

# HBF Medical Gap Arrangement – Terms and conditions

## 1. Application of terms and conditions

- (a) HBF Health Limited (**HBF**) runs a Medical Gap Arrangement (**Gap Arrangement**) which applies to Services provided by the Practitioner in Hospitals, where the Practitioner has registered for the Gap Arrangement.
- (b) The Practitioner agrees to be bound by the following terms and conditions (as amended from time to time), on registration to the Gap Arrangement and each time a claim is made by the Practitioner under the Gap Arrangement.
- (c) These Terms and Conditions are effective from July 2018 and apply to all claims submitted under the Gap Arrangement.

## 2. Good Faith

Each party must act in Good Faith in relation to the other party and the HBF Members who obtain Services from the Practitioner. In particular, the Practitioner will ensure that it uses MBS item numbers, correctly, appropriately, in accordance with the requirements of Medicare and only where a claim is intended to be made by the Practitioner to Medicare.

## 3. Registration of Practitioners

To be registered on the Gap Arrangement a Practitioner is required to:

- (a) be registered as a Practitioner by the medical board in the state in which they practise;
- (b) where they are a specialist anaesthetist, be registered in this speciality by Medicare;
- (c) hold a Medicare provider number for each location in which they practise;
- (d) be eligible for receipt of MBS benefits;
- (e) inform HBF of the medical specialities the Practitioner is registered for with Medicare;
- (f) advise HBF if they are a salaried doctor at any public hospitals;
- (g) make a Gap Choice;
- (h) provide email contact details that will be used by HBF for correspondence;
- (i) complete a HBF Gap Arrangement registration form; and
- (j) ensure that all of the requirements in this clause 3(a) to clause 3(h) remain current and are updated when required.

## 4. HBF Rights

- (a) On receipt of an application HBF is entitled, at its discretion to:
  - (i) accept or reject an application by the Practitioner to register under the Gap Arrangement. This discretion will be exercised reasonably taking into consideration any matters HBF considers relevant in the decision-making process; and
  - (ii) impose any reasonable conditions on registration. In the event of any such conditions, the Practitioner is required to comply with these conditions.
- (b) When the Practitioner is registered by HBF as a participant of the Gap Arrangement HBF may:
  - (i) publish and distribute information to HBF Members, the HBF website and third-party providers in any form of media:

- (A) that the Practitioner is registered for the Gap Arrangement;
  - (B) the locations at which the Practitioner practices and contact details of the Practitioner, including any correspondence or billing address provided to HBF;
  - (C) the Gap Choice the Practitioner operates under;
  - (D) any expected gap payments a HBF Member may occur; and
  - (E) any fees, including gaps that the Practitioner has charged HBF Members at any point whilst registered under the Gap Arrangement or any previous gap scheme operated by HBF.
- (ii) in the event of any HBF concerns or where HBF needs to seek advice, share the Practitioner's claiming patterns and individual patient case studies (with patient information de-identified) with government bodies such as Medicare or industry bodies, including the AMA and specialist medical membership or peak bodies;
  - (iii) contact all Practitioners via the email address provided in accordance with clause 3(h). The Practitioner acknowledges that HBF will use this as their default method for all communication with the Practitioner.

## 5. Termination

### 5.1 Mutual termination

Either HBF or the Practitioner may terminate this Agreement by providing 90 calendar days written notice.

### 5.2 Immediate termination

This Agreement will automatically terminate:

- (a) if the Practitioner fails to comply with clauses 3(a)-3(g);
- (b) if in HBF's reasonable opinion, the Practitioner's conduct may adversely impact the goodwill, reputation or business of HBF at any time; or
- (c) the Practitioner is convicted of a criminal offence relating to their practice including, without limitation, a fraud offence.

### 5.3 Other termination rights

- (a) Where the Practitioner is unable to pay their debts as and when they become due or is insolvent, HBF may give the Practitioner 30 calendar day's written notice of its intention to terminate this Agreement.
- (b) Where HBF identifies any non-compliance with this Agreement by the Practitioner:
  - (i) HBF may notify the Practitioner in writing that they have 30 calendar days to ensure compliance with the terms of the Agreement; and
  - (ii) in the event that the Practitioner fails to remedy the non-compliance, HBF may notify the Practitioner in writing, at the end of the period set out in clause 5.3(b)(i), that HBF will terminate the Agreement at the end of 10 calendar days, if the failure in compliance is not remedied.

