

Cosmetic Procedures and Early Release of Superannuation – A Word of Caution

Reading time:

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Background

In September 2024, MIPS provided a **word of caution** to dental practitioners who rely upon the early release of superannuation to fund dental treatments. MIPS now extends that word of caution to all practitioners performing cosmetic procedures, given the recent **joint statement** by the Medical and Dental Boards of Australia. They have expressed concern about an increase in notifications received relating to cosmetic practitioners funded by inappropriately encouraging patients to access their superannuation. In some cases, MIPS is seeing members refer patients to third party companies that profit from assisting patients access their superannuation. This can give rise to conflicts of interest.

Requirements for accessing superannuation

As a reminder, patients may only apply for early release of superannuation 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, both of the following must apply

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 to access superannuation

If your patient asks you to complete a report or statement in support of their application for early release of superannuation, you are not under an obligation to accede to their request. If you choose to do so, you have a legal, ethical and professional obligation to provide honest, factual and accurate information to the Australian Tax Office. Providing misleading information can result in action being taken by the ATO or the Medical Board of Australia.

Implications for patients

There are potential tax and Centrelink implications for patients who withdraw funds from their superannuation early. Patients must receive balanced and impartial information about proposed treatments and should be advised to seek independent financial advice before seeking to withdraw their superannuation early.

Informed financial consent

Where 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 total costs, including costs of devices, medications,

anaesthetics, theatre time and hospital fees.

MIPS has assisted a number of dental members with complaints from patients who felt pressured into commencing a course of treatment before their superannuation fund had made a decision 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.

Treatment should not commence until patients have received a decision from their superannuation fund as to whether early release of their superannuation has been granted. Once superannuation has been released, the funds should ideally be held in trust on behalf of patients.

Advertising guidelines

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 patients 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 cosmetic treatment; and
4. Avoid commencing a course of cosmetic 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 cosmetic treatment;
6. Be alert to whether early access schemes might be acting unlawfully.

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You should seek legal or other professional advice before relying on any content, and practise proper clinical decision making with regard to the individual circumstances.

Information is only current at the date initially published.

If in doubt, contact our claims and 24-hour medico-legal advice and support team on 1300 698 573.

You should consider the appropriateness of the information and read the [Member Handbook Combined PDS and FSG](#) before making a decision on whether to join MIPS.
