

**BREAST PROSTHESIS SERVICE
PAYMENTS**

NOTICE

**PURSUANT TO SECTION 88 OF
THE NEW ZEALAND PUBLIC HEALTH
AND DISABILITY ACT 2000**

THIS NOTICE IS ISSUED BY THE CROWN

NOTICE UNDER SECTION 88 OF THE NEW ZEALAND PUBLIC HEALTH AND DISABILITY ACT 2000

PART A: PURPOSE AND BACKGROUND

A1. Purpose and Introductory Background

A1.1 This is a Notice issued by the Crown, acting by and through the Ministry of Health (“the Ministry”) pursuant to section 88 of the New Zealand Public Health and Disability Act 2000 (“the Act”).

A1.2 This Notice sets out the terms and conditions on which the Ministry will:

- (a) pay any Provider for providing breast prostheses, breast forms, special bras to hold breast prostheses or breast forms, surgical bras and normal bras, including the modification of a normal bra to hold breast prostheses or breast forms, swim forms, bra fillers, foam fillers, shell prostheses, lumpectomy shells or prosthetic nipples (“the Services”) to any Eligible Person; or
- (b) pay any Eligible Person for the purchase of the Services by that Eligible Person from a Provider.

A1.3 The Services to which this Notice relates are further specified in Part C of this Notice.

A1.4 This Notice shall apply to all service providers (each individually a “Provider”) that, and all Eligible Persons who, claim payment pursuant to this Notice for Services provided on or after 31 March 2005.

A1.5 A Person who accepts any payment under this Notice for Services provided is deemed by section 88 of the Act to have accepted the terms and conditions of this Notice.

A1.6 Where a Provider accepts any payment under this Notice, any other contracts between the Provider and the Ministry for the provision of the Services shall terminate.

A2. Term

A2.1 This Notice shall commence on 31 March 2005 and shall continue until it is revoked in accordance with clause A6.4 of this Notice.

A3. Eligible Persons

A3.1 A Person may only claim payment under this Notice in respect of Services provided to a Person who satisfies the criteria set out in clause D1.1 of this Notice (“Eligible Person”).

A4. Claims

A4.1 Claims for payments under this Notice may only be made in accordance with the procedures for claiming set out in Part E of this Notice.

A5. Payments

A5.1 Payments will be made to the Provider and the Eligible Person in accordance with the payment administrative procedures set out in Part F of this Notice.

A5.2 The Ministry may withhold any payment to a Provider or Eligible Person in accordance with clause B10.

A6. Variation or Revocation of Notice

A6.1 The Ministry may vary this Notice by giving not less than 12 weeks notice to Providers and appropriate groups representative of Eligible Persons (“Representative Groups”) of such a variation where the variation is necessary to comply with the law. The variation will be published in the *Gazette* and will take effect on the date it is published in the *Gazette*, which will be not earlier than 12 weeks after notice of the variation was given.

A6.2 Except where clause A6.1 applies, the Ministry must Consult with Providers and Representative Groups, in accordance with clause A6.3, before varying this Notice.

A6.3 Process for Consultation on Variations:

- (a) The Ministry will give Providers and Representative Groups notice of its proposed variation and invite Providers and Representative Groups to send comment to the Ministry on the proposed variation within 4 weeks of giving such notice;
- (b) The Ministry will take into account all comments received from Providers and Representative Groups before finalising the variation;
- (c) The finalised variation will be published in the *Gazette* and will take effect on the date it is published in the *Gazette*, which will be not earlier than 12 weeks after notice of the proposed variation was given in accordance with clause A6.3(a).
- (d) The Ministry will give notice to Providers and Representative Groups of the finalised variation once the variation takes effect in accordance with clause A6.3(c).

A6.4 The Ministry may revoke this Notice without Consulting Providers or Representative Groups by giving not less than 12 weeks notice to Providers and Representative Groups. The revocation will be published in the *Gazette* and will take effect on the date it is published in the *Gazette*, which will be not earlier than 12 weeks after notice of the revocation was given.

A7. Scheme of Notice

A7.1 This Notice consists of the following Parts:

- (a) Part A, which states the purpose of the Notice and introductory background;
- (b) Part B, which sets out the general terms and conditions that are applicable to the Services provided;
- (c) Part C, which contains the service specifications;
- (d) Part D, which sets out the entitlements for Eligible Persons;
- (e) Part E, which sets out the claiming procedures for Providers and Eligible Persons; and

(f) Part F, which sets out the payment administrative procedures.

A7.2 If there is any conflict between Part B and Part C, the terms of Part C will prevail.

A7.3 For the avoidance of doubt, the schedules annexed to this Notice are not part of this Notice.

A7.4 Clause B20.8 sets out general definitions for the purposes of this Notice.

PART B: PROVIDER GENERAL TERMS AND CONDITIONS

B1. Services for Maori

B1.1 The Provider must develop and implement processes to bring the perspective of Maori to the provision of the Services by the Provider. These processes will be suited to the scope and location of the Services provided and their impact on Maori and, where appropriate, will include using linkages developed with Maori to ensure that appropriate processes are in place to:

- (a) monitor and evaluate whether the Provider's services are meeting the needs of Maori Eligible Persons;
- (b) identify and, where possible attempt to remove, barriers to accessing the Services provided by the Provider to Maori Eligible Persons;
- (c) where appropriate, facilitate the involvement of whanau in the care and treatment of Maori Eligible Persons receiving the Services from the Provider; and
- (d) ensure that the Provider is responsive to Maori cultural practices that are relevant to Maori Eligible Persons.

B1.2 The Provider must develop and implement appropriate processes to provide cross-cultural training and education for its staff.

B2. Service Standards

B2.1 The Provider must provide the Services:

- (a) in a prompt, efficient, professional and ethical manner;
- (b) in accordance with all relevant law;
- (c) in accordance with all Ministry Approved Standards;
- (d) in accordance with the service specifications set out in Part C; and
- (e) without material interruption.

B2.2 The Provider must provide the Services in a manner that is consistent with any health strategy, disability strategy and any strategy for the development and use of nationally consistent standards, quality assurance programmes and performance monitoring issued by the Minister under section 8 or section 9 of the Act.

B3. Quality Assurance Programme

B3.1 The Provider will maintain a quality assurance programme that includes identification and risk management of any areas of potential harm to Eligible Persons. This must include but is not limited to:

- (a) a quality plan;

- (b) a training programme and performance reviews of all staff;
- (c) a complaints procedure in accordance with clause B5;
- (d) appraisal of Eligible Person satisfaction;
- (e) ensuring staff and subcontractors are aware of the relevant parts of this Notice; and
- (f) information standards.

B4. Rights of Eligible Persons

B4.1 The Provider must provide the Services in accordance with all requirements of the Code of Health and Disability Services Consumers' Rights 1996. This includes:

- (a) ensuring that a copy of the Code of Health and Disability Services Consumers' Rights 1996 is available to Eligible Persons to whom the Provider provides the Services;
- (b) establishing policies and procedures to ensure that the Provider:
 - (i) complies with the Code of Health and Disability Services Consumers' Rights 1996; and
 - (ii) understands the Code of Health and Disability Services Consumers' Rights 1996 and, where requested by the Ministry, is able to refer to documented policies and procedures to demonstrate the Provider's effective implementation of the Code.

B5. Complaints Procedure

B5.1 The Provider must establish a complaints procedure for Eligible Persons, their families and whanau or other Persons, which is made known to and easily understandable by Eligible Persons.

B5.2 The Provider must ensure that, under the complaints procedure:

- (a) all parties have the right to be heard;
- (b) the Person handling the complaint acts fairly;
- (c) complaints are handled at the level appropriate to the complexity or gravity of the complaint;
- (d) any corrective action required following a complaint is undertaken;
- (e) Eligible Persons are informed of their right to direct their complaints to the Health and Disability Commissioner and to the Ministry, particularly in the event of non-resolution of a complaint;
- (f) complaints are handled sensitively with due consideration of cultural or other values;
- (g) the making of a complaint will not in any way compromise the Eligible Person's ability to receive the Services or the ability of that Eligible Person's family or whanau to be involved in the Services;

- (h) complaints are regularly monitored by the Provider and trends identified in order to improve delivery of the Services by the Provider; and
- (i) the complaints procedure is consistent with the Ministry's complaints policy, as updated from time to time.

B6. Audit

B6.1 The Ministry may audit any Provider for the purpose of inspecting, monitoring, investigating, reviewing and evaluating whether the Provider is providing the Services and claiming for payment in accordance with this Notice.

B6.2 The Provider must co-operate with the Ministry fully and allow the Ministry, or the Ministry's authorised agents, access to:

- (a) its premises;
- (b) all premises where the Provider's Records are kept; and
- (c) staff, sub-contractors or other personnel used by the Provider in providing the Services;

for the purposes of and during the course of carrying out any audit.

B6.3 The Provider must ensure that any sub-contracting or agency agreements it may enter into in relation to the Services include a provision to the effect that the sub-contractor or agent must co-operate with the Ministry fully and allow the Ministry, or the Ministry's authorised agents, the access referred to in clause B6.2.

B6.4 The Provider must allow the Ministry, or the Ministry's authorised agents, to interview any staff, sub-contractors, or other personnel used by the Provider in providing the Services and Eligible Persons receiving the Services from the Provider and the families or whanau of Eligible Persons where the Ministry considers it appropriate for the purposes of carrying out an audit.

B6.5 The Ministry will ensure that the exercise of this access under this clause will not unreasonably disrupt the provision of the Services to Eligible Persons.

B6.6 The Ministry may carry out an audit of a Provider after this Notice is revoked or the application of this Notice to the Provider has been terminated in accordance with clause B11 or after the Provider has ceased to make Claims under clause E3 or receive payment directly from Eligible Persons who make Claims under clause E4, but only to the extent that the audit relates to the period during which the Provider claimed or received payment under this Notice.

B7. Other Arrangements

B7.1 The Provider must not enter into any other arrangement that may prejudice the Provider's ability to meet its obligations under this Notice, but subject to this, the Provider may provide Services to Persons for whom it does not, or who do not, claim payment under this Notice.

B7.2 Nothing in this Notice gives any Provider an exclusive right to provide the Services and the Ministry may make payments to any number of Providers under this Notice.

B8. Record Keeping

B8.1 The Provider must keep and preserve Records and protect the security of those Records in accordance with best business practice and its legal obligations, and make them available to the Ministry in accordance with the Ministry's reasonable instructions and rights to access such Records.

B8.2 The Provider must take all due care to ensure that, in the event of the Provider ceasing to provide the Services, the Records are properly preserved and, where appropriate, Records relating to Eligible Persons are transferred to a new Provider.

B9. Financial Management

B9.1 The Provider must operate sound financial and business management principles, procedures and practices.

B9.2 The Provider must maintain full and proper financial and business Records in accordance with generally accepted accounting principles, procedures and practices and best business practice generally and any legal obligations applicable to the Provider.

B10. Withholding of Payments

B10.1 Where in the Ministry's opinion, based on reasonable grounds:

- (a) a Provider is materially or intentionally in breach of this Notice; or
- (b) a Claim made by that Provider is materially or intentionally false;

the Ministry may, in addition to or instead of any other remedy under this Notice or at law, withhold some or all of the payments due to the Provider until the Provider has remedied the breach, or until the Ministry is satisfied of the veracity of the Provider's Claim.

B10.2 Where in the Ministry's opinion, based on reasonable grounds, a Claim made by an Eligible Person is materially or intentionally false, the Ministry may withhold some or all of the payments due to the Eligible Person until satisfied of the veracity of the Eligible Person's Claim.

B10.3 Before withholding any payment under clause B10.1 or B10.2, the Ministry will inform the Provider or Eligible Person, as the case may be, in writing of the breach or false Claim and that, if the breach is not remedied or the Ministry is not satisfied of the veracity of the Provider's Claim, within a specified period of not less than 20 Working Days, payments will be withheld after the expiry of that specified period.

B11. Termination of Application of Notice

B11.1 Where a Provider is materially or intentionally in breach of this Notice or has made one or more Claims that individually or collectively are materially or intentionally false the Ministry may, in addition to or instead of withholding payments under clause B10.1 or pursuing any

other legal remedy, give written notice to the Provider of its intention to terminate the application of this Notice to the Provider.

B11.2 Written notice given under clause B11.1 must set out the details of the breach or false Claim, and give the Provider not less than 20 Working Days to remedy the breach or satisfy the Ministry of the veracity of the Provider's Claim.

B11.3 If the Ministry is not satisfied that the Provider has remedied the breach, or about the veracity of the Provider's Claim, within the period specified in the written notice, the Ministry may terminate the application of this Notice to the Provider by giving 20 Working Days written notice to the Provider.

B11.4 A Provider to which the application of this Notice has been terminated may not make Claims under clause E3.

B11.5 Where the Ministry is satisfied on reasonable grounds that the Provider is willing and able to perform all its obligations under this Notice, the Ministry may, in its absolute discretion, reinstate the application of this Notice to the Provider by giving written notice to the Provider.

B12. Consequences of Termination

B12.1 Any termination of the application of this Notice to a Provider pursuant to clause B11 will not prejudice:

- (a) any other rights or remedies that either party may have against the other arising out of any breach of this Notice that occurred before termination; or
- (b) the operation of any clauses of this Notice that are expressed or implied to have effect after termination.

B13. Inspection of Records Under Health Act 1956

B13.1 Where the Ministry exercises powers under section 22G of the Health Act 1956, or any enactment that replaces that section and, following inspection under that section the Ministry is unable to verify any of the Provider's Claims under this Notice, the Ministry may:

- (a) require the Provider to report at such intervals and on such financial matters as the Ministry may specify;
- (b) withhold payments under this Notice from the Provider in accordance with clause B10.1; and
- (c) take such further action as it deems necessary in the circumstances.

B14. Indemnity

B14.1 The Provider must indemnify and keep indemnified the Ministry against all claims, losses, damages, penalties and reasonable costs and expenses (including all legal or other costs or expenses associated with the enforcement of this Notice but excluding any indirect or consequential loss made or incurred by the Ministry) that have been caused by:

- (a) a failure by the Provider to comply with any obligations under this Notice; or

- (b) any act or omission by the Provider or by any Person for whom the Provider is responsible, where that act or omission occurs in the course of the Provider performing (or failing to perform) an obligation under this Notice.

B15. Notification of Problems

B15.1 The Provider must advise the Ministry promptly in writing:

- (a) of anything that may or is likely to materially reduce or affect its ability to provide the Services, including anything relating to any premises or equipment used by the Provider or the Provider's key staff;
- (b) if the Provider materially fails to comply with any of its obligations under this Notice;
- (c) of any serious complaints or disputes that directly or indirectly relate to the provision of the Services; and
- (d) of any issues concerning the Services that might have high media or public interest.

B15.2 The Provider must have in place realistic and reasonable risk management processes and contingency plans to enable the Provider to continue to provide the Services on the occurrence of any of the matters in this clause B15, and must provide the Ministry with details of those plans if so requested.

B16. Public Statements and Advertising

B16.1 Neither the Ministry nor the Provider may either directly or indirectly criticise the other publicly, without first fully discussing the matters of concern with the other in good faith and in a co-operative and constructive manner. Nothing in this clause prevents either the Ministry or the Provider from discussing any matters of concern with their respective staff, subcontractors, agents or advisers.

B16.2 The Provider must not use the Ministry's name or logo without the Ministry's prior written consent and then only in accordance with the Ministry's instructions.

B17. Dispute Resolution

B17.1 If the Ministry or the Provider has any dispute with the other under this Notice then:

- (a) the Ministry and the Provider will use their best endeavours to settle the dispute by agreement; and
- (b) if the dispute is not settled by agreement within 20 Working Days, then, unless it is agreed otherwise, either party may (by written notice to the other) require that the dispute be submitted for mediation by a single mediator agreed by the Ministry and the Provider, or if the Ministry and the Provider cannot agree on a mediator, a mediator nominated by LEADR or if LEADR no longer exists or is unable to nominate a mediator, the President for the time being of the New Zealand Law Society. In the event of any such submission to mediation:
 - (i) the mediator will not be deemed to be acting as an expert or an arbitrator;

- (ii) the mediator will determine the procedure and timetable for the mediation;
- (iii) the cost of the mediation will be shared equally between the Ministry and the Provider (unless otherwise agreed).

(c) If the dispute is not settled by mediation in accordance with clause B17.1(b), then either party may commence proceedings in the District Court.

B17.2 The Ministry and the Provider will continue to comply with all their obligations under this Notice until the dispute is resolved.

B17.3 This clause B17 does not apply to any dispute concerning:

- (a) whether or not any Person is an Eligible Person;
- (b) variation or revocation of this Notice.

B18. Uncontrollable Events

B18.1 Neither the Ministry nor the Provider affected by an Uncontrollable Event will be in default under the terms of this Notice if the default is caused by that Uncontrollable Event. The Ministry or the Provider must:

- (a) promptly given written notice to the other specifying:
 - (i) the cause and extent of the party's inability to perform any of the party's obligations; and
 - (ii) the likely duration of the non-performance; and
- (b) in the meantime, take all reasonable steps to remedy or reduce the impact of the Uncontrollable Event.

B18.2 Neither party is obliged to settle any strike, lock out or other industrial disturbance.

B18.3 Performance of any obligation affected by an Uncontrollable Event must be resumed as soon as is reasonably possible after the Uncontrollable Event ends or its impact is reduced.

B19. Confidentiality

B19.1 Except as provided under this Notice, neither the Ministry nor the Provider may disclose any Confidential Information to any Person. Either the Ministry or the Provider may publish this Notice, in any media, including publication on the internet.

B19.2 Subject to clause B19.3, either the Ministry or the Provider may only disclose Confidential Information:

- (a) to those involved in the provision of Services under this Notice, where necessary;
- (b) to the Ministry or the Provider's respective professional advisors and representative agents;

- (c) where disclosure is permitted under this Notice, including under clause B6;
- (d) that is already in the public domain without being in breach of this clause B19;
- (e) in so far as it is required to be disclosed by law, including where the Ministry considers it necessary to disclose Confidential Information under the Official Information Act 1982 or otherwise under the Ministry's public law obligations;
- (f) where the other party has consented in writing to such disclosure.