## 5.4 Effect of Termination

- (a) Where termination notice is provided under clause 5, the Practitioner must continue to charge in accordance with the Gap Choice chosen by the Practitioner during the notice period.
- (a) In the event of the termination of this Agreement:
- (i) HBF will honour scheduled procedures for Eligible Members prior to such termination, in accordance with the Gap Choice of the Practitioner;
  - (ii) HBF will be entitled to notify HBF Members who have received Services from the Practitioner within the previous twelve months, that the Practitioner will no longer be participating in the Gap Arrangement;
  - (iii) the Practitioner will be required to refund excess fees to HBF; and
  - (iv) clause 9.2(b) will survive termination of this Agreement.

## 6. Member eligibility

A Service provided to an Eligible Member can be submitted for a claim under the Gap Arrangement provided:

- (a) the Service is eligible for a Medicare benefit and a Medicare item number is provided for each Service;
- (b) no compensation, damages or benefits may be claimed from another source for the Service to the Eligible Member;
- (c) if a Gap is payable, the Practitioner has obtained Informed Financial Consent from the Eligible Member; and
- (d) the account is sent directly to HBF by, or on behalf, of the Practitioner.

## 7. Exclusions

- (a) The Gap Arrangement does not apply to item numbers on the HBF Limited Surgical Items List (**Surgical List**), which may be amended from time to time at HBF's absolute discretion.
- (b) The Gap Arrangement does not apply to anaesthetic services associated with item numbers on the Surgical List.  
The Surgical List is available on request, please contact the Provider Support Team by phone on 9265 6378 or by email to [medicalgap@hbf.com.au](mailto:medicalgap@hbf.com.au).
- (c) No benefits are payable by HBF under the Gap Arrangement for:
  - (i) podiatric surgery or for anesthetic services associated with podiatric surgery carried out by a podiatric surgeon;
  - (ii) cosmetic surgery;
  - (iii) services excluded under the HBF Member's hospital cover.
- (d) No benefits are payable by HBF under the Gap Arrangement and the HBF Member cannot be charged for a Service where the Practitioner has not complied with Medicare or has made an error in relation to Medicare, resulting in no Medicare payment being paid.
- (e) HBF will only pay Minimum Benefit for a Service where:
  - (i) the Practitioner performs a Service in an area of medicine that they are not registered as a specialist in, with Medicare;
  - (ii) the Service is performed by a salaried doctor at a public hospital;
  - (iii) there is no evidence of Informed Financial Consent for a proposed gap, when this evidence is requested by HBF;
  - (iv) a higher out of pocket amount is charged for an Episode than that set out in clause 8(e) or
  - (v) the account has been fully prepaid by the Eligible Member.

In the events set out in clause 7(e), the payment by HBF will be regarded as full payment for the Service and the Practitioner will not charge the Eligible Member any gap.

## 8. Practitioner obligations

- (a) The Practitioner must:
  - (i) provide Informed Financial Consent to each HBF Member where the Practitioner intends to charge that HBF Member a Gap;
  - (ii) inform a HBF Member of any financial interests in a hospital or, if provided, any financial or other incentive to general practitioners or other specialists for the HBF Member's referral; and
  - (iii) ensure that no gap prosthesis are offered as an option to HBF Members, where the Practitioner proposes the use of a prosthesis during a Service.
- (b) The Practitioner must comply with Medicare rules and guidelines and ensure each Service provided by the Practitioner during or directly related to an Episode has an MBS item number and that this is properly assigned.
- (c) The Practitioner must ensure that:
  - (i) all clinical records and documentation is completed by the Practitioner, including discharge summaries, within 48 hours of a HBF Member's discharge from Hospital; and
  - (ii) where a Type C Procedure is undertaken, the Practitioner complies with the requirements of the *Private Health Insurance (Benefit Requirements) Rules* in filling out a Type C certificate.

