

Early Release of Superannuation to Fund Dental Treatments – A Word of Caution

Reading time:

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In its most recent newsletter, the Dental Board of Australia (“the Board”) expressed concern about an increase in notifications received relating to dental practitioners inappropriately encouraging patients to access their superannuation to fund dental treatments. Some of these complaints were about advertising practices. The Board cited recent Australian Tax Office statistics, showing an 83% increase in the value of superannuation released early to fund dental treatments, from \$171.3m in 2021/22 to \$313.4m in 2022/23.

MIPS has also seen a rise in complaints about members relating to applications for early release of superannuation. In many cases, we are seeing dental practitioners refer patients to third party companies that profit from assisting patients access their superannuation early. Practitioners need to be alert to the potential for conflicts of interest to arise when recommending patients access superannuation to fund dental treatment.

Requirements for accessing superannuation

Patients may apply for early release of superannuation only if they meet the following **eligibility criteria**:

- be in **severe financial hardship**
- have a terminal illness
- be a temporary resident
- have less than \$200 in their super fund
- meet **compassionate grounds**.

For superannuation to be released on compassionate grounds in relation to medical treatment (which includes dental treatment), both of the following eligibility conditions must be met:

- Eligibility condition1: the patient or their dependant requires medical treatment to
 - treat a life-threatening illness or injury; or
 - alleviate acute or chronic pain; or
 - alleviate acute or chronic mental illness.
- Eligibility condition2: the medical treatment is not readily available through the public health system.

Therefore, treatments of a purely cosmetic nature would fall outside these criteria.

Assisting patients access superannuation

If your patient asks you to complete a report or statement in support of their application for early release of superannuation, you have a legal, ethical and professional obligation to provide honest, factual and accurate information to the Australian Tax Office. Providing misleading information to support a patient's request to draw from superannuation is potentially grounds for the Board to consider disciplinary action, in addition to any action that the ATO may deem necessary.

Implications for patients

Patients who withdraw funds from their superannuation early may be required to pay a fee and may have to **pay tax on the withdrawal**. Withdrawing super early may also **reduce a patient's Centrelink payments**. Of course, withdrawing superannuation before retirement means that patients are left with less money with which they can retire. Patients need to receive balanced and impartial information so that they can make informed decisions about whether they proceed with dental treatment. This is part of providing good financial informed consent. In this respect, patients may be advised to seek independent financial advice.

Informed financial consent

Dental practitioners must provide patients with sufficient written and verbal information before commencing treatment to allow patients to make an informed decision about whether to proceed with treatment. Particularly where dental treatment is elective or cosmetic, information provided must be realistic – it must not overstate the intended results while understating risks or complexities. It must also include information about the costs. This includes total costs, costs of any devices, costs of any medications (such as anaesthetist costs), theatre fees, hospital or day procedure centre costs (if relevant and if known), any deposit payments (including refunds) and post-operative or follow-up costs.

If patients are considering applying to access their superannuation early to fund treatment, then it is recommended that treatment not commence until patients have received a decision from their superannuation fund as to whether early release of their superannuation has been granted. MIPS has assisted several dental members with complaints from patients who felt pressured into commencing a course of treatment before their superannuation fund had decided to release their superannuation. If the superannuation fund declines the patient's application, then the patient may have to fund treatment that they cannot afford and/or cannot continue. This is not good clinical practice.

Advertising guidelines

Dental practitioners must comply with the Board's [Guidelines for advertising a regulated health service](#), when talking with patients about early release of superannuation. This includes the requirement to ensure that advertising does not:

- directly or indirectly encourage the indiscriminate or unnecessary use of a regulated health service; or
- provide information that is false, misleading or deceptive or likely to be misleading or deceptive; or
- induce someone to use a regulated health service without fully disclosing all of the relevant terms and conditions.

Illegal players

The ATO website also provides a [warning](#) about people or companies who might be illegally promoting early access schemes. Some of these schemes target vulnerable patients and charge high fees or commissions. Practitioners should be alert to third-party schemes that might exploit their patient's situation for financial gain.

Summary

Practitioners should:

1. Understand the limited circumstances in which patients may access their superannuation early; and
2. Only provide honest and accurate information in support of a patient's application to access superannuation early;
3. Ensure that patients receive balanced and accurate information about the benefits, risks and costs of a proposed course of dental treatment; and
4. Avoid commencing a course of dental treatment until a patient has received a decision from their superannuation fund about whether they will be granted access to their superannuation early;
5. Avoid putting undue pressure on patients to access their superannuation to fund dental treatment;
6. Be alert to whether early access schemes might be acting unlawfully.

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