OFFICIAL

Good afternoon, Jason.

Thank you for your questions, which I have answered below in red. Firstly though, I appreciate that there is conflicting advice across the MBS provider and software sector in relation to verbal agreement to assign Medicare benefits. The most accurate information will continue to come from the Department, which has already stated that the requisite regulatory amendments are a priority.

Some of the information you have asked for is new or has required tailored guidance which I am happy to provide (with caveats), and many of the answers here are from published sources which I have linked to. I hope you find this information of use.

1. **Verbal assignment. For services rendered on or after 1 July 2026, is verbal agreement alone still an acceptable means of assigning a Medicare benefit, or must the assignor's agreement be captured in an approved written or electronic form?**

Verbal agreement is part of the 12-month transition period for assignment of Medicare benefits. The requirements for assignment of benefit are being changed to enable this for bulk billing until 30 June 2027. Providers will still need to make and keep written records (electronic or physical).

2. **Transition or deferred enforcement. Is there any formal transition period or deferred compliance arrangement applying to diagnostic imaging (we have encountered claims of a 12-month deferral)? If so, could you please identify the instrument or published guidance that establishes it, and its scope?**

The department has stated its compliance posture in the context of the transition period, as follows: Our compliance approach will be consistent with the department's health provider compliance strategy. The department will prioritise prevention and education as practitioners work towards adopting new assignment of benefit requirements – within a risk-based approach

to its' ongoing compliance efforts. We appreciate practitioners' ongoing dedication to compliance and welcome your suggestions and questions regarding these changes.

A 'deferral', if that is advice you have heard, is a misrepresentation or misunderstanding of this statement. However, for practitioners it might feel like this is the practical outcome while they move toward compliant solutions.

3. **Checkbox acceptance vs signature. The Services Australia guidance ("Assignment of benefit for bulk bill claims", servicesaustralia.gov.au) states that "the patient must sign the assignment form", while also describing an electronic channel in which "the practice sends the patient a text message with a link to a form that includes the assignment agreement particulars. The assignor accepts the assignment by selecting a check box on the agreement form." For diagnostic imaging specifically: is checkbox acceptance by the assignor an approved acceptance method, or is a signature (electronic or handwritten) required? If checkbox acceptance is approved only for particular settings (for example, general practice), could you please confirm which settings?**

There is a lot of flexibility in what can constitute an electronic signature. The intent of updates for assignment of Medicare benefits is to be more obviously compatible with the *Electronic Transactions Act 1999*. Conversely, it would be inappropriate if not redundant to use the *Health Insurance Act 1973* to redefine what a signature is. For this reason, the Department's guidance adopts a principles approach; we cannot easily provide detailed advice when there is such a diversity of solutions. We typically recommend people seek their own legal advice. You may be aware that in the FAQ it says a signature should:

- reliably identify the assignor
- reliably indicate assignors' agreement (by requiring an action)
- meet all other privacy and information technology requirements.

Please do not mistake this as legal advice, but in your example, a text message with a link might be part of how a solution identifies the assignor. A checkbox is an 'action', as is "agree" as a button or typed, or typed name. An electronic signature does not have to be like a "wet signature" or witnessed mark made with a stylus/touchpad, although it could be if that's what

people want to do. For broader guidance on what may constitute an electronic signature, please refer to the Attorney-General's Department website

The requirements (and options) are the same for anyone doing assignment of benefit; there are no special signature requirements for different provider groups (and this is the same for verbal agreement during the transition period).

Whether providers and vendors adopt basic (e.g. checkbox) or more sophisticated (e.g. like Docusign, etc) may be a question of balancing workflow integration, user capability, and risk. That decision is for providers and vendors, and the regulations provide flexibility for how legal requirements can be met.