The Practitioner acknowledges the documentation referenced in this clause 8(c) is used by Hospitals for coding and billing purposes and needs to be completed promptly, correctly and prior to submission of a claim to HBF.
- (d) The Practitioner cannot charge:
  - (i) fees for any in hospital services, such as nursing or a prosthesis;
  - (ii) for any Service that has not been provided by the Practitioner themselves; or
  - (iii) for a Service where there is no MBS item number.
- (e) Where the Practitioner has elected to participate as:
  - (i) either Opt in Known Gap or Fully Covered, the Practitioner must ensure that it does not charge the HBF Member fees for Services which exceed those set out in the Full Cover Schedule; or
  - (ii) Specialist Anaesthetist Fully Covered, the Practitioner will ensure that they charge fees which do not exceed the fees specified in the Specialist Anaesthetist Schedule,

for all Services provided to the HBF Member during an Episode. HBF will notify the Practitioner in the event that any fee charged is more than that set out in this clause 8(e). The Practitioner must then promptly adjust the fee charged to ensure compliance with this clause 8(e).
- (f) The Practitioner must not raise any other account associated with the Service or require the Eligible Member to pay an additional amount to the fee included on the account submitted to HBF, or charge any administration, management, travel, booking fees or any other item which does not have an MBS item number.
- (g) The Practitioner must ensure that HBF Members are treated as favourably as patients of other health funds.

- (h) The Practitioner must not and must ensure that its practice manager, staff and other associated personnel do not:
  - (i) enter into any conduct or activities that might reasonably be regarded as harming HBF, its name or reputation with patients;
  - (ii) become involved in any situation which will bring HBF into disrepute, contempt, scandal or ridicule; or
  - (iii) incite, recommend or encourage patients to change health insurance funds.
- (i) The Practitioner must promptly notify HBF in the event that disciplinary action is commenced against the Practitioner by AHPRA, Medicare or any other industry body.
- (j) The terms and conditions of this Agreement must not interfere with the Practitioner's clinical decision making.

## 9. Account and payment obligations

### 9.1 Account requirements

All accounts and receipts presented to HBF for claiming benefits must be consolidated for a single Eligible Member for an Episode and must meet the following requirements:

- (a) The Practitioner must:
  - (i) be registered in accordance with clause 3;
  - (ii) provide a Service to an Eligible Member;
  - (iii) ensure that the account is fully unpaid, unless the Service was provided as an Opt In/Opt Out Known Gap, in which event the Practitioner can charge the Eligible Member the member gap upfront provided the total fees and any payments received are reflected on the account submitted to HBF;
  - (iv) include details of a consultation in the medical records of an Eligible Member if a consultation is billed on the account;
  - (v) ensure that in the case of an Eligible Member with overseas visitor cover a benefit would have been payable if that member had been an Australian resident; and
  - (vi) lodge the claim within one year of the date of Service.
- (b) The Practitioner must ensure that the account:
  - (i) identifies the MBS item number for the Services, ensuring that this is properly allocated for the Service and is one for which Medicare pays a benefit.
  - (ii) includes the following information:
    - (A) Eligible Member's full name, address and member number;
    - (B) Eligible Member's Medicare number, Medicare card reference number and expiry date;
    - (C) details of the Service, including date the Service was provided;
    - (D) all fee information including the total fees charged for each Service provided and all gaps paid or payable;
    - (E) any special exemptions;
    - (F) referral details, including the date of referral, provider number and full name of the referring Practitioner; and
    - (G) any other information relevant to assessment of the claim.

### 9.2 Account Not Payable

- (a) An account submitted by the Practitioner will not be payable by HBF where it does not comply with the Gap Arrangement.
- (b) In the event HBF incorrectly pays an account, or a gap has been wrongly claimed from the Eligible Member, this payment may be recovered from the Practitioner, or set off against any unpaid account, by HBF.
- (c) HBF will not pay for a cancelled Service.

### 9.3 Payment

- (a) HBF will pay benefits electronically in accordance with the Gap Arrangement, for Services provided by Practitioners to Eligible Members:
  - (i) registered as direct billing providers under HBF's simplified billing system (**Express Pay**); or
  - (ii) where claims are submitted electronically through ECLIPSE.

