

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COMMONWEALTH OF AUSTRALIA  
AND  
NEW SOUTH WALES

IN RELATION TO THE COOPERATIVE IMPLEMENTATION OF THE COUNCIL OF AUSTRALIAN  
GOVERNMENTS IMPROVING ACCESS TO PRIMARY CARE IN RURAL AND REMOTE AREAS  
INITIATIVE (COAG S19(2) EXEMPTIONS INITIATIVE)

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This Memorandum of Understanding ('**MoU**') is made between:

the Commonwealth of Australia as represented by the Department of Health ('**Commonwealth**'); and

the state of New South Wales as represented by NSW Ministry of Health ('**Jurisdiction**')

## **1. Policy Objectives of the Initiative**

- 1.1 At the 10 February 2006 meeting of the Council of Australian Governments (COAG), Heads of all Australian Governments agreed on a series of practical initiatives in the area of improved health services as part of the *Better Health for All Australians Action Plan*. One of the measures introduced under this action plan was the *Improving Access to Primary Care in Rural and Remote Areas* also known as the 'COAG section 19(2) Exemptions Initiative'.
- 1.2 The Initiative aims to provide greater patient access to primary health care services locally, including after hours, in rural and remote public hospitals and health services.
- 1.3 The Initiative recognises that many patients in rural and remote towns have limited access to primary health care services and in response to the lack of private practices, many rural and remote public hospitals have employed medical officers to make primary health care services available including GP services and other primary care services such as eligible nursing, midwifery, allied health and dental services.
- 1.4 The Initiative supports rural and remote hospitals and health services in small communities, by increasing access to Commonwealth funding and ensuring that eligible jurisdictions increase support for primary health care in these areas. It recognises the challenges in attracting and retaining adequate primary health care providers in rural and remote areas and aims to achieve a net gain in primary health care services in these areas.

## **2. Principles**

- 2.1 The parties intend that the following principles guide the development and operation of this MoU:
  - all Australians should have equitable access to appropriate and quality health care throughout their lifetime, regardless of their place of residence within Australia;
  - Australians in rural and remote areas face particular challenges when it comes to accessing appropriate health care, and it is the responsibility of all Australian governments to seek to address these challenges;
  - the health and medical workforce is a finite and valuable resource and its members' involvement and support is crucial to the continued success of the Initiative;
  - funding accessed through the Initiative should not be used for any purpose that undermines the viability or profitability of existing privately operated health services, including existing general practices; and

- implementation of the Initiative should take place as transparently as possible, while ensuring that agreed data collection and reporting requirements remain straightforward and uses existing processes where possible.

### 3. Basis for the MoU

- 3.1 Clause G22 of Schedule G - Business Rules of the National Health Reform Agreement – Addendum 2020-25 provides the basis for this MOU as follows:

“States which have signed a Memorandum of Understanding with the Commonwealth for the COAG initiative *“Improving Access to Primary Care Services in Rural (and Remote) Areas”* may bulk bill the MBS for eligible persons requiring primary health care services who present to approved facilities.”

- 3.2 Notwithstanding the obligations imposed through clause 4(a) and clauses G17, G18, G19 and G20 of Schedule G - Business Rules of the National Health Reform Agreement – Addendum 2020-25, under the Initiative the Jurisdiction may access funds through the MBS for Eligible Services rendered at an Eligible Site (though a patient must not be charged a co-payment for a State remunerated service).

- 3.3 The legislative pathway for carrying out the Initiative is for the Minister (or their delegate) to make directions under section 19(2) of the HI Act. These directions are necessary because section 19(2) of the HI Act states:

“(2) Unless the Minister otherwise directs, a Medicare benefit is not payable in respect of a professional service that has been rendered by, or on behalf of, or under an arrangement with:

- (a) the Commonwealth;
- (b) a State;
- (c) a local governing body; or
- (d) an authority established by a law of the Commonwealth, a law of a State or a law of an internal Territory.”

- 3.4 This MoU sets out the framework relevant to the Minister’s (or their delegate’s) consideration of the making of section 19(2) directions for Eligible Services that are rendered by, or on behalf of, or under an arrangement with the Jurisdiction that relate to the Initiative.