B19.3 Both the Ministry and the Provider will ensure that Confidential Information is kept in confidence and in accordance with any legal requirements. In particular, but without limiting the foregoing, any disclosure of Health Information by either the Ministry or the Provider must comply with the Privacy Act 1993 and the Health Information Privacy Code 1994.

B19.4 Both the Ministry and the Provider will ensure that Confidential Information is subject to user authorisation procedures during an audit carried out in accordance with clause B6.

B20. Miscellaneous

B20.1 Waiver

Any waiver by either the Provider or the Ministry must be in writing and duly signed. Each waiver may only be relied on for the specific purpose for which it is given. A failure of either the Ministry or the Provider to exercise, or a delay in exercising, any right given to it under this Notice does not of itself mean that the right has been waived.

B20.2 Document Development

Where the Provider is required to develop a written policy procedure, programme, protocol, guideline, information, system or plan in order to meet any obligation under this Notice, the Provider will:

- (a) develop such a document;
- (b) demonstrate systems for reviewing and updating all such documents regularly;
- (c) demonstrate implementation on request by the Ministry;
- (d) demonstrate that staff are adequately informed of the content and the intent of these documents; and
- (e) provide the Ministry with a copy of the relevant document on request.

B20.3 Entire Terms and Conditions

This Notice constitutes the entire terms and conditions, and understanding between all parties, and supersedes and replaces all prior agreements and understandings between the parties in relation to the provision of the Services.

B20.4 Severability

If any provision of this Notice is found or held to be illegal, invalid or unenforceable, such determination shall not affect the remainder of this Notice, which will remain in force.

B20.5 Governing law and jurisdiction

This Notice is governed by the law of New Zealand. All parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.

B20.6 Notices

- (a) Any notice or other communication to be given, delivered or made under this Notice is to be in writing but may be sent by personal delivery, post (by airmail if to another country), facsimile or email.
- (b) A notice will only be effective:
 - (i) in the case of personal delivery, when delivered;
 - (ii) if posted, 5 Working Days after posting (by airmail to another country);
 - (iii) if made by facsimile, at the time specified in the facsimile confirmation report of the sending facsimile machine that evidences transmission to the facsimile number of the party receiving notice;
 - (iv) if made by email, unless a notice of non-delivery is received by the sender, at the earlier of either:
 - a. the time it would have been delivered in the ordinary course of email, or at the time the sender receives an acknowledgement or receipt of delivery; or
 - b. the end of the second Working Day after the day the email was sent.
- (c) A notice may be given by an authorised officer, employee or agent of the party giving the notice.
- (d) The address for the Ministry and the Provider shall be as notified in writing to the other party. The address details for the Ministry and HealthPAC as at the date of this Notice are:

Ministry of Health
133 Molesworth Street
PO Box 5013
Wellington

HealthPAC
PO Box 1026
Wellington

B20.7 Construction

In this Notice, unless the context otherwise requires:

- (a) Words referring to the singular include the plural and the reverse;

- (b) Everything expressed or implied in this Notice that involves more than one Person binds and benefits those people jointly and severally;
- (c) “including” and similar words do not imply any limitation;
- (d) Clause headings are for reference purposes only;
- (e) A reference to a statute includes:
 - (i) all regulations under that statute;
 - (ii) all amendments to that statute; and
 - (iii) any statute substituting for it which incorporates any of its provisions;
- (f) All periods of time or notice exclude the days on which they are given and include the days on which they expire.

B20.8 Definitions

In this Notice, unless the context otherwise requires, the following expressions shall have the following meanings:

Expression	Meaning
ACC	The Accident Compensation Corporation, established under the Injury Prevention, Rehabilitation, and Compensation Act 2001.
Act	The New Zealand Public Health and Disability Act 2000.
Breast Prosthesis Claim Form	A Breast Prosthesis Claim Form annexed as Schedule 2 to this Notice, to be used by Eligible Persons when claiming under clause E4.
Claim	A request for payment where the Provider or the Eligible Person, as the case may be, completes and submits a Claim Form to HealthPAC.
Claim Form	A Breast Prosthesis Claim Form or a Claim Summary Form.
Claim Receipt Date	The date on which HealthPAC receives a properly completed Claim Form and any other information required by the Ministry.
Claim Summary Form	A Breast Prosthesis Claim Summary Form annexed as Schedule 1 to this Notice, to be used by Providers when claiming under clause E3.
Code of Health and Disability Services Consumers' Rights 1996	Means the code issued under the Health and Disability Commissioner Act 1994.

Expression	Meaning
Commercial Information	<p>(a) means any information disclosed by the Ministry to the Provider or by the Provider to the Ministry at any time before revocation of this Notice or arising out of the operation of the Notice that is agreed by both the Ministry and the Provider as being confidential, or that may reasonably be considered to be confidential taking into account all the circumstances, including the manner of and circumstances in which disclosure occurred; but</p> <p>(b) excludes the terms of this Notice.</p>
Complaints Body	<p>Any organisation appointed to deal with complaints relating to the Services:</p> <p>(a) by both the Ministry and the Provider by mutual agreement;</p> <p>(b) by a Health Professional Authority; or</p> <p>(c) by law.</p>
Confidential Information	Commercial Information and/or Health Information.
Consult	<p>The Ministry must:</p> <p>(a) fully state its proposals and views and carefully consider responses to them;</p> <p>(b) act in good faith and not predetermine any matter; and</p> <p>(c) give the Person with whom it is consulting an adequate opportunity to consult any other interested party.</p> <p>The obligations of the Ministry to Consult will be discharged if the consulted Person fails to respond or does not respond within a reasonable time.</p>
Crown	Means Her Majesty the Queen in right of New Zealand.
Eligible Person	A Person who satisfies the criteria set out in clause D1.1.
Entitlement Balance	The balance defined in clause D2.2.
Entitlement Period	The period defined in clause D4.1.