In the event that the Practitioner requests that HBF pays benefits by cheque, the Practitioner must provide a valid written reason to HBF for payment by this method. It will be at the discretion of HBF, which will be exercised reasonably, whether benefits will be paid to the Practitioner by cheque.

- (b) Where the Practitioner submits a claim via ECLIPSE and ECLIPSE or Medicare reject a Practitioner claim, the Practitioner must resolve this and resubmit to ECLIPSE and Medicare.
- (c) Where the Practitioner uses Express Pay, HBF will:
  - (i) process the account and forward it to Medicare; and
  - (ii) where Medicare has not identified any problems with a payment request, arrange for the combined HBF and Medicare benefit to be paid directly to the Practitioner by electronic funds transfer within approximately 21 Business Days of receiving the claim; and
  - (iii) forward a statement to the Practitioner.
- (d) Where the Practitioner submits claims electronically via ECLIPSE, the ECLIPSE remittance advice will match the ECLIPSE claim to the deposits made into the Practitioners bank account allowing for automated reconciliation.
- (e) HBF agrees to accept assignments under subsection 20A(2A) of the *Health Insurance Act 1973* of the Medicare benefits payable in respect of the Services provided to Eligible Members.

## 10. Medicare Benefits

HBF applies the Medicare assessment rules to calculate benefits. In the event Medicare:

- (a) reduces the benefit payable on a Service specified in the MBS for any reason, HBF will, at the time that Medicare makes the change, reduce the benefit payable under the Known Gap Benefit Schedule and the Full Cover Schedule at HBF's absolute discretion, and consequently the cover under the Agreement;
- (b) increases the benefit payable on a Service specified in the MBS for any reason, the Known Gap Benefit Schedule and the Full Cover Schedule will be increased in line with the Medicare change unless otherwise advised by HBF. This will be in HBF's absolute discretion, which will be exercised reasonably.

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## 11. Audit and claim verification

- (a) The Practitioner agrees to:
- (i) maintain appropriate copies of medical records, account and other records that relate to the provision of Services by the Practitioner to HBF Members;
  - (ii) comply with any reasonable request by HBF:
    - (A) to provide information in order to verify any Gap Arrangement claim; or
    - (B) for an audit of a Practitioner's records in relation to HBF Members,  
including assisting HBF by:
      - (C) providing further information in regard to claims;
      - (D) providing evidence of Informed Financial Consent; and
      - (E) releasing information required for the review or processing of a claim in accordance with the authority signed by the Eligible Member on the National Private Patient Hospital Claim Form.
- (b) HBF's right to conduct an audit will extend to 36 months after the last Gap Arrangement claim was made by the Practitioner.

## 12. Privacy

HBF and the Practitioner will each ensure compliance with the *Privacy Act 1988* (Cth).

## 13. Amendments

- (a) HBF may vary this Agreement, by giving not less than 30 calendar days written notice. If a Practitioner does not wish to comply with the Agreement as amended, they may terminate this Agreement in accordance with clause 5 above.
- (b) In the event that the Practitioner intends to make an alternative Gap Choice to that made upon their registration for the Gap Arrangement, the Practitioner must provide HBF with 90 calendar days written notice prior to making this change after which the terms and conditions of this Agreement will apply to that Gap Choice.

## 14. Notice

Any notice required under this Agreement may be given in writing:

- (a) by HBF sending an email to the email address provided by the Practitioner; or
- (b) by the Practitioner sending an email to [medicalgap@hbf.com.au](mailto:medicalgap@hbf.com.au),

which is taken to be received when the sender has received a return email from the recipient acknowledging receipt, unless the content of the notice is contained within an attachment and the recipient's return email has advised that the recipient has been unable to open the attachment.

## 15. Exclusivity

This Agreement is not an exclusive arrangement for either party.

## 16. Governing law and jurisdiction

This Agreement is governed by the law of Western Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Western Australian courts.

## 17. Severability

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms of this Agreement continue in force.