### 4. Interpretation

- 4.1 Unless the contrary intention appears, words and phrases used in this MoU (including in any Operational Plans and Site Annual Reports) are to be interpreted by reference to Schedule A of this MoU.

### 5. Statement of Understanding

- 5.1 This MoU is a statement of understanding; it does not give rise to any legally enforceable rights or obligations between the parties and places no limitations on the performance of functions and exercise of powers of the parties.
- 5.2 Implementation of the Initiative is not intended to be contrary to the legislation to which each of the parties is subject.

5.3 If there is any inconsistency or conflict between the directions made under section 19(2) of the HI Act and this MoU, the directions will take precedence over the MoU.

## **6. Variation or Termination of the MoU**

6.1 This MoU commenced on 1 January 2022 and, unless terminated earlier pursuant to paragraph 6.2 of this MoU, will expire on 30 June 2025.

6.2 Subject to paragraphs 7.3 and 7.4, this MoU may be varied or terminated if both parties agree in writing to do so. The variation or termination will take effect on the date agreed by the parties in writing.

## **7. Implementation of the Initiative**

7.1 Under the Initiative, exemptions may be provided by way of directions under section 19(2) of the HI Act to allow Eligible Services provided by primary health care providers under State funded remuneration arrangements to be claimed at Eligible Sites against the MBS.

7.2 For a site to be considered for eligibility under the Initiative as an Eligible Site:

- a) it will need to be within categories 5-7 of the Modified Monash Model and have the support of the Jurisdiction;
- b) the Jurisdiction will need to have submitted an Operational Plan to the Commonwealth for the Commonwealth's consideration; and
- c) the Jurisdiction will need to commit to providing Site Annual Reports (including an annual review of the site Operational Plan) and summary statistics in respect of each financial year during the term of this MoU.

7.3 The MMM is updated once every Census cycle, using Census population information. The methodology supporting the MMM may also be updated from time to time at the discretion of the Commonwealth. If an Eligible Site becomes ineligible under the Initiative during the term of this MoU due to changes in the MMM classification of the site, it will continue to be treated as an Eligible Site for the purposes of this MoU.

7.4 The Commonwealth reserves the right to review and change the eligibility criteria for the Initiative at any time.

7.5 The Jurisdiction is to obtain written support for the inclusion of a site under the Initiative from local primary health care providers as part of the relevant Operational Plan. Local primary health care providers can include general practitioners, Primary Health Networks, the Royal Flying Doctor Service and Aboriginal health services. If, after the relevant Operational Plan has been agreed, a new stakeholder in respect of a specific site is identified, the Jurisdiction is to obtain written support from this stakeholder and to submit that written support to the Commonwealth with the next Site Annual Report.

7.6 Where support is not received from relevant stakeholders, a review process (detailed at paragraph 8.3) may be conducted.

- 7.7 The Jurisdiction will ensure increased support for primary health care services at each Eligible Site by ensuring that all funds derived from the Initiative in respect of that site are returned to that site or its outreach services, in accordance with the Eligible Site's Operational Plan.
- 7.8 The Jurisdiction will ensure that at least 70% of the MBS rebate funds derived from the Initiative in respect of Eligible Sites are invested in new services and improvements at the relevant sites or its outreach services, in accordance with the Eligible Site's Operational Plan. No more than 30% of the MBS rebate funds may be used to pay for the administration of the Initiative.
- 7.9 The Jurisdiction will commit to retain all public hospital and health facilities operating Eligible Services at Eligible Sites.