Expression	Meaning
Full Mastectomy	A breast amputation performed for the purpose of removing a malignant tumour and preventing the spread of cancer (metastatic) from the breast to the other parts of the body, including total mastectomy with axillary dissection, radical mastectomy and subcutaneous mastectomy.
<i>Gazette</i>	The New Zealand Gazette, which is the official newspaper of the Government of New Zealand, published by the Department of Internal Affairs on a weekly basis.
General Practitioner	A Medical Practitioner who is registered in a vocational scope of practice as a general practitioner by the Medical Council of New Zealand under the Health Practitioners Competence Assurance Act 2003.
Guardian	A Person who is a guardian under the Guardianship Act 1968.
HealthPAC	Health Payments, Agreements and Compliance, a business unit of the Ministry.
Health Information	Means the following information or classes of information about an identifiable individual: <ul style="list-style-type: none"> (a) information about the health of that individual, including his or her medical history; (b) information about any disabilities that individual has, or has had; (c) information about any health services or disability services that are being provided, or have been provided, to that individual; (d) information provided by that individual in connection with the donation, by that individual, of any body part or any bodily substance of that individual or derived from the testing or examination of any body part, or any bodily substance of that individual; or (e) information about that individual that is collected before or in the course of, and incidental to, the provision of any health service or disability service to that individual.
Health Information Privacy Code 1994	Means the code relating to privacy of Health Information issued under section 46 of the Privacy Act 1993.

Expression	Meaning
Health Professional Authority	Any authority or body that is empowered by any statute or the rules of any body or organisation, to exercise disciplinary powers in respect of any Person who is involved in the supply of health and disability services.
LEADR	An Australasian not-for-profit membership organisation formed in 1989 to serve the community by promoting and facilitating the use of consensual dispute resolution processes generally known as Alternative Dispute Resolution or ADR.
Lumpectomy	A surgical operation to remove part of a breast, usually involving removal of a tumour and a small amount of nearby tissue, and also known as a local excision.
Medical Practitioner	A Person who is registered as a medical practitioner by the Medical Council of New Zealand under the Health Practitioners Competence Assurance Act 2003.
Minister	The Minister of Health.
Ministry	The Ministry of Health (by whatever name known) and any successor department of state and includes the Minister of Health and the Director-General of Health and any of his, her or their delegates.
Ministry Approved Standards	A standard approved by the Ministry from time to time and notified to the Provider.
NHI	The National Health Index.
NHI Number	The unique person identifier number allocated by the New Zealand Health Information Service ("NZHIS").
Non Eligible Person	A Person who does not satisfy the criteria set out in clause D1.1.
Partial Mastectomy	A surgical operation to remove a breast tumour along with a large portion of surrounding tissue, including a segmental resection, wedge resection and wide excision.
Person	Includes a corporation, incorporated society or other body corporate, firm, government authority, partnership, trust, joint venture, association, state or agency of a state, department or ministry of government and a body or other organisation, in each case whether or not having a separate legal identity.
Proof of Purchase	A receipt for an item that identifies and describes the item, the Purchase Date, the value of the item, and the Provider of the item.

Expression	Meaning
Provider	A service provider who provides the Services to which this Notice relates.
Purchase Date	The date on which the Eligible Person is provided with the Services by the Provider under clause E3 or purchases the Services from the Provider under clause E4.
Reconstructive Surgery (Mammoplasty)	Plastic surgery of the breast in which an existing breast is reconstructed, which includes the preservation of the breast nipple and skin and removal of the breast contents, and the replacement of the breast contents with a person's body tissue or a pad made from silicone gel.
Records	All written and electronically stored material and all records and information held by the Provider or on the Provider's behalf or by the Provider's employees, subcontractors, or agents, which are relevant to the provision of the Services.
Representative Groups	Appropriate groups representative of Eligible Persons.
Services	The provision or purchase of breast prostheses, breast forms, special bras to hold breast prostheses or breast forms, surgical bras and normal bras. The Services include the modification of a normal bra to hold breast prostheses or breast forms, swim forms, bra fillers, foam fillers, shell prostheses, lumpectomy shells or prosthetic nipples.
Special Bra	A bra that is designed to hold prostheses (a mastectomy bra), or has a pocket inserted for prostheses, or that is used for sensitive or sore breasts immediately after a Full or Partial Mastectomy.
Specialist	A Medical Practitioner who is registered in a vocational scope of practice by the Medical Council of New Zealand under the Health Practitioners Competence Assurance Act 2003.
Uncontrollable Event	An event that is beyond the reasonable control of a Person but does not include: <ul style="list-style-type: none"> (a) any risk or event that the Person could have prevented or overcome by taking reasonable care including having in place a reasonable risk management process; or (b) lack of funds for any reason (other than where the Ministry has failed to make due payment).

Expression**Meaning**

Working Day

Any day of the week other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday and Waitangi Day; and
- (b) A day in the period beginning on 25 December in any year and ending with 2 January in the following year.

PART C: SERVICE SPECIFICATION

C1. Services

C1.1 The Provider must provide the Services in accordance with this Part C.

C1.2 The terms and conditions of this Notice apply to the Provider in relation to every Eligible Person to whom the Provider provides Services for which either the Provider or the Eligible Person makes a Claim for payment from the Ministry under this Notice.

C2. Service Information

C2.1 The Provider must make available to Eligible Persons and their families or whanau all relevant information regarding the Services, which shall include, but is not limited to:

- (a) the Services that the Provider offers;
- (b) the location of those Services;
- (c) the hours the Services are available;
- (d) how an Eligible Person may obtain the Services;
- (e) Eligible Persons' rights and responsibilities, including a copy of the Code of Health and Disability Services Consumers' Rights 1996;
- (f) availability of cultural support; and
- (g) any other information that is important for Eligible Persons who wish to receive the Services from the Provider.

C2.2 The information must be presented in a manner appropriate to the communication needs and capabilities of Eligible Persons and their families or whanau.

C3. Service Objectives

C3.1 In providing the Services the Provider must be centred on the Eligible Person. This includes, but is not limited to:

- (a) assisting the Eligible Person in achieving or maintaining a good quality of life through the provision of the Services;
- (b) ensuring that the Services are provided in a manner that shows respect for Eligible Persons' religious and cultural beliefs and practices; and
- (c) acknowledging, valuing and encouraging the involvement of families or whanau in the provision of the Services where requested by the Eligible Person.

C3.2 In providing the Services the Provider must ensure the Eligible Person's privacy. This includes, but is not limited to:

- (a) establishing and maintaining processes to ensure the confidentiality of Eligible Person information in compliance with the Privacy Act 1993 and the Health Information Privacy Code 1994; and
- (b) ensuring that the Provider works in a consulting room or equivalent workspace in a way that maximises privacy, is respectful of the Eligible Person's needs and allows for inspection of the items provided as part of the Services.