## Attachment 1 - Defined terms

<b>Admitted</b>	means the status a person achieves after undergoing the process by which they are accepted as an inpatient at a Hospital, for the purpose of receiving a Service as requested by a Practitioner.
<b>AHPRA</b>	means Australian Health Practitioner Regulation Agency.
<b>AMA</b>	means Australian Medical Association.
<b>Eligible Member</b>	means any HBF member with HBF hospital cover (including overseas visitor cover) who: (a) is up to date with their premiums at the time a Service is provided; (b) has served all required waiting periods; (c) receives a Service that is covered under their policy; and (d) is Admitted.
<b>Episode</b>	means all Services provided to an Eligible Member during one episode of care, commencing from the time of the Eligible Member's Admission until they are discharged from the Hospital.
<b>Full Cover Schedule</b>	can be obtained by contacting the Provider Support Team by phone on 9265 6378 or by email to <a href="mailto:medicalgap@hbf.com.au">medicalgap@hbf.com.au</a> .
<b>Gap Choices</b>	<p>means one of the following charging arrangements which will be chosen by the Practitioner for Services provided under all that Practitioners provider numbers, identifying how the Practitioner will charge for a Service and the potential out of pocket payment for an Eligible Member:</p> <p>(a) <b>Fully Covered</b> means the fees charged for Services provided to Eligible Members by the Practitioner do not exceed the fees set out in the Full Cover Schedule. The result for the Eligible Member is that there will be no gap payment required from that Eligible Member.</p> <p>(b) <b>Opt In/Opt Out Known Gap</b> is an arrangement which allows the Practitioner to choose one of the two charging options below, on an Episodic basis. This means during one Episode, all MBS items charged on the Account for the Eligible Member will either all be charged on an Opt In basis or all will be charged on an Opt Out basis. The Practitioner cannot choose to charge different MBS items on a different charging basis during one Episode.</p> <p>(i) <b>Opt In</b> The Practitioner will charge the Eligible Member fees for Services which do not exceed the Full Cover Schedule. HBF will pay a benefit for the Services, in accordance with the Known Gap Benefit Schedule. This means that HBF will pay a higher amount than Minimum Benefit and the Eligible Member may need to pay any gap between the fees set out on the Full Covered Schedule and the Known Gap Benefit Schedule.</p> <p>(ii) <b>Opt Out</b> The Practitioner will charge the Eligible Member fees for Services which exceed the fee specified in the Full Cover Schedule. HBF will pay Minimum Benefit. The Eligible Member may be required to pay any gap between the Minimum Benefit paid by HBF and the charge imposed by the Practitioner.</p> <p>(c) <b>Specialist Anaesthetist Fully Covered</b> means the fees charged for Services provided to Eligible Members by the Practitioner do not exceed the fees set out in the Specialist Anaesthetist Schedule. The result for the Eligible Member is that there will be no gap payment required from that Eligible Member.</p> <p>For all Gap Choices, the fees charged by the Practitioner are inclusive of all fees associated with or otherwise relevant to the Services provided, such as administration, management or booking fees. Any gap payment required by an Eligible Member is subject to the provision of Informed Financial Consent.</p>
<b>Good Faith</b>	means an intent to act honestly, fairly and appropriately in all dealings and includes, but is not limited to: (a) ensuring all records are completed correctly and in accordance with Government and industry guidelines; (b) exercising any discretions provided in this Agreement reasonably and not arbitrarily.
<b>Hospital</b>	means: (a) a licensed overnight private hospital or private day hospital facility; or (b) a public hospital, where Services are provided by the Practitioner in their capacity as a VMO.
<b>Informed Financial Consent</b>	<p>means the Practitioner must give a HBF Member or their legal representative a clear written estimate of fees. This includes identifying the cost of any prosthesis that is gap permitted or not listed in the <i>Private Health Insurance (Prosthesis) Rules</i>, where the Practitioner proposes the use of such a prosthesis, along with any out-of-pocket expenses that the HBF Member may incur during their Episode:</p> <p>(a) prior to providing Services to a HBF Member; or (b) where it is not practicable or possible to do so due to an emergency situation, as soon as the circumstances reasonably permit.</p> <p>The Practitioner must ensure that consent has been validly given by, or on behalf of, the HBF Member. In the event a Practitioner indicates that HBF and Medicare will pay a portion of the Practitioner's fee, a statement that a HBF Member will be required to pay the account in the event HBF or Medicare do not pay will not constitute Informed Financial Consent for the purposes of this Agreement.</p>

