1) item 1)	
Veterans' Affairs Legislation Amendment (British Commonwealth Occupation Force) Regulations 2017	18 Dec 2017 (F2017L01652)	Sch 1 (items 3, 4): 19 Dec 2017 (s 2(1) item 1)	—
Safety, Rehabilitation and Compensation Legislation (Defence Force) Consequential Amendment Regulations 2018	20 Apr 2018 (F2018L00502)	Sch 1 (items 4–6): 21 Apr 2018 (s 2(1) item 4)	—

## Endnotes

### Endnote 4—Amendment history

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#### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 2 .....	rep LA s 48D
s 4 .....	rep LA s 48C
<b>Part 3</b>	
s 28 .....	am F2017L01652; F2018L00502
s 30 .....	am F2018L00502
s 31 .....	am F2017L01652; F2018L00502
Schedule 1 .....	rep LA s 48C

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