



# Frequently Asked Questions

## Health Legislation Amendment (Modernising My Health Record – Sharing by Default) Bill 2024

21 November 2024

### Better access to health information

The Australian Government is making new rules so that important health information is available for people with a My Health Record and their treating healthcare providers. The rules will initially apply to reports on pathology and diagnostic imaging test results.

### Why are changes being made to ensure healthcare providers upload information to My Health Record?

My Health Record is designed to provide Australians who choose to have a My Health Record with easy access to their key health information.

Currently, healthcare providers can choose if they upload health information to the My Health Record system, or not. This means, key health information is often missing from a healthcare recipient's My Health Record when they would like it made available.

Introducing rules to require the sharing of key health information to the My Health Record system 'by default' will:

- ensure healthcare recipients do not have to continuously retell their health and wellbeing story to different care providers
- save time for healthcare recipients by avoiding unnecessary duplicate testing, which includes travelling to and from healthcare appointments
- make it easier for healthcare recipients with a My Health Record to find and use their health information to enable them to be more active in their health and wellbeing journey
- make it easier for all members of a person's healthcare team to have the information they need to coordinate care
- support healthcare providers to make better and safer clinical decisions that can reduce avoidable adverse outcomes, hospital admissions and duplicate tests
- increase use of evidence-based appropriate treatments and interventions.

## What is changing?

Changes are being made to legislation that will allow government to make rules about what health information healthcare providers must share to the My Health Record system.

Certain healthcare providers within the pathology and diagnostic imaging sectors will be the first healthcare providers to be required to share test results to the My Health Record system.

Changes to the **My Health Records Act 2012** will mean that healthcare providers and the organisations they work for, who deliver particular health services, can be required to upload specific health information to their patient's My Health Record. To begin, requirements will only be made on pathology and diagnostic imaging services and only written reports on results will need to be uploaded.

Changes to the **Health Insurance Act 1973** will mean that in order to claim Medicare benefits, healthcare providers who deliver particular health services, must upload health information to their patient's My Health Record after they deliver a service. If the organisation the healthcare provider works with uploads information for them, this will meet the new requirements. To begin, requirements will only be made on pathology and diagnostic imaging services and only written reports on results will need to be uploaded.

When requirements are put in place for pathology and diagnostic imaging services, providers will continue to bill patients in the usual way. This means they can receive the Medicare benefit in advance of uploading the results to My Health Record. However, if they do not upload the results within the required timeframe the Medicare payment received must be repaid by the pathology or diagnostic imaging provider.

The timeframe for uploading the results to My Health Record will be determined in Rules made by the Minister for Health and Aged Care.

Patients will not be disadvantaged by these changes.

## Will the existing 7-day consumer access delay policy be affected by these changes to legislation?

No. In establishing the My Health Record system in 2012, a policy decision was made to withhold patient pathology and diagnostic imaging reports for seven days after they had been uploaded to ensure clinicians had adequate time to review the report and confer with the patient individually.

In the last 3 years, COVID-19 saw the first pathology results to be released to the consumer at the same time as the healthcare provider. More recently, three further examples of how real time release of test/diagnostic information to consumers can have a positive effect occurred when International Normalised Ratio (INR), HB1Ac and respiratory infection results were released without delay.

This has been well received by healthcare recipients and has the potential to reduce pressure on general practice, reduce avoidable hospital admissions through an overall reduction in morbidity caused by clotting disorders, diabetes and avoidable transmission of infections.

The Australian Digital Health Agency has established a [Clinical Reference Group](#) that is currently reviewing the existing 7-day consumer access delay policy. Any changes will involve further consultation and be made following the establishment of the 'share by default' legislative framework.

## Are there any exceptions to the requirement to upload certain health information to My Health Record?

Yes. There will be exceptions to the requirement to upload to My Health Record, including where:

- a patient does not have a My Health Record,
- a patient asks that health information is not shared,
- a healthcare provider has concerns for the health, safety or wellbeing of their patient, or
- technical system issues prevent uploading from happening.

There will be a new requirement to **keep records** in cases where any of the above exceptions is applied.

## Who can decide that a result will not be uploaded to My Health Record?

At any time, a **patient can decide** that their test result should not be uploaded to their My Health Record.

If a healthcare provider requesting pathology or diagnostic imaging is worried that uploading the test result will be harmful to the health, safety or wellbeing of their patient, they can decide that an individual test result will not be uploaded to My Health Record. This decision should be made in discussion with the patient, where possible.

## What happens if a healthcare provider or organisation needs more time to make the changes needed to start uploading to My Health Record?

There will be an initial grace period once the Rules have been made to enable the impacted healthcare providers to make necessary changes.

In limited situations, healthcare providers will be able to seek extensions for more time to update their systems and processes before they must start sharing information to My Health Record.

Extensions will need to be submitted to the Australian Digital Health Agency (the Agency) – who is the My Health Record system operator. The Agency will determine if an extension can be given, and for how long.

