

Information on the medicare benefits rules for referrals

The following summary information has been compiled to explain the medicare benefits rules for referrals and the implications of not adhering to them. References to the relevant legal provisions are also provided.

Summary

1. Referrals must be made in accordance with the regulations - Relevant Provision
2. Referrals must be in writing, signed by the referring practitioner and dated - Relevant Provision
3. A referral covers a single course of treatment for a patient, being
 - the initial attendance by the specialist or consultant physician;
 - the continuing management/treatment until the patient is referred back to the care of the referring practitioner; and
 - any subsequent review of the patient's condition that occurs within 9 months after the period of validity of the last referral - Relevant Provision
4. The period of validity of referrals is clear and can be managed by the practice without exposing the referring practitioner, specialist or consultant physician to penalties - Relevant Provision
5. Accounts for medical fees must contain particular information for a medicare benefit to be paid - Relevant Provision
6. Provision is made for situations when referrals are lost, stolen or destroyed
7. Because the referral must be received before the service is provided, any back dating by the referring practitioner would be a false statement capable of being used to claim a benefit - Relevant Provision
8. There are 3 penalty provisions for making false or misleading statements capable of being used to claim a medicare benefit. Knowingly making a false or misleading statement carries a much higher penalty than accidentally making a false or misleading statement - Relevant Provision
9. The Australian Government Services Australia Website also provides information on referring and requesting medicare services that you may find useful.

Referrals must be made in accordance with the regulations.

Health Insurance Act 1973

132A Regulations relating to the manner of patient referrals

- (1) If an item specifies a service that is to be rendered by a practitioner to a patient who has been referred to the practitioner, the regulations may require that, for the purposes of the item, the patient is to be referred in a manner prescribed by the regulations.

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Referrals must be in writing, signed by the referring practitioner and dated.

Health Insurance Regulations 2018

96 Who can make referral

- (1) A medical practitioner may refer a patient to a specialist or consultant physician.
- (2) An optometrist may refer a patient to a specialist who is an ophthalmologist.
- (3) A dental practitioner who is approved by the Minister for the purposes of paragraph (b) of the definition of professional service in subsection 3(1) of the Act may refer a patient to a specialist or consultant physician.
- (4) A dental practitioner to whom subsection (3) does not apply may refer a patient to a specialist (but not a consultant physician).
- (5) A participating midwife may refer a patient to an obstetrician or paediatrician.
- (6) A participating nurse practitioner may refer a patient to a specialist or consultant physician.

97 Requirement to consider need for referral

The referring practitioner must consider the need for the referral.

98 Requirements for form of referral

- (1) Subject to subsection (2), a referral must be:
 - (a) in writing; and
 - (b) signed by the referring practitioner; and
 - (c) dated.

Emergencies

- (2) Subsection (1) does not apply if:
 - (a) the referring practitioner decides that it is necessary in the patient's interests for the patient to be referred to the specialist or consultant physician as soon as practicable; and
 - (b) subsection (3) applies to the patient.
- (3) This subsection applies to a patient who is:
 - (a) at risk of serious morbidity or mortality requiring urgent assessment and resuscitation; or
 - (b) suffering from suspected acute organ or system failure; or
 - (c) suffering from an illness or injury where the viability or function of a body part or organ is acutely threatened; or
 - (d) suffering from a drug overdose, toxic substance or toxin effect; or
 - (e) experiencing severe psychiatric disturbance which puts the health of the patient or other people at immediate risk; or
 - (f) suffering acute severe pain where the viability or function of a body part or organ is suspected to be acutely threatened; or

(g) suffering acute significant haemorrhage requiring urgent assessment and treatment.

99 Requirements for contents of referral

General

(1) A referral must explain the reasons for referring the patient, including any information about the patient's condition that the referring practitioner considers necessary to give to the specialist or consultant physician.

Additional content if referring practitioner is a specialist or consulting physician

(2) If the referring practitioner is a specialist or consulting physician, a written referral must:

(a) include the name of a general practitioner, participating midwife or participating nurse practitioner nominated by the patient; or

(b) if the patient is unwilling or unable to nominate a general practitioner, participating midwife or participating nurse practitioner for the purposes of paragraph (a)—include a statement to that effect.