4. **Who may accept. Could you please confirm that acceptance — whether by signature or checkbox — must be performed by the assignor personally (the patient, or a responsible person as defined in the guidance), and that it may not be performed by the rendering health professional, the health professional's staff, or hospital staff on the assignor's behalf? We would also appreciate guidance on what evidence or audit trail providers are expected to retain to demonstrate, in a compliance review, that acceptance was made by the assignor.**

This is something that has not been amended in updates to assignment of benefit. *The Health Insurance Act 1973*, s20 – Persons entitled to Medicare benefit:

> *(1) Subject to this Part, medicare benefit in respect of a professional service is payable by the Chief Executive Medicare on behalf of the Commonwealth to the person who incurs the medical expenses in respect of that service.*

An example of relevant guidance is in the FAQ, in the context of parents and carers is:

> *An assignment only needs to be made by the person, or 'assignor,' who would otherwise meet the cost of the medical service if it were not being bulk billed. While this often is a parent, guardian, or carer, it is not limited to these relationships. Persons employed by the medical practitioner rendering the medical service cannot be the 'assignor' as there is a perceived financial conflict of interest. If those persons are the parents or carers of the patient however, it would be considered acceptable for them to assign on the child's behalf.*

Tailored versions of this information are also provided in the FAQ relation to "What steps should be taken if a patient is unable to assign?" and "How will this work in aged care and nursing home settings?"

Note that the regulatory requirements for an episodic assignment agreement (pre- and post-service) do not require the identity of the assignor, only whether the assignor is the patient (e.g. Y/N). The requirements are more detailed for enduring agreements, but this may not be relevant to you. Please refer to the FAQ.

5. **Record keeping. Could you please confirm that the requirement to retain a copy of the assignment of benefit agreement for two years from the date of claim applies equally to electronically accepted assignments, and what constitutes an acceptable retained copy (for example: the agreement particulars as displayed to the assignor, together with the acceptance record, timestamp and identifying metadata)?**

The record-keeping requirements for an assignment agreement are based on the date of agreement, not the claim. To the extent that an agreement could be used to justify an MBS claim, a relevant record needs to have been finalised with the assignor having agreed to the particulars including the date of agreement. Metadata may also be an approach used to date the agreement. For the avoidance of doubt, an agreement should not be editable after it has been finalised with an assignor's action.

For reference, s127A of the *Health Insurance Legislation Amendment (Assignment of Medicare Benefits) Act 2024* relates to high-level record-keeping requirements in relation to assignments.

6. **Authoritative references. Where should software vendors look for the current authoritative requirements for electronic assignment of benefit in diagnostic imaging — the approved form(s) and any relevant legislative instruments under the *Health Insurance Act 1973* — and is there any conformance, assessment or review process available to vendors building electronic assignment workflows?**

The legal requirements are in a combination of legislative and regulatory instruments. These instruments are linked on the Department's website and hyperlinked throughout the FAQ. I have linked to the sources for the information which I have provided to you above. Most recently, we have also published template examples for some assignment agreements,

including bulk billed pre-assignment for diagnostic imaging – intended as a guide for people to design their own but may be amended and used if suitable.

For functional requirements and software-related questions, you would need to seek advice from Services Australia. developerliaison@servicesaustralia.gov.au is best the best option for developers. assignmentofbenefit.enquiries@servicesaustralia.gov.au is best for providers.

Please note that while an assignment of benefit is a required record for a provider to justify a claim, it is not included in materials for submitting claims, except for manual claims and adjustments. To this end, electronic assignment workflows may also be something that can be tailored to the scenarios where they are deployed.

Please let me know if you require further clarification of the matters above.

Kind regards,

Roland Balodis

Director, Telehealth

MBS Policy & Reviews Branch

Medicare Benefits and Digital Health Division | Health Financing Group

Australian Government Department of Health, Disability and Ageing

T: 02 5132 0553 | E: roland.balodis@health.gov.au

The Department of Health, Disability and Ageing acknowledges the Traditional Custodians of Australia and their continued connection to land, sea and community. We pay our respects to all Elders past and present.