

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Ageing

Aged Care Act 1997

Quality of Care Amendment Principles 2011 (No. 1)

The *Aged Care Act 1997* (the Act) provides for the regulation and funding of aged care services. There are three types of aged care services under the Act, being residential care, community care and flexible care services. Persons who are approved under the Act to provide aged care services (approved providers) can be eligible to receive subsidy payments in respect of the care they provide to approved care recipients.

Subsection 96-1(1) of the Act allows the Minister to make Principles providing for various matters required or permitted by a Part or section of the Act.

The *Quality of Care Principles 1997* (the Principles) are one of the sets of Principles made under the Act.

Section 54-1(1)(f) of the Act requires approved providers that provide care through a community care service to comply with the Community Care Standards made under section 54-4 of the Act. Section 54-4 provides that the Quality of Care Principles may set out Community Care Standards.

Similarly, section 54-1(1)(g) of the Act requires approved providers that provide care through a flexible care service to comply with the Flexible Care Standards (if any), made under section 54-5 of the Act, that apply to a flexible care service of that kind. Section 54-5 provides that the Quality of Care Principles may set out Flexible Care Standards.

Quality of Care Amendment Principles 2011 (No. 1)

The purpose of the *Quality of Care Amendment Principles 2011 (No. 1)* (the Amending Principles) is to replace existing standards for community care with the Community Care Common Standards for Australian Government community care programs, including community care in the form of Community Aged Care Packages (CACPs), and flexible care in the form of Extended Aged Care at Home (EACH) and Extended Aged Care at Home – Dementia (EACH-D), with effect from 1 March 2011. EACH and EACH-D are forms of flexible care defined in Chapter 2 of the *Flexible Care Subsidy Principles 1997*.

Currently, across both Australian Government funded community aged care programs and the jointly funded and state and territory government administered Home and Community Care (HACC) program, there are differing quality standards and reporting arrangements that community care providers are required to report against. This requires duplication of effort for many providers who receive funding from a range of community care programs. Inconsistency in quality standards and reporting also impedes work to increase the quality of care for clients, including carers.

The aim of introducing a single set of common standards for CACP, EACH and EACH-D providers is to provide greater clarity for service providers in relation to the expectations for quality service provision while also reducing the administrative burden currently associated

with reporting against different quality standards frameworks. The common standards will also apply to the Australian Government's National Respite for Carers Program (governed through funding agreements).

The common standards have been developed jointly by the Australian and state and territory governments and will apply to HACC community aged care services in participating states and territories.

The Principles currently set out Community Care Standards for quality of care and quality of life for the provision of community care. Through this amendment, the new Community Care Common Standards will be integrated into the Principles by substituting the new Community Care Common Standards for the existing Community Care Standards with effect from 1 March 2011.

The Amending Principles also apply the new Community Care Common Standards to flexible care in the form of EACH and EACH-D, with effect from 1 March 2011.

Further necessary amendments have also been made to the Principles to provide for transitional arrangements for quality review processes. To minimise workload for providers, where a quality review commencement notice is given to an approved provider before 1 March 2011, the subsequent review will be conducted by reference to the standards that applied at the time that the notice was given.

Further details of all amendments to the Principles are attached.

The Amending Principles are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation

In 2004, an Australian Government review report outlined the research and actions required to strengthen community care. A key area for improvement identified through consultation was the need to streamline administrative arrangements for community care programs, including the standards and quality reporting processes required by these programs.

Following a range of consultations with the community care sector a draft set of common standards was jointly developed by the Australian and state and territory governments through the cross-jurisdictional Community Aged Care Officials (CACO) group. The draft common standards and associated common reporting arrangements were piloted nationally and further developed by a working group, established by CACO. An external stakeholder reference group with membership from industry and consumer peak bodies, individual service providers and the Aged Care Standards and Accreditation Agency has been consulted throughout the process. In November 2009, CACO endorsed the new Community Care Common Standards Framework to establish a more streamlined quality reporting system for all community care programs. In March 2010, the then Minister for Ageing, Justine Elliot provided her endorsement of the proposed Framework and sought the endorsement of State and Territory Ministers. In July 2010, Minister Elliot approved the 1 March 2011 implementation date for programs funded solely by the Australian Government and for those states and territories that have agreed to implement the common standards. All state and territory Ministers with responsibility for community aged care have since agreed.

The wider community care sector is aware of the development of the common standards and is supportive of streamlining. A communication strategy is underway with the community care sector involving approximately 70 presentations nationally. The strategy commenced at the end of October 2010 and is scheduled for completion by mid-February 2011. The presentations are supplemented by the availability of resources on the web and a help desk facility.

NOTES ON CLAUSES

Clause 1 – Name of Principles

This clause states that the name of the Amending Principles is the *Quality of Care Amendment Principles 2011 (No. 1)*.

