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**RESPONSE TO THE EARLY RELEASE OF SUPERANNUATION BENEFITS REVIEW – DECEMBER 2017 FROM THE AUSTRALIAN SOCIETY OF PLASTIC SURGEONS (ASPS)**

Please find attached the response to the questions that we consider our Society is in a position to answer constructively:

**Principles underpinning early release**

**Question 0.1** Do these proposed principles provide an appropriate guide to determine the grounds for early release under compassionate and financial hardship grounds, and for victims of crime compensation? If not, what should these principles be?

**ASPS response** Yes, the principles are sound and appropriate. Applicants should be made aware of these principles especially in instances where third parties are involved.

**Question 0.2** Having regard to these principles, should early release of superannuation benefits generally be more or less difficult to obtain?

**ASPS response** They should be more difficult to obtain. Approved early release should demonstrably be aligned with the principles. The Treasury’s Review paper highlights that the principles are being breached because regulations are too loose. This is also resulting in inconsistent application of the principles.

**Part 1: Compassionate grounds**

**Question 1.1** Should the assessment of financial capacity be made more prescriptive and/or objective? If so, how? What information might applicants need to provide?

**ASPS response** There should be a thorough assessment of financial capacity but we do not feel it is within our expertise to advise on this.

**Question 1.2** What factors might be driving the increase in the amount of superannuation released on medical grounds and are these factors any cause for concern?

**ASPS response** Re the increased medical use, there are a combination of factors that we would identify: (1) patients are becoming more aware of the possibility of early release of super; (2) there has been a marked increase in bariatric surgery (partly due to the increasing incidence of obesity in the community) which is difficult to access through the public health system. The patients who would benefit from bariatric surgery are likely to be uninsured and cannot afford the cost of having surgery performed in the private sector. It is possible that some of the cost for a single procedure could be covered by Medicare, some by a private health insurer and some by the patient’s superannuation; and (3) Following weight loss surgery (if successful) the patients are often left with a large amount of redundant skin which causes multiple symptoms. These can be relieved by removing the excess skin. These procedures are very lengthy and costly and significantly underfunded by Medicare and therefore private health insurers.

**Question 1.3** Do the current provisions for early release on medical grounds strike the appropriate balance between preserving income for retirement and providing assistance in times of genuine hardship? If no, what are the alternatives?

**ASPS response** We answer in relation to plastic and reconstructive surgery - our specialists are normally involved in post bariatric surgery including skin resection and tightening after bariatric surgery. Plastic surgeons also perform breast reconstructions, post burn corrective surgery, as well as complex reconstructions following head and neck cancer. All these should be available within the public system but the waiting times are often unacceptably long. Therefore patients are often interested in the possibility of early release of superannuation in order to have their surgery performed in the private system. We observe that there is inconsistency relating to the use of the current provisions and that there is potential for abuse particularly by third parties with a financial stake in the decision. We maintain that the medical practitioner providing the service should be independent from the one who is certifying the early release of super. We also maintain that as part of the certification process, the certifying practitioner be required to attach an equivalent MBS item number to the procedure that is being applied for. If there is no such number applied, it would raise red flags as to the validity of the application. Under this approach it is important that the MBS Item Numbers themselves are worded in a current and an appropriate fashion, and implemented accordingly – this has not always been the case. As part of the recent MBS Review, the ASPS is working with the Federal Department of Health to ensure that it will be for all the item numbers that relate to our specialty. Finally, we note that separate to this review of superannuation provisions, and to ensure that the ‘balance’ referred to in this question is achieved, there is an urgent need for greater provision by the Government to ensure that these procedures, where genuinely needed, are available in the public health system.

**Question 1.4** Should there be a limit on the number of releases permitted within a certain timeframe (for example, 12 months) and/or should there be cashing restrictions on the amount released? If so, should there be different restrictions for different medical conditions?

**ASPS response** There should be restrictions on the amount released. There should be different restrictions for different medical conditions as there is a significant difference in complexity and time involved for different procedures and a varied length of hospital stay.

**Question 1.5** Have you observed any trends in the types of treatments that are being funded by superannuation benefits and are these trends any cause for concern?

**ASPS response** The national trends in the types of procedures, outside the information provided in the Treasury Paper, are difficult for the ASPS to confirm. There is a conflict of interest if the provider of the service is assisting the patient with their application. The better outcome would be to have two separate practitioners in the appropriate specialty give an opinion, or certify the application, and then ensure that neither of those certifiers is the treating doctor or is related to the treating doctor. We do not believe that a psychiatrist should be the only specialist consulted in the situation where a patient desires a breast augmentation; in this case there should be an opinion from both a plastic surgeon and a psychiatrist.

**Question 1.6** Are there certain treatments for which early release of superannuation should not be permitted? If so, what is the basis upon which these treatments should be excluded?

**ASPS response** We maintain that as part of the certification process for any early release of superannuation, the certifying practitioner be required to attach an equivalent MBS item number to the procedure that is being applied for. If the item numbers are well worded, that should be the basis upon which treatments are included or excluded. Related to this, we maintain that most of these treatments, if they are necessary to significantly alleviate acute or chronic pain, or significantly alleviate acute or chronic mental disturbance, should be addressed within the existing MBS schedule and therefore available within the public health system. Unfortunately the latter is not always the case. To make that schedule effective, there is an urgent requirement to ensure that these procedures, where genuinely needed, are available in the public health system and the early release of superannuation to fund these procedures is rarely required.

**Question 1.8** When might bariatric surgery be genuinely necessary to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance (in general – noting that this will depend upon the specific circumstances of each case)?

**ASPS response** Bariatric Surgery in a broad sense may be necessary to treat morbid obesity. Such an operation in certain instances will result in better control of hypertension, diabetes and reduce the incidence of arthritis. However, as a result of bariatric surgery, patients may be left with significant skin laxity which in itself may cause significant symptoms. This may then require correction by Plastic Surgeons.

**Question 1.9** Should the rules explicitly require that the Regulator be satisfied that the amount claimed for a particular treatment is reasonable? If so, what evidence might be relevant to that determination?

**ASPS response** There should be an expectation that the amount claimed for a particular treatment is reasonable. This is difficult to assess but perhaps the specialists certifying the claim be required to also give some advice re an appropriate cost. We suggest a requirement in the application process, via the certifying process and provided by the certifying specialist, to a ‘standard cost’ of such a procedure, possibly with reference to those standard costs provided by an entity such as (NSW) Work Cover. In general this standard should set a value above the Private Health Insurer rebate. This standard needs to reflect the complexity of the procedure.

**Question 1.11** Should SIS Regulation 6.19A(a)(ii) and (iii) be amended to refer to ‘treatment’ rather than ‘alleviation’ of acute or chronic pain? Alternatively, should those provisions be removed entirely (so that early access is only available where the individual’s condition is life‑threatening)? What would be the consequences of this approach?

**ASPS response** Treatments for acute and chronic pain or mental disturbance are complex. These conditions are difficult to diagnose and categorise and more complex regulations are required, along with increased funding, to ensure that treatments are provided appropriately, firstly within the public health system and with provision within the superannuation system after thorough assessment of the patient. The ASPS view is that if these provisions were to be removed entirely from the superannuation provisions, it would be important in the case of bariatric surgery, post bariatric surgery and procedures relevant for some other conditions that alternative, viable, accessible processes within the health care system be available for meeting the genuine health needs of individuals suffering from these conditions.

**Question 1.12** Should the reference to a medical specialist in SIS Regulation 6.19A(3) be clarified to ensure that the practitioner is a specialist in the field most relevant to the proposed condition being treated?

**ASPS response** We maintain that it will materially assist alignment with the principles of the Superannuation system if there were significant restrictions (i.e. additional regulations) on the type of specialist who can certify and perform the medical operations that are being applied for. Assuming the legislation continues to require two certifying practitioners, one of whom is a specialist, we propose that neither of the certifiers can perform the operation. In particular the provisions should proscribe that the operation is required to be performed by a different and demonstrably independent practitioner/s. In the case of bariatric surgery and post bariatric surgery, we maintain that: (1) the specialist certifier should be a RACS qualified surgeon; (2) certification should be subject to the condition that the specialist certifying is not the specialist or practitioner performing the operation; and (3) the procedure itself should be performed by a RACS qualified surgeon.

**Question 1.13** Should the Regulator be entitled to seek a second opinion from an approved medical practitioner/s, or should the individual be required to receive a reference from a list of approved medical practitioners, to ensure the objectiveness of the assessment?

**ASPS response** We argue that restricting and separating the specialist roles of certifier and surgeon as indicated under 1.12 should address this matter, so no additional regulation relating to a second opinion should be required.

If you have any further questions, please feel free to contact:

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