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Meaning of single course of treatment

Health Insurance (General Medical Services Table) Regulation

1.1.6 Meaning of single course of treatment

(1) Use this clause for: items 104 to 131, 133, 384 to 388, 2799, 2801 to 2840, 3003, 3005 to 3028, 6004, 6007 to 6015, 6018, 6019, 6024, 6025, 6026, 6051, 6052, 6058, 6059, 6060, 6062, 6063, 16401, 16404, 16406, 51700 and 51703.;

(2) A single course of treatment for a patient:

(a) includes:

(i) the initial attendance on the patient by a specialist or consultant physician; and

(ii) the continuing management or treatment up to and including the stage when the patient is referred back to the care of the referring practitioner; and

(iii) any subsequent review of the patient's condition by the specialist or consultant physician that may be necessary, whether the review is initiated by the referring practitioner or by the specialist or consultant physician; but

(b) does not include:

(i) referral of the patient to the specialist or consultant physician; or

(ii) an attendance (the ***later attendance***) on the patient by the specialist or consultant physician, after the end of the period of validity of the last referral to have application under section 102 of the Health Insurance Regulations 2018 if:

(A) the referring practitioner considers the later attendance necessary for the patient's condition to be reviewed; and

(B) the patient was most recently attended by the specialist or consultant physician more than 9 months before the later attendance.

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The period of validity of referrals is clear and can be managed by the practice without exposing the referring practitioner, specialist or consultant physician to penalties.

Health Insurance Regulations 2018

102 Period of validity for referrals

(1) Subject to this section:

- (a) a referral that states it is valid for a fixed period is valid until the end of that period after the first service rendered in accordance with the referral; and
- (b) a referral that states it is valid indefinitely is valid for an indefinite period; and
- (c) a referral that does not state a time for which it remains valid is valid until 12 months after the first service rendered in accordance with the referral.

Referrals given by particular persons

(2) A referral given by a specialist or consultant physician is valid:

- (a) for a maximum of 3 months after the first service given in accordance with the referral; or
- (b) if the referred person is a patient in a hospital at the time of referral and continues to be so for more than 3 months—until the person ceases to be a patient in a hospital.

(3) A referral given by a participating midwife is valid for a maximum of 12 months after the first service is given in accordance with the referral, and for one pregnancy only.

(4) A referral given by a participating nurse practitioner is valid for a maximum of 12 months after the first service is given in accordance with the referral.

Special cases

(5) A referral for a professional service to a patient in a hospital who is not a public patient is valid until the patient ceases to be a patient in the hospital who is not a public patient.

(6) A referral that does not comply with subsection 98(1), and is given in the circumstances described in subsection 98(2) (emergencies), is valid for only one attendance on the patient.

(7) A written referral that is lost, stolen or destroyed is valid for only one attendance on the patient.

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Particular information must be recorded for a medicare benefit to be paid.

Health Insurance Regulations 2018

Division 5—Particulars of professional services

47 Simplified outline of this Division

Under subsection 19(6) of the Act, a medicare benefit is not payable in respect of a professional service unless prescribed particulars are recorded on:

- (a) an account for the professional service; or

(b) a receipt for the professional service; or

(c) the form of an assignment or agreement under section 20A of the Act in relation to the professional service.

49 All services—particulars of patient, date of service and fees

The following particulars are prescribed in relation to a professional service:

(a) the name of the patient to whom the service was rendered;

(b) the date on which the service was rendered;

(c) the amount charged in respect of the service;

(d) the total amount paid in respect of the service;

(e) any amount outstanding in respect of the service.

58 Services provided upon referral

(1) This section applies to a professional service if:

(a) the service is rendered to a patient by a specialist or consultant physician; and

(b) the item relating to the service specifies it as a service that is to be rendered to a patient who has been referred.

General

(2) Subject to subsections (3) to (5), the following particulars are prescribed:

(a) the name of the referring practitioner;

(b) the address of the place of practice, or the provider number in respect of the place of practice, of the referring practitioner;

(c) the date on which the patient was referred by the referring practitioner to the consultant physician or specialist;

(d) the period of validity of the referral under section 102.

Lost referrals

(3) If the service is rendered on the basis of a lost, stolen or destroyed referral:

(a) paragraphs (2)(b) to (d) do not apply; and

(b) the words "lost referral" are a prescribed particular.

Hospital referrals

(4) If the service is rendered to a patient in a hospital who is not a public patient:

(a) paragraphs (2)(b) to (d) do not apply; and

(b) the words "referral within" followed by the name of the hospital are a prescribed particular.

Emergencies

(5) If the service is rendered without a written referral in the circumstances described in subsection 98(2) or 101(3):

- (a) subsection (2) does not apply; and
- (b) the word “emergency” is a prescribed particular.

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Because the referral must be received before the service is provided, any back dating by the referring practitioner would be a false statement capable of being used to claim a benefit.

Health Insurance Regulations 2018

101 Receipt of referral by specialist or consultant physician

(1) Subject to this section, a referral for the rendering of a service to a patient must be received by the specialist or consultant physician before the service is rendered to the patient.

