**Shared Debt Recovery Scheme**

**Questions and Answers**

1. **When will the Scheme commence?**

The amendments to the *Health Insurance Act 1973* that introduce the Shared Debt Recovery Scheme (the Scheme) commence on 1 July 2019. It is anticipated that the Scheme will commence on that date.

1. **Does the Scheme change who is responsible for billing Medicare and ensuring that Medicare claims are correct?**

Primary responsibility for correct claiming will continue to rest with the practitioner, as the only person who can determine that the service has been delivered in accordance with the requirements of the Medicare Benefits Schedule (MBS).

1. **In what circumstances and to whom and will the Scheme apply?**

The Shared Debt Recovery Scheme will be part of the Medicare audit process.

The Scheme may apply when, as a result of a Medicare compliance audit, the Department determines that there has been a ‘false or misleading statement’ (Section 129AC(1) of the *Health Insurance Act 1973)*.

In this circumstance, if contractual or other arrangements exist between the health practitioner who is the subject of the audit and an employer or organisation to render Medicare services, both may be held responsible for the repayment of a respective portion of the debt following a Medicare compliance audit.

The Scheme will not apply to:

* + debts owed to the Commonwealth as a result of inappropriate practice following referral to the Professional Services Review;
  + claims adjustments that occur routinely as part of health practice, where a practitioner alerts the Department of Human Services to an error in claiming in order to correct the claims record;
  + voluntary acknowledgements of incorrect payments where a practitioner accepts the full amount of the debt; or
  + debts arising where one party has, without knowledge of the other, engaged in criminal conduct in relation to Medicare claims or billing.

1. **What is a ‘false or misleading statement’?**

A ‘false or misleading statement’ is a legislative term.

When a practitioner issues an itemised invoice or receipt or makes a bulk bill claim for a Medicare service, the practitioner is stating that they have rendered a professional service that meets all of the elements of the MBS item descriptor. If the service does not meet all of the elements of the MBS item descriptor, it may be determined that there was a ‘false or misleading statement’. This does not mean that there was an intention to defraud or to be dishonest when claiming a Medicare benefit or billing for a professional service. It may have been an unintentional error.

A ‘false or misleading statement’ gives grounds for the Department to recover the incorrect payment as a debt.

1. **What protections are in place for practitioners and organisations?**

The following protections are contained in the *Health Insurance Act 1973*:

If a practitioner wished to be considered for a shared debt determination, their employer or the organisation they have a contract will be contacted and invited to provide documents.

Persons may only be issued with a Notice to Produce documents in the event that a request for documents has been issued and documents are not supplied voluntarily.

An audit officer must give notice of their intention to make a shared debt determination decision to practitioner and the organisation. Both parties will have the opportunity to respond and make submissions.

Before any final decision is made, each party will be given information provided by the other party.

If an audit officer makes a shared debt determination they must give notices of the determination decision and reasons to both parties.

Either party may apply for a review of the decision.

1. **What is a Legislative Instrument?**

Legislative instruments are laws on matters of detail in this case, made by the Minister for Health. Examples of legislative instruments include regulations, rules and determinations. A legislative instrument does not require passage through parliament, but is a disallowable instrument.

In the case of the Scheme, the legislative instrument will govern aspects of the operation of the Scheme such as persons who will be eligible for the Scheme and a default percentage of the debt recoverable from an organisation.