## **8. Roles and Responsibilities**

- 8.1 The Commonwealth will endeavour to:
- a) consider an Operational Plan for a site becoming or remaining as an Eligible Site;
  - b) conduct an evaluation of the Initiative and emerging rural health care reforms in the second half of 2024, in consultation with participating States;
  - c) provide information on the Initiative on the Department's website;
  - d) host a bilateral annual meeting with the Jurisdiction at senior executive level, or at such other level as considered appropriate by the parties, to discuss the Initiative;
  - e) as soon as practicable after the execution of this MoU, provide to the Jurisdiction a list of Eligible Sites for which new or replacement Operational Plans are required under this MoU; and
  - f) make directions under section 19(2) of the HI Act to allow Eligible Services provided at Eligible Sites to be claimed against the MBS.
- 8.2 The Jurisdiction will endeavour to:
- a) establish support for the Initiative from local stakeholders, as outlined in paragraph 7.5, prior to submitting an Operational Plan for an Eligible Site;
  - b) provide to the Commonwealth within eight weeks after execution of this MoU, or such longer period as approved in writing by the Commonwealth, a new or updated Operational Plan for all Eligible Sites with an existing Operational Plan originally submitted to the Commonwealth more than twelve months prior to the execution of this MoU;
  - c) provide advice on potential additional localities and new sites upon the request of the Commonwealth;
  - d) provide to the Commonwealth by 31 August each year during the term of this MoU a Site Annual Report for the immediate past financial year reporting on each Eligible Site;
  - e) provide to the Commonwealth by 31 August each year during the term of this MoU aggregated summary statistics on the operation of the Initiative in their jurisdiction for the period of the immediate past financial year, including:

- i. how the Initiative contributed to the objectives of the Initiative in providing greater access to primary care in regional and rural locations;
    - ii. how many Eligible Sites billed under the Initiative;
    - iii. total MBS revenue Eligible Sites billed, based on Site Annual Reports;
    - iv. any service or funding innovations developed by the Eligible Sites; and
    - v. any other information related to the Initiative that the Jurisdiction wishes to share with the Commonwealth;
  - f) provide support and other assistance to public hospitals and health services to ensure that these hospitals and services remain viable to provide Eligible Services at Eligible Sites;
  - g) provide support and other assistance for the purpose of sustaining, improving and enhancing primary health care services in communities where Eligible Services are provided at Eligible Sites;
  - h) engage with the relevant Primary Health Network to identify suitable sites as future Eligible Sites for inclusion in directions made under section 19(2) of HI Act;
  - i) inform the Commonwealth of any issues relating to an Eligible Site;
  - j) obtain written approval from the Commonwealth prior to the release of any information, including media releases and promotional materials, that relate to the Initiative. If the Commonwealth approves the release of the information, the information must make reference to the Commonwealth's role, contribution and funding, unless the Commonwealth advises the Jurisdiction otherwise;
  - k) provide information to the Commonwealth, in response to any reasonable request, in a timely manner; and
  - l) participate in an annual bilateral meeting with the Commonwealth at senior executive level, or at such other level as considered appropriate by the parties.
- 8.3 The parties intend to jointly:
- a) consider and review, with input from the relevant Primary Health Network, the level and nature of stakeholder consultation and support required to include or retain a site as an Eligible Site, noting that the Commonwealth has the right to make a final decision (in its absolute discretion) on including or retaining a site as an Eligible Site; and
  - b) monitor and evaluate the Initiative's ongoing effectiveness and discuss proposals for changes to its operation.

## 9. Contact Officers

- 9.1 The Commonwealth's contact officer for the Initiative is:

Director, Primary Health Care Policy Section  
 Primary Health and Palliative Care Branch  
 Primary Care Division  
 Department of Health  
 GPO Box 9848  
 CANBERRA ACT 2601  
[COAGSection192@health.gov.au](mailto:COAGSection192@health.gov.au)

or such other person nominated by the Commonwealth from time to time to act as its contact person

9.2 The Jurisdiction's contact officer for the Initiative is:

[insert Contact Name]

[insert Position]

[insert Section]

[insert Branch]

[insert Postal Address]

or such other person nominated by the Jurisdiction from time to time to act as its contact person



**Signature page**

SIGNED FOR AND ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA BY ITS MINISTER FOR HEALTH:



A handwritten signature in blue ink, appearing to read "Greg Hunt", written over a horizontal line.

ON THE \_\_\_\_\_ 1st \_\_\_\_\_ DAY OF \_\_\_\_\_ April \_\_\_\_\_ 2022

SIGNED FOR AND ON BEHALF OF THE STATE OF NEW SOUTH WALES BY ITS MINISTER FOR HEALTH:



A handwritten signature in blue ink, consisting of stylized initials, written over a horizontal line.

ON THE 13<sup>th</sup> DAY OF May 2022