

EXPLANATORY STATEMENT

Veterans' Entitlements (Allied Mental Health Care Providers) Instrument 2011

EMPOWERING PROVISION

Section 90 of the *Veterans' Entitlements Act 1986* (the Act).

PURPOSE

The attached instrument (R11/2011) amends the *Treatment Principles*. The *Treatment Principles* is a legislative instrument made under section 90 of the Act and sets out the circumstances in which the Repatriation Commission (Commission) may accept financial liability for treatment provided to veterans or their dependants (entitled persons).

The purpose of the attached instrument is to extend “statutory registration” to most allied mental health care providers who provide treatment to entitled persons.

Statutory registration is the process whereby providers move from a contractual basis for dealing with the Department of Veterans' Affairs (DVA) in relation to the provision of treatment to entitled persons to one regulated by subordinate legislation (the Treatment Principles).

Essentially the conditions that were previously contained in a contract are incorporated in the Treatment Principles and determine whether DVA will pay for treatment or not.

Further, an element of Statutory Registration is that a health care provider has been given a “provider number” by Medicare Australia in respect of the provision of services for which a Medicare benefit is payable.

Statutory Registration is not fully extended to the allied mental health care provider category of “neuropsychologist” because Medicare Australia do not register neuropsychologists as a separate provider type.

RETROSPECTIVE

Yes. The instrument is taken to have commenced on 1 November 2010.

This is to ensure, firstly, that certain treatment providers who, on or after 1 November 2010, provided treatment to entitled persons but who, at the time the treatment was provided, were not recognised as treatment

providers by the Treatment Principles, are recognised as treatment providers by the Treatment Principles at the time of the treatment and that any payments to them by DVA are authorised by the Treatment Principles, and secondly, that certain payments made by DVA to treatment providers (recognised by the Treatment Principles) on or after 1 November 2010 for treatment provided to entitled persons, being payments that were not authorised by the Treatment Principles at the time they were made, are authorised by the Treatment Principles at the time they were made.

Although the instrument is retrospective, the variations it makes to the Treatment Principles that have the effect of requiring a psychologist to have a provider number obtained from Medicare Australia do not apply to a psychologist before the instrument is registered. Prior to the instrument, the Treatment Principles did not require psychologists, as a matter of law, to obtain provider numbers.

The instrument does not contravene subsection 12(2) of the *Legislative Instruments Act 2003* because its retrospective operation does not negatively affect any person.

CONSULTATION

Yes – relevant associations of health care providers.

DOCUMENTS INCORPORATED-BY-REFERENCE

Yes.

The following non-legislative documents in force on 1 November 2010 are, on commencement of the attached instrument, incorporated into the *Treatment Principles*:

1. Notes for Local Medical Officers (paragraph 1.4.1);
2. Department of Veterans' Affairs Fee Schedules for Medical Services (paragraph 3.5.1);
3. Notes for Providers of Optometric Services/Dispensers of Optical Appliances (paragraphs 1.4.1 and 7.1A.1);
4. Optometrist Fees for Consultation (paragraph 3.5.1);
5. DVA Schedule of Fees Orthoptists (paragraph 3.5.1);
6. Pricing Schedule for visual aids (paragraph 3.5.1);
7. The fourth edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (commonly known as DSM-IV) (paragraph 2.4.2A);
8. Notes for Local Dental Officers (paragraphs 1.4.1 and 5.1.1);

9. Fee Schedule of Dental Services for Dentists and Dental Specialists (paragraph 3.5.1);
10. Fee Schedule of Dental Services for Dental Prosthetists (paragraph 3.5.1);
11. Notes for Chiropractors (paragraphs 1.4.1 and 7.1A.1);
12. Chiropractors Schedule of Fees (paragraph 3.5.1);
13. Notes for Diabetes Educators (paragraphs 1.4.1 and 7.1A.1);
14. Diabetes Educators Schedule of Fees (paragraph 3.5.1);
15. Notes for Dietitians (paragraphs 1.4.1 and 7.1A.1);
16. Dietitians Schedule of Fees (paragraph 3.5.1);
17. Notes for Exercise Physiologists (paragraphs 1.4.1 and 7.1A.1);
18. Exercise Physiologists Schedule of Fees (paragraph 3.5.1);
19. Notes for Occupational Therapists (paragraphs 1.4.1 and 7.1A.1);
20. Occupational Therapists Schedule of Fees (paragraph 3.5.1);
21. Notes for Osteopaths (paragraphs 1.4.1 and 7.1A.1);
22. Osteopaths Schedule of Fees (paragraph 3.5.1);
23. Notes for Physiotherapists (paragraphs 1.4.1 and 7.1A.1);
24. Physiotherapists Schedule of Fees (paragraph 3.5.1);
25. Psychologists Schedule of Fees (paragraph 3.5.1);
26. Notes for Podiatrists (paragraphs 1.4.1 and 7.1A.1);
27. Podiatrists Schedule of Fees (paragraph 3.5.1);
28. Social Workers Schedule of Fees (paragraph 3.5.1);
29. Clinical Counsellors Schedule of Fees (paragraph 3.5.1);
30. Notes for Speech Pathologists (paragraphs 1.4.1 and 7.1A.1);
31. Speech Pathologists Schedule of Fees (paragraph 3.5.1);
32. RAP National Schedule of Equipment (paragraph 11.2A.1);
33. Rehabilitation Appliances Program (RAP) National Guidelines (paragraph 11.2A.1);
34. Notes for Allied Mental Health Care Providers (paragraphs 1.4.1 and 7.1A.1);
35. Neuropsychologists Schedule of Fees (paragraph 3.5.1);
36. Clinical Psychologists Schedule of Fees (paragraph 3.5.1);
37. Occupational Therapists (Mental Health) Schedule of Fees (paragraph 3.5.1);
38. Social Workers (Mental Health) Schedule of Fees (paragraph 3.5.1);
39. Notes for Social Workers (paragraph 1.4.1 and 7.1A.1).

At the time the attached instrument was made, all the documents, except the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, were available on the Internet (Department of Veterans' Affairs web page – under Health – Doctors/Health Care Professionals):

<http://www.dva.gov.au/>

and at the time the attached instrument was made all the documents were available, or could be made available, at:

Department of Veterans' Affairs (ACT Office), Lovett Tower, 13 Keltie St, Woden ACT 2606 / GPO Box 9998 Woden ACT 2606.
Tel.no:(02) 6289 6243.

Any State or Territory Office of the Department of Veterans' Affairs:
Tel.no: 133 254.

FURTHER EXPLANATION

Attachment A.

Attachment A

Items	Explanