Payments under the Health Care Home program: Application of Employment Taxes

This document prepared by KPMG in consultation with the Department of Health (the Department) sets out the implications of the Health Care Home ("HCH") payment model for participating medical practices in relation to their exposure to employment tax obligations (i.e. PAYG Withholding, payroll tax, superannuation or worker's compensation).

Overview

As a starting point it is relevant to note that:

- participation in the HCH program by a medical practice, and/or
- distribution of HCH funds by a medical practice to healthcare workers and contractors,

will not, in and of itself, alter existing employee or contractor arrangements for employment tax purposes. That is, participation in the HCH program will not fundamentally change the nature of existing employee and/or contractor payments - although it may require the creation of new payment arrangements in some circumstances.

Queries have been raised in relation to the application of employment tax obligations to any such new payment arrangements, and this document seeks to both address those changes and outline the employment tax implications of several potential payment models.

Analysis: Medical practice payment arrangements

In analysing the potential impact of the HCH program a broad range of medical practice models have been considered, including sole trader practitioners, partnerships, associateships and large corporate practice structures. A summary of types of payment arrangements that may or may not be affected by participation in the HCH program (from an employment taxes position) is set out below.

1. Medical practice arrangements that should not be affected by the HCH payment model

The following existing practice worker payment arrangements should not be affected by the HCH payment model:

- **Salaried employees of the medical practice**: including doctors, nurses and administrative staff, etc. Salaried employees are subject to employment tax obligations regardless of whether the practice participates in the HCH program.
- **Payments to existing contracted workers (medical and/or practice staff) for services provided to the medical practice:** the potential for application of employment tax obligations to a practice's existing contractor arrangements should not change solely as a result of participation in the HCH program (as such contractor arrangements are already potentially subject to employment tax obligations).
- **Payments to business owners from medical practice bank accounts**: withdrawals of business funds by practice owners are not subject to employment tax obligations regardless of whether that practice participates in the HCH program.

2. Medical practice payment arrangements that may be affected by the HCH payment model

The following existing practice worker payment arrangements may be affected by the HCH payment model, depending on how those arrangements are currently structured for taxation purposes.

- **Medical practices that provide business support services to nominated practitioners:** Under the HCH payment model medical practices that do not currently receive fees for patient services may need to initiate new payment arrangements in order to manage receipt and disbursement of HCH funds. However, these new payment flows should not result in changed employment tax obligations provided they are administered in a manner consistent with current contractual arrangements i.e. under the HCH program.

Several such examples are set out in the following scenarios.

Scenarios: Practice/practitioner arrangements following HCH sign up

As noted above, medical practices that do not currently receive fees for patient services may need to initiate new payment arrangements in order to manage receipt and disbursement of HCH funds.

KPMG has, in consultation with the Department of Health, reviewed and summarised the employment tax implications of the following two scenarios:

1. The practice assigns its right to HCH program monies; and
2. The practice modifies existing service agreements to 'absorb' the impact of HCH receipts.

It is important to note that the two analysed scenarios are not considered the only practice/practitioner arrangements appropriate to these circumstances, and that there is no 'one size fits all' approach to the distribution of HCH funds to medical practitioners.

Each practice will need to evaluate payment options in the context of their existing commercial arrangements, and should seek independent advice on the impact of those outlined below.

Scenario 1: Practice assigns right to HCH program monies

Medical practices that assign their right to HCH funding to the patient's preferred clinician (or other nominated GP) should not be subject to employment taxes in relation to any post-assignment use of those monies to pay practitioner fees.

In such cases - and consistent with common current arrangements - fees paid to a practitioner out of HCH funds would be equivalent to a customer payment for medical services, and not the payment of assessable salary, wage or contractor fees by practice to a practitioner. It is likely that practices utilising this model would continue to generate patient invoices on behalf of the practitioner for the services provided, as per current arrangements.

Issues to consider in relation to this model

- Practicality: Individual practice arrangements will impact how detailed assignment instruments and arrangements would need to be in order to be legally and commercially practical. Practices would need to consider their specific practitioner arrangements and commercial structure(s) and requirements, which will vary significantly from business to business.
- Unintended taxation consequences: KPMG's preliminary assessment indicates that there is unlikely to be unintended tax consequences arising from the assignment of HCH funds, however, practices would need to satisfy themselves of this outcome on the basis of their individual circumstances and the instrument and arrangements causing the assignment.

Scenario 2: Practice modifies existing service agreements to 'absorb' the impact of HCH receipts

Medical practices that, instead of passing on payments received under HCH to the practitioners involved in treatment, retain HCH payments in full and merely adjust (i.e. reduce) existing business support service fee agreements with treating medical practitioners would also not become subject to any new employment tax obligations in relation to the payment arrangement.

Under this scenario, practices, over time, would gain a better understanding of how the HCH works and would be better able to evaluate the potential for this model.

Further issues to consider

- Complexity: A 'matching' process would be required under which service fees payable to a practitioner in relation to a HCH program patient would be offset through reduction of the service fees payable by the practitioner (i.e. an offsetting of the two income sources). This could be administratively difficult for some practices and may require regular review of billings to ensure the GPs' payments are not impacted.
- Applicability: Depending on the proportion of HCH payments to standard billings under MBS, this solution may not be practicable under certain arrangements - particularly for healthcare practices anticipating a high amount of HCH funding relative to MBS receipts.

Both of the above practice/practitioner arrangements are summarised in the table below.

Payment model: practitioner contracts with the practice	Further issues to consider
Model 1: The medical practice enters into an agreement so that income received under HCH program is assigned.	• The instrument that would be most effective (commercially and legally) to assign funds would depend on the existing arrangements in place for the practice. • The taxation implications of assignment of HCH funds should be carefully evaluated.
Model 2: The medical practice retains HCH payments in full and adjusts existing service agreement receipts to account for the practice's HCH receipts.	• A 'matching' process would be required to offset MBS service fees payable *to* the medical practice against HCH service fees payable *by* the practice. • For some practices this could be administratively demanding. • May not be practical if there is a high amount of HCH funding relative to MBS receipts.

Important notice and disclaimer

Should a practice or practitioner wish to pursue any of the above outlined arrangements or wish to consider whether any of the above outlined arrangements are appropriate for their facts and circumstances they should seek their own independent advice.

Our taxation advice has been prepared specifically in response to a request for tax advice by the Department of Health and is based on the facts, circumstances and scenarios provided to us by the Department of Health.

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