

Medical services rendered for cosmetic reasons -

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Health Industry Partnership

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*Medical services rendered for cosmetic reasons

1. Section 38-7(2)(b) provides:

However a supply of a *medical service is not GST-free under subsection (1) if:

- (a) ...; or
- (b) it is rendered for cosmetic reasons and is not a *professional service for which Medicare benefit is payable under Part II of the *Health Insurance Act 1973*.

2. In view of the above, section 38-7(2)(b) requires the following two elements to be satisfied before a medical service will not be GST-free:

- a. the medical service must be rendered for cosmetic reasons, and
- b. the service is not a professional service for which a Medicare benefit is payable under Part II of the *Health Insurance Act 1973*.

3. In addition to the above it is also necessary that the service must be a 'medical service' as defined for the purposes of section 38-7(1).

4. If a Medicare benefit is payable in relation to the medical service it is not necessary to enquire whether the service was rendered for cosmetic reasons. In this case the supply will be GST-free.

5. If a Medicare benefit is not payable it is then necessary to consider if the service is rendered for cosmetic reasons.

6. The term 'cosmetic reasons' is not defined in the GST Act. It is considered the term will take on its ordinary meaning. The Macquarie Concise Dictionary defines 'cosmetic' as:

- a. 'serving to beautify: imparting or improving beauty, especially of the complexion:
- b. designs to effect a superficial alteration while keeping the basis unchanged'.

7. A ‘*medical service’ will be ‘rendered for cosmetic reasons’ if it is predominantly performed for, or is rendered for the purpose of permitting, the improvement of the personal appearance of a patient, such as a face-lift. Whether a service is for cosmetic reasons must be evaluated on a case by case basis. Procedures that alter or enhance a patient's appearance but have no medical or reconstructive purpose are considered to be cosmetic and are taxable.

8. However, a procedure that is performed for medical or reconstructive reasons is not cosmetic and is GST-free. An example of this is skin grafting performed on a burn victim. A procedure will be for medical reasons if it is predominantly performed for, or is rendered for the purpose of permitting, the alteration of a significant defect in appearance caused by disease, trauma or congenital deformity and:

- a. it is recommended by a psychiatrist or psychologist as being necessary for the psychological wellbeing, or for the appropriate treatment of a psychiatric condition, of that patient, or
- b. the patient is less than 18 years of age and a defect is in an area of the body, which normally and usually would not be clothed.

9. Section 38-7(2)(b) also refers to the Medicare benefit as being ‘payable’. It is considered that the term ‘payable’ as it appears in the section is satisfied if the service is one that could be submitted to Medicare as payable.

10. Further, at the time of rendering the service a medical practitioner may not know whether a Medicare benefit is payable. It is understood the Health Insurance Commission does have a procedure for assessing special claims for the payment of a benefit. However, it may be necessary to go ahead with the procedure without receiving the Health Insurance Commissioner's determination. In this case the doctor should charge the GST and if the Health Insurance Commission subsequently approves the payment of a benefit the medical practitioner should refund the GST paid by the patient and put through an adjustment in the next Business Activity Statement (‘BAS’) to reclaim the GST from the ATO.