C3.3 In providing the Services the Provider must ensure that the Services are accessible. This includes, but is not limited to:

- (a) providing the comprehensive range of Services;
- (b) providing an open, professional and friendly service that is available to Eligible Persons during normal business hours;
- (c) notifying the Eligible Person of his or her appointment within 5 Working Days of the request for the Services; and
- (d) meeting the Eligible Person's physical access requirements.

C3.4 In providing the Services the Provider must ensure that the Services meet the needs of Eligible Persons. This includes, but is not limited to:

- (a) ensuring that the Services are provided in a timely, equitable and efficient manner to meet the Eligible Person's assessed needs;
- (b) ensuring that the provision of the Services reflects current good practice and is provided by sufficient numbers of suitable skilled and qualified staff;
- (c) ensuring that the items provided as part of the Services are of an acceptable quality;
- (d) providing Eligible Persons with choice within the Provider's range of items provided as part of the Services;
- (e) a range of linkages and co-operation is maintained with other providers and community agencies to promote effective delivery of the Services.

C3.5 A Provider must not charge Eligible Persons different amounts for the same Services.

C4. Facilities and Safety Standards

C4.1 The Provider must ensure that:

- (a) all facilities and equipment used in Service delivery are fit for their purpose and are maintained adequately and in safe working order;
- (b) all equipment and supplies required to provide the Services are available;

- (c) safety and emergency equipment and related information is clearly displayed and accessible;
- (d) all legislative and regulatory requirements and other requirements under this Notice that relate to the accessibility and standards of the equipment and facilities used in Service delivery are met; and
- (e) staff providing the Services are clearly identifiable to Eligible Persons and others.

PART D: ENTITLEMENTS

D1. Eligible Persons

D1.1 An Eligible Person is a Person who:

- (a) is entitled to publicly funded health care in accordance with any eligibility direction issued under section 32 of the Act, or any eligibility direction continued by section 112(1) of the Act; and
- (b) has undergone either a unilateral or bilateral Partial or Full Mastectomy, a Lumpectomy, has congenital needs or has undergone Reconstructive Surgery as specified by a Specialist or General Practitioner; and
- (c) has medical certification from a Specialist or General Practitioner that certifies that the Eligible Person is covered by paragraph (b) above, states the Eligible Person's NHI Number and confirms that the Eligible Person requires the Services.

D1.2 A Person is not an Eligible Person if he or she is eligible for any kind of assistance from the ACC.

D1.3 Any disputes relating to whether or not a Person is an Eligible Person will be determined by the Minister.

D2. Entitlement Accounts

D2.1 The Ministry will open an Entitlement Account for an Eligible Person who provides to HealthPAC:

- (a) A declaration made by the Eligible Person that the Eligible Person is:
 - (i) entitled to publicly funded health care in accordance with clause D1.1; and
 - (ii) not eligible for any kind of assistance from ACC;
- (b) The medical certificate referred to in clause D1.1(c); and
- (c) Any other information required by the Ministry at the relevant time.

D2.2 The Ministry will credit the Entitlement Account of an Eligible Person with entitlements under Part D of this Notice, and will debit the Entitlement Account by the amount of any payments made in respect of Services provided to that Eligible Person under Part F of this Notice, and the balance in the Entitlement Account from time to time is the entitlement balance ("Entitlement Balance").

D3. Eligible Person Entitlement

D3.1 If the Ministry is satisfied that the Eligible Person has provided the information required under clause D2.1, the Ministry will credit the Eligible Person's Entitlement Account by:

- (a) \$600, where the Eligible Person is medically certified as requiring the Services for one breast; or

- (b) \$1,200 where the Eligible Person is medically certified as requiring the Services for both breasts.

D3.2 If an Eligible Person who has received an entitlement under clause D3.1(a) provides to the Ministry medical certification that the Services are required for that Person's other breast, the Ministry will credit the Entitlement Account of that Eligible Person by the amount necessary so that the Entitlement Balance becomes \$1,200.

D3.3 An Eligible Person who:

- (a) is under 18 years of age and whose growth is incomplete; or
- (b) has lost a reconstructed breast or breasts due to infection or necrosis following Reconstructive Surgery; and
- (c) requires Services, the cost of which exceeds that Eligible Person's Entitlement Balance,

may apply in writing to the Ministry, with supporting medical certification, for an additional entitlement.

D3.4 If the Ministry is satisfied that the requirements of clause D3.3 are met, the Ministry will credit the Eligible Person's Entitlement Account by \$600 if the Services are required for one breast, or \$1,200 if the Services are required for both breasts.

D4. Entitlement Period

D4.1 The period from the date of crediting an Eligible Person's Entitlement Account under clause D3.1 or clause D3.2, until the fourth anniversary of the latter of those dates, is the entitlement period ("Entitlement Period"), and payments will only be made during the Entitlement Period in respect of Services provided to an Eligible Person during the Entitlement Period.

D4.2 At the end of the Entitlement Period, the Entitlement Balance, including any additional entitlement credited under clause D3.4 during that Entitlement Period, will be cancelled.

D5. Transitional Entitlement

D5.1 Where an Eligible Person has since 31 March 2001 claimed a benefit under the former breast prosthesis benefit scheme operated by the Ministry ("the Former Scheme") immediately prior to 31 March 2005, the Ministry will:

- (a) open an Entitlement Account for the Eligible Person (and the requirements of clause D2.1 will not apply); and
- (b) credit the Entitlement Account of that Eligible Person by an amount equal to the relevant amount under clause D3.1 (a) or (b), less the amount of any payments made for services provided to that Eligible Person since the date of the first claim by that Eligible Person or, if that date was before 31 March 2001, the most recent anniversary of that date which is a multiple of four; and
- (c) credit the Entitlement Account of that Eligible Person in accordance with clauses D3.2 or D3.4 (or both) if the requirement of those clauses are satisfied.

D5.2 For the purposes of clause D4.1, the first Entitlement Period under this Notice of an Eligible Person to whom clause D5.1 applies ends on the fourth anniversary of the date determined under clause D5.1(b), or the date of crediting (if any) under clause D3.2.