Lost, stolen or destroyed referral

(2) Subsection (1) does not apply if the patient tells the specialist or consultant physician:

- (a) that a written referral referring the patient to the specialist or consultant physician has been completed by a referring practitioner; and
- (b) the name of the referring practitioner; and
- (c) that the referral has been lost, stolen or destroyed.

Emergencies

(3) Subsection (1) and a requirement for a referral in an item do not apply if:

- (a) a specialist or consultant physician decides that it is necessary in the patient’s interests to render the professional service specified in the item as soon as practicable; and
- (b) subsection 98(3) applies to the patient; and
- (c) the specialist or consultant physician begins rendering the service to the patient within 30 minutes of presentation.

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There are 3 penalty provisions for making false or misleading statements capable of being used to claim a medicare benefit. Knowingly making a false or misleading statement carries a much higher penalty than accidentally making a false or misleading statement.

Health Insurance Act 1973

125C Persons involved in contravening civil penalty provision

(1) A person must not:

- (a) aid, abet, counsel or procure a contravention of a civil penalty provision; or
- (b) induce (by threats, promises or otherwise) a contravention of a civil penalty provision; or
- (c) conspire to contravene a civil penalty provision.

(2) A person who contravenes subsection (1) in relation to a civil penalty provision is taken to have contravened the civil penalty provision.

128A False statements relating to medicare benefits etc.

(1) A person shall not make, or authorise the making of, a statement (whether oral or in writing) that is:

- (a) false or misleading in a material particular; and
- (b) capable of being used in connection with a claim for a benefit or payment under this Act.

Penalty: \$2,000.

(2) Where:

- (a) a person makes a statement (whether oral or in writing) that is false or misleading in a material particular;
- (b) the statement is capable of being used in connection with a claim for a benefit or payment under this Act;
- (c) the material particular in respect of which the statement is false or misleading is substantially based upon a statement made, either orally or in writing, to the person or to an agent of the person by another person who is an employee or agent of the first-mentioned person; and
- (d) the last-mentioned statement is false or misleading in a material particular;

that other person is guilty of an offence punishable on conviction by a fine not exceeding \$2,000.

(2A) An offence under subsection (1) or (2) is an offence of strict liability.

(3) In subsection (2), a reference to an employee of a person shall, in a case where that person is a corporation, be read as a reference to:

- (a) a director, secretary, manager or employee of the corporation;
- (b) a receiver and manager of any part of the undertaking of the corporation appointed under a power contained in any instrument; or
- (c) a liquidator of the corporation appointed in a voluntary winding up.

(4) A prosecution for an offence under this section may be commenced at any time within 3 years after the commission of the offence.

128B Knowingly making false statements relating to medicare benefits etc.

(1) A person shall not make, or authorise the making of, a statement (whether oral or in writing) if the person knows that the statement is:

- (a) false or misleading in a material particular; and
- (b) capable of being used in connection with a claim for a benefit or payment under this Act.

Penalty: \$10,000 or imprisonment for 5 years, or both.

(2) Where:

- (a) a person makes a statement (whether oral or in writing) that is false or misleading in a material particular;

(b) the statement is capable of being used in connection with a claim for a benefit or payment under this Act;

(c) the material particular in respect of which the statement is false or misleading is substantially based upon a statement made, either orally or in writing, to the person or to an agent of the person by another person who is an employee or agent of the first-mentioned person;

(d) that other person knew that the last-mentioned statement was false or misleading in a material particular; and

(e) that other person knew, or had reasonable grounds to suspect, that the last-mentioned statement would be used in the preparation of a statement of the kind referred to in paragraph (b); that other person is guilty of an offence punishable on conviction by a fine not exceeding \$10,000 or imprisonment for a period not exceeding 5 years, or both.

(3) In subsection (2), a reference to an employee of a person shall, in a case where that person is a corporation, be read as a reference to:

(a) a director, secretary, manager or employee of the corporation;

(b) a receiver and manager of any part of the undertaking of the corporation appointed under a power contained in any instrument; or

(c) a liquidator of the corporation appointed in a voluntary winding up.

(4) In this section, a reference to making a statement includes a reference to issuing or presenting a document, and a reference to a statement shall be construed accordingly.

129 False statements etc.

(2) A person shall not furnish, in pursuance of this Act or of the regulations, a return or information that is false or misleading in a material particular.

Penalty: \$10,000 or imprisonment for 5 years.

(3) In a prosecution of a person for an offence against this section, it is a defence if he or she did not know, and had no reason to suspect, that the statement, document, return or information, made, issued, presented or furnished by him or her was false or misleading, as the case may be.

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