<b>Known Gap Benefit Schedule</b>	can be obtained by contacting the Provider Support Team by phone on 9265 6378 or by email to <a href="mailto:medicalgap@hbf.com.au">medicalgap@hbf.com.au</a> .
<b>MBS</b>	means the Medicare Benefits Schedule, the current schedule of medical fees set by the Commonwealth Government under the <i>Health Insurance Act 1973</i> (Cth).
<b>Member</b>	means a person who is insured under a private health insurance policy issued by HBF.
<b>Minimum Benefit</b>	is 25% of the MBS fee, which is the minimum benefit that HBF is required by law to pay, in respect of Services for which a Medicare benefit is payable for an Eligible Member.
<b>Practitioner</b>	means a medical specialist.
<b>Service</b>	means 'Hospital Treatment', (as defined in the <i>Private Health Insurance Act 2007</i> (Cth)), provided to an Eligible Member.
<b>Specialist Anaesthetist Schedule</b>	can be obtained by contacting the Provider Support Team by phone on 9265 6378 or by email to <a href="mailto:medicalgap@hbf.com.au">medicalgap@hbf.com.au</a> .
<b>Type C Procedure</b>	means a procedure that would not normally require hospital treatment, as set out in the <i>Private Health Insurance (Benefit Requirements) Rules</i> .
<b>VMO</b>	means a Practitioner in private practice who also provides medical services, as a non-salaried Practitioner, in a public hospital.

## Attachment 2 - Privacy statement for practitioners

HBF Health Limited (**HBF**) collects and uses your personal information obtained from you or from third parties, such as Medicare and third party medical payment and information providers, to register you for the Gap Arrangement, to inform HBF Members and prospective HBF Members of your name and the contact details that you have provided, along with the fact that you are a participant of the Gap Arrangement, to administer and audit the Gap Arrangement and private health insurance claims and to prevent, detect and follow up fraudulent or invalid claims or misrepresentations.

HBF may disclose your personal information to our members to keep them informed of your correspondence and/or billing address, the general public on our website to advertise your participation in the Gap Arrangement, to our third-party providers who provide us with survey and research information or data administration services. We may also disclose your personal information to your relevant professional association and external consultants to review your claims history or claiming patterns and to regulatory bodies and government agencies and other parties to whom HBF are authorised or required by law to disclose information.

HBF is unlikely to transfer your personal information overseas. HBF may transfer your personal information overseas where the transmission is directly related to your registration as a Practitioner under the Gap Arrangement or for a review of claims history or claiming patterns. In the event HBF transfers your personal information outside Australia, HBF will comply with the requirements of the Privacy Act that relate to transborder data flows.

HBF may use your personal information for the purpose of providing you with material, such as articles and information about provider arrangements that may be of interest to you. You may opt out of receiving this information by emailing HBF at [medicalgap@hbf.com.au](mailto:medicalgap@hbf.com.au).

If you do not wish to provide the personal information HBF requires for registration, HBF will not be able to register you as a Practitioner under the Gap Arrangement and HBF Members will not be able to claim benefits for services you provide under the Gap Arrangement.

HBF will allow you to access and correct the personal information it holds about you as required by law. If you have any queries about how HBF handles your personal information, or would like to request access to that information, please contact HBF:

- By mail – HBF Privacy Officer, GPO Box C101, Perth WA 6839; or
- By telephone – (08) 9265 6378.

If you have any concerns or complaints about the manner in which your personal information has been collected or handled by HBF, please contact the Privacy Officer using the details above.

The HBF Privacy Policy contains further information about how HBF generally handles your personal information including:

- how you can access and correct personal information HBF holds about you; and
- how you can submit a privacy complaint to HBF and how HBF will deal with your complaint.