D6. Further Entitlements

D6.1 On the date that the Eligible Person's Entitlement Period ends under clause D4.1, a further Entitlement Period commences, which will terminate on the fourth anniversary of that date, or of the date of any further credit made under clause D3.2.

D6.2 On or after the commencement of the further Entitlement Period of an Eligible Person under clause D6.1, the Ministry will credit the Entitlement Account of that Eligible Person with further entitlements, where the Eligible Person has made written application to the Ministry and provided the supporting information, including any medical certification, required by the Ministry.

D6.3 If the Ministry is satisfied with the Eligible Person's application under clause D6.2, the Ministry will, under clause D3.1, credit the Entitlement Account of the Eligible Person by \$600 where Services are required in respect of one breast or \$1,200 where Services are required in respect of both breasts.

D6.4 An Eligible Person may apply for further entitlements under clauses D3.2 and D3.3.

D6.5 If the Ministry is satisfied that the Eligible Person meets the requirements of clauses D3.2 or D3.3, as the case may be, the Ministry will credit the Eligible Person's Entitlement Account with the relevant entitlement.

D6.6 On termination of the further Entitlement Period:

- (a) the Entitlement Balance will be cancelled;
- (b) the Eligible Person may apply for further entitlements; and
- (c) clauses D6.1 to D6.6 will apply accordingly for successive Entitlement Periods.

PART E: CLAIMS

E1. Claims

E1.1 Provided that the Eligible Person has an Entitlement Account pursuant to clause D2, the Ministry will accept Claims from:

- (a) any Provider where that Provider provides the Services to an Eligible Person and makes a Claim for payment in accordance with clause E3; or
- (b) an Eligible Person where he or she purchases the Services from any Provider and makes a Claim for payment in accordance with clause E4.

E1.2 A Provider may only make a Claim under clause E3 if the Eligible Person agrees.

E2. Persons Not Eligible

E2.1 The Ministry will not accept Claims from:

- (a) a Provider for providing the Services to a Person who is not an Eligible Person ("Non Eligible Person");
- (b) a Non Eligible Person who purchases the Services from any Provider; or
- (c) a Provider to whom clause B11.4 applies.

E3. Provider Claim Process

E3.1 The Provider must claim for the payments in accordance with the following process:

- (a) The Provider must provide the Services to the Eligible Person in accordance with this Notice.
- (b) The Provider must provide Eligible Persons with a Proof of Purchase for the Services.
- (c) The Provider must submit to HealthPAC:
 - (i) Claim Summary Form completed by the Provider; and
 - (ii) a Breast Prostheses Claim Form completed by each Eligible Person to whom the Provider provided the Services for which the Provider is making the Claim; and
 - (iii) a Proof of Purchase for the Services provided to each Eligible Person.

E4. Eligible Person Claim Process

E4.1 An Eligible Person must claim for the payments in accordance with the following process:

- (a) After receiving the Services, the Eligible Person must obtain a Proof of Purchase from the Provider in accordance with this Notice.
- (b) The Eligible Person must obtain a Breast Prostheses Claim Form from that Provider or, where that Provider is not located in New Zealand, from HealthPAC.

- (c) The Eligible Person must contact HealthPAC and obtain a payee number.
- (d) The Eligible Person must submit to HealthPAC:
 - (i) a completed Breast Prostheses Claim Form; and
 - (ii) a Proof of Purchase for the Services.

E5. Statement in Explanation of Claim

- E5.1 In relation to any Claim for payment in accordance with this Notice, the Ministry may require the Provider and/or Eligible Person concerned to supply in writing or otherwise, a statement of explanation or substantiation of the Claim.
- E5.2 If the Provider or the Eligible Person refuses to supply any information required by clause E5.1 or supplies an insufficient or unsatisfactory statement, the Ministry may:
 - (a) not accept the Claim either wholly or in part; or
 - (b) if the Claim has been paid, take the necessary steps to recover from the Provider or the Eligible Person, as the case may be, the whole or a specified part of the Claim and any associated costs or losses, as a debt due to the Ministry, or set off the whole or any part of such Claim against any amounts that may thereafter be payable to the Provider or Eligible Person in respect of any other Claim or Claims.

E6. Consumer Guarantees Act

- E6.1 Where the Provider is required by the Consumer Guarantees Act 1993 or any other law, to refund payments for any Services provided to an Eligible Person, the Provider must:
 - (a) refund to HealthPAC any payment received from HealthPAC in respect of those Services; and
 - (b) refund to the Eligible Person the cost, if any, paid by the Eligible Person for the relevant Services.
- E6.2 The Ministry will credit the entitlement account of the Eligible Person by the amount of any refund the Ministry receives under clause E6.1.

E7. Claim Forms

- E7.1 Every Claim by a Provider or an Eligible Person for payment must be submitted to HealthPAC.
- E7.2 A Provider claiming payment under clause E3 of this Notice must submit its Claim on the Claim Summary Form annexed as Schedule 1 to this Notice, or in such other format as is approved by the Ministry from time to time.
- E7.3 An Eligible Person claiming payment under clause E4 of this Notice must submit his or her Claim on the Breast Prostheses Claim Form annexed as Schedule 2 to this Notice, or in such other format as is approved by the Ministry from time to time.
- E7.4 Claim Forms must be completed accurately and in full.

E8. Non Acceptance of Claim

E8.1 The Ministry may decline to accept any Claim if it believes on reasonable grounds that the Provider or the Eligible Person, as the case may be, has either:

- (i) submitted incomplete or inaccurate information; or
- (ii) not complied with any requirements under this Notice.

E9. Notification of Change of Details

E9.1 Every Provider and Eligible Person is responsible at all times for keeping HealthPAC advised of any change to the Provider or Eligible Person's name or address.

E9.2 The Ministry may reject Claims if the name and address details of the Provider or Eligible Person held by HealthPAC are not the same as the details provided with a Claim.

PART F: PAYMENTS

F1. Payments

F1.1 The Ministry will make payments to the Provider or the Eligible Person in accordance with the terms of this Notice where the Provider or the Eligible Person has complied with the terms and conditions of this Notice, including the requirements, rules and procedures relating to claiming and payments as set out Parts D and E.