Clause 2 – Commencement

This clause states that these Amending Principles commence on 1 March 2011.

Clause 3 – Amendment of the *Quality of Care Principles 1997*

This clause states that Schedule 1 amends the *Quality of Care Principles 1997* (the Principles).

Schedule 1 – Amendments**Item 1 – Section 18.3, after definition of Act**

Section 18.3 contains definitions of some terms used in the Principles. This item inserts new definitions of the terms “EACH Standards” and “EACH-D Standards” in section 18.3. These terms appear in the new definition of “quality review”, inserted by item 2, and in new subsection 18.16(2), inserted by item 8, and are not currently defined in the *Aged Care Act 1997* (the Act) or the Principles.

Item 2 – Section 18.3, after definition of organisation

This item inserts new definitions of the terms “quality review”, “quality review commencement notice” and “quality review outcome notice” in section 18.3. These terms appear in new subsection 18.14(1A), inserted by item 4, and are not currently defined in the Act or the Principles.

Item 3 – Section 18.3, after definition of resident

This item inserts new definitions of the terms “service provider” and “service user” in section 18.3. These terms appear in new Schedule 5, inserted by item 9, and are not currently defined in the Act or the Principles. The Community Care Common Standards refer to the “service provider” and the “service user” because it is intended that these standards will also apply to services, such as services provided under the National Respite for Carers Program, that are not necessarily provided by approved providers to approved care recipients as defined for the purposes of the Act.

Item 4 – Subsection 18.14(1)

Subsection 18.14(1) states that the current Community Care Standards are set out in Schedule 4. This item replaces subsection 18.14(1) with new subsections 18.14(1) and (1A) to allow for the introduction of the Community Care Common Standards.

New subsection 18.14(1) distinguishes between care provided through a community care service before and after 1 March 2011. In relation to care provided before 1 March 2011, approved providers of community care must comply with the Community Care Standards set out in Schedule 4. In relation to care provided on or after 1 March 2011, approved providers of community care must comply with the Community Care Common Standards set out in new Schedule 5, inserted by item 9.

New subsection 18.14(1A) is a transitional provision to deal with the situation where an approved provider has, prior to 1 March 2011, been notified that a quality review is to be conducted in relation to a community care service. A quality review takes several weeks from the approved provider being notified that a quality review will be conducted to the approved provider being notified of the outcome of the quality review. In that situation, the quality review will be conducted by reference to the approved provider's compliance with the standards set out in existing Schedule 4 only. However, the approved provider will also be required to comply with the standards set out in new Schedule 5 from 1 March 2011.

If a quality review commencement notice is given to an approved provider on or after 1 March 2011, the quality review will be conducted by reference to the Community Care Common Standards set out in Schedule 5.

In all other matters, the approved provider must comply with the Community Care Standards set out in Schedule 4 (until 28 February 2011) and the Community Care Common Standards set out in Schedule 5 (from 1 March 2011).

Item 5 – Subsection 18.14(2)

This item makes an amendment to subsection 18.14(2) to specify that the standards described in that subsection are the Community Care Standards set out in Schedule 4.

Item 6 – After subsection 18.14(2)

This item inserts new subsection 18.14(2A), which specifies the matters dealt with in the new standards (the Community Care Common Standards) set out in Schedule 5, inserted by item 9.

Item 7 – Note after subsection 18.14(3)

This item amends the note after section 18.14(3) to substitute revised content to allow for explanatory notes on both the Community Care Standards at Schedule 4 and the Community Care Common Standards at Schedule 5.

Item 8 – After section 18.14

This item adds new Part 6 to the Principles, containing new sections 18.15 and 18.16. New section 18.15 states that the purpose of Part 6 is to set out Flexible Care Standards, which are standards for quality of care and quality of life for the provision of flexible care of particular kinds. New subsection 18.16(1) states that the Flexible Care Standards for flexible care in the form of extended aged care at home (EACH) and extended aged care at home – dementia (EACH-D) are the Community Care Common Standards set out in Schedule 5. These are the same standards that will apply to community care from 1 March 2011.

New subsection 18.16(2) is a transitional provision relating to the situation where an approved provider has, prior to 1 March 2011, been notified that a quality review is to be conducted in relation to a flexible care service that provides flexible care in the form of EACH or EACH-D. It has a corresponding effect to new subsection 18.14(1A), inserted by item 4.

New subsection 18.16(3) describes that matters that are dealt with in the new Community Care Common Standards set out in Schedule 5.

New subsection 18.16(4) states that the flexible care standard for a matter consists of the Principle for the matter and the expected outcome for each matter indicator for the matter.

Item 9 – After Schedule 4

This item adds Schedule 5 to the Principles which are the Community Care Common Standards that will apply to community care, and flexible care in the forms of EACH and EACH-D, with effect from 1 March 2011.