## **Once the ‘share by default’ requirements are in place, how will people know if a healthcare provider or organisation isn’t able to upload the required health information?**

Healthcare providers or organisations who are required to upload health information to the My Health Record system and can’t, or choose not to upload, will be required to publish notices at their premises and online to let Australians know that they are not uploading.

This will help healthcare recipients with a My Health Record decide if they would prefer to receive services from another healthcare organisation who will upload their health information to their My Health Record.

## **Does this change apply to every health service that can be claimed through Medicare, and will all health information about patients need to be uploaded?**

No. Only certain health services will have requirements, and only certain health information will need to be uploaded. Initially, these changes will only apply to certain pathology and diagnostic imaging services.

These changes will not apply to every health service that can be claimed through Medicare. A healthcare recipient’s full medical records or their healthcare provider’s detailed notes will not be uploaded to the My Health Record system.

Rules made under the My Health Records Act and the Health Insurance Act will set out:

- the types of services the rules will apply to
- what health information needs to be uploaded, and
- how much time healthcare providers and organisations have to upload the required information after a health service has been provided.

These Rules can be added to or changed over time.

## **What happens if a healthcare provider doesn’t upload health information when they should?**

New civil penalties will apply to healthcare providers or healthcare organisations who:

- are required to upload to My Health Record but do not do so,
- do not keep records of any exception that has been applied, and
- fail to publish notices if they are not uploading.

## When will healthcare providers have to start uploading healthcare information to My Health Record?

After the changes are made to legislation that make it possible to require certain health information to be uploaded to the My Health Record system, a legislative Rule has to be made to provide the details of which health services must register to participate in My Health Record and what health information must be uploaded. Government and parliament have not yet set a timeframe for when this Rule will be developed and come into effect.

However, impacted healthcare providers and organisations will be consulted and be given plenty of notice before they have to start uploading health information to the My Health Record system.

There will be an initial grace period once the Rule has been made. This will give the impacted healthcare providers time to make necessary changes, or seek extensions, if needed.

## What health information will have to be uploaded to My Health Record?

The first Rule that will be made under changes to the Health Insurance Act will apply to certain pathology and diagnostic imaging services.

A copy of written reports on the results of pathology and diagnostic imaging tests will need to be uploaded.

Further details on what pathology and diagnostic imaging health information must be shared will be developed when the Rule is made. This will happen in consultation with consumers, healthcare providers and organisations, software suppliers and other key stakeholders.

# More information for Consumers

## How do I access My Health Record?

More information on how to access and set up your My Health Record online can be found by visiting [digitalhealth.gov.au](https://digitalhealth.gov.au) and searching for 'My Health Record'.

For help to set up or access your My Health Record call **1800 723 471**.

## Who can access my results when they are uploaded to My Health Record?

Your My Health Record is an online summary of your health information, such as your medicines, any allergies you may have, and your medical history.

Once your My Health Record is created, your doctor, hospitals and other healthcare providers involved in your care can automatically access your health information, unless you set up your privacy controls.

## **What do I do if I don't want my pathology or diagnostic imaging test results uploaded to My Health Record?**

You have control over your My Health Record. Using privacy controls in My Health Record lets you decide which healthcare providers can access your My Health Record and what they can view. You can also ask a healthcare provider not to upload certain information and delete health information that has already been uploaded to your My Health Record. If you decide you don't want a My Health Record you can cancel it at any time.

For more information about My Health Record visit [digitalhealth.gov.au](https://digitalhealth.gov.au) and search 'My Health Record'.

For help with your My Health Record you can call **1800 723 471**.

## **Will I be able to access images as well as written reports when I have a diagnostic imaging scan?**

No. Images cannot be uploaded to My Health Record. Only copies of written reports will be available in My Health Record. If you would like a copy of images please contact your diagnostic imaging provider.

## **Will I have to pay extra for pathology and diagnostic imaging services after these changes are made?**

No. If a Medicare benefit is payable for a health service, you will receive this in the usual way.

# **More information for Healthcare Providers**

## **How will healthcare providers know if they are required to upload health information?**

Information and education will be provided to healthcare providers to support these changes before they come into effect.

The Australian Digital Health Agency (the Agency) – the My Health Record system operator – is already working with pathology and diagnostic imaging providers and organisations to support them to register and connect to the My Health Record system.

The Agency will continue to work proactively with and provide technical support to in-scope healthcare providers and their software suppliers.

## What guidance is being provided to help healthcare providers talk to patients?

In addition to technical support, the Agency has established a [Clinical Reference Group](#) to assist with developing clinical guidance to help healthcare providers. The group brings together consumers and clinical experts to provide advice to ensure these changes balance providing healthcare recipients with their key health information and ensuring patient safety through a nationally consistent framework.

The Clinical Reference Group is developing guidance on what healthcare providers can do if they are worried that uploading certain patient information could or would harm their health, safety or wellbeing. Guidance will include how healthcare providers can work with consumers to make a decision in these cases.