F1.2 The amount of any payment under this Notice will not exceed the Eligible Person's Entitlement Balance as at the Purchase Date. If the cost of the Services exceeds the Entitlement Balance, the Provider must recover the additional cost from the Eligible Person.

F2. Payments to Providers

F2.1 HealthPAC will pay the Provider on or before the 20th Working Day after the Claim Receipt Date.

F2.2 HealthPAC will send a Buyer Created Tax Invoice ("BCTI") to the Provider once payment has been made.

F3. Payments to Eligible Persons

F3.1 HealthPAC will pay the Eligible Person on or before the 20th Working Day after the Claim Receipt Date.

F3.2 HealthPAC will send a BCTI to the Eligible Person once payment has been made.

F4. Form of Payment

F4.1 The Ministry will pay the Provider or the Eligible Person, as the case may be, by lodging funds into the bank account advised to HealthPAC by the Provider or Eligible Person.

F5. Overpayment

F5.1 If the Ministry overpays a Provider or an Eligible Person for provision or purchase of the Services, as soon as that Provider or Eligible Person becomes aware of such overpayment he or she must immediately notify HealthPAC in writing of that overpayment.

F5.2 The Provider or Eligible Person must repay any overpayment to HealthPAC within 10 Working Days of:

(a) that Provider or Eligible Person notifying HealthPAC of the overpayment under clause F5.1; or

(b) HealthPAC notifying the Provider or Eligible Person of any overpayment that the Ministry becomes aware of, unless that Provider or Eligible Person can clearly demonstrate that it was not an overpayment.

F5.3 If the Provider or Eligible Person does not repay the overpayment in accordance with this clause F5, the Ministry may exercise its right of set off under clause F6.

F6. Set Off

- F6.1 If a Provider owes the Ministry any amount under this Notice the Ministry may set off that amount against any amount that the Ministry owes the Provider.
- F6.2 If the Ministry exercises the power of set off, the Ministry must give the Provider 20 Working Days written notice of the set off.
- F6.3 When the Ministry exercises the power of set off, such set off must not prejudice the interests of any Eligible Person.

F7. Claim Review Process

F7.1 If an Eligible Person disputes any element of a Claim made by a Provider under clause E3 that relates to that Eligible Person, that Eligible Person may apply to HealthPAC for a review of the Claim.

F7.2 Claim Review Process:

- (a) The Eligible Person must submit his or her dispute in writing with supporting documentation to HealthPAC.
- (b) HealthPAC will notify the Eligible Person that the application for review has been received.
- (c) HealthPAC will notify the Provider that an application for review has been received and will inform the Provider of the details of the Eligible Person's dispute within 5 Working Days of receiving the Eligible Person's application for review.
- (d) HealthPAC will request the Provider to respond to the issues raised by the Eligible Person.
- (e) The Ministry will then review all information from the Eligible Person and the Provider relating to the Claim.
- (f) If, in the Ministry's opinion, based on reasonable grounds, the Eligible Person's dispute is not substantiated the Ministry will take no further action.
- (g) If, in the Ministry's opinion, based on reasonable grounds, the Eligible Person's dispute is substantiated, the Ministry may do one or all of the following:
 - (i) require the Provider to refund the payment received for the Claim to HealthPAC;
 - (ii) decide to no longer accept Claims from the Provider under clause E3 for a period to be determined at the Ministry's sole discretion;
 - (iii) decide to withhold any payment to the Provider in accordance with clause B10; or
 - (iv) initiate any other remedies under this Notice or at law.

F8. Dispute Over Payment

F8.1 If a dispute arises under this Notice in respect of whether the Ministry has paid the Provider or the Eligible Person the correct amount for the provision or purchase of the Services, this dispute will be determined in accordance with the procedures set out in clause B17 of this Notice.

F9. Goods and Services Tax

F9.1 The Payments made under this Notice are inclusive of Goods and Services Tax (GST).

Schedule 1



BREAST PROSTHESES CLAIM SUMMARY FORM
To be completed by the Provider of services
Please print clearly and legibly.

HealthPAC Payee Number:

Section 88 Notice Number:

Full Name:

Business Address:

CLAIM DETAILS

Total Number of Initial Claims:

Total Number of Subsequent Claims:

Total Number of Claims Attached:

Total \$ Amount Claimed:

*All claim forms to which this Claim Summary Form relates **must** be attached to this form.

CERTIFICATION

I certify that the Eligible Persons whose names are attached have been supplied with the breast prostheses services claimed. I claim the above amount on behalf of these Eligible Persons.

Signature of Provider:

Date:

HEALTHPAC USE ONLY

Total Number of Initial Claims Payable:

Total Number of Subsequent Claims Payable:

Total \$ Amount Payable:

Checked By:

Date:

All claims for payment are to be sent to: HealthPAC, PO Box 1026, Wellington.
For further enquiries, telephone toll free on 0800 458 448.



MANATU HAUORA

BREAST PROSTHESES CLAIM FORM
To be completed by the Eligible Person
Please print clearly and legibly

Full Name:

Residential Address:

Date of Birth:

CLAIM DETAILS

*Initial claim/Subsequent claim (*Please delete as appropriate)

*Left/Right/Bilateral (*Please delete as appropriate)

Date of Purchase:

Item(s) Purchased:

Total \$ Amount of Purchase:

Total \$ Amount Claimed:

Note: The following documents **must** accompany this form:

1. Medical Certificate (if initial claim)
 2. Proof of Purchase
-

CERTIFICATION

(Please tick the appropriate box)

I am submitting this claim on my own behalf. My HealthPAC payee number is:

I am authorising my Provider to claim for this service on my behalf.

I declare that as an Eligible Person, I am entitled to publicly funded health care in accordance with any eligibility direction issued under Section 32 of the New Zealand Public Health and Disability Act 2000, or any eligibility direction continued by Section 112 (1) of that Act and declare that I am not eligible for any kind of assistance from the Accident Compensation Corporation. I certify that as the Eligible Person named above I have been supplied with the breast prostheses services claimed.

Signature:

Date:

HEALTHPAC USE ONLY

Total \$ Amount Payable:

Checked By:

Date:

All claims for payment are to be sent to: HealthPAC, PO Box 1026, Wellington.
For further enquiries, telephone toll free on 0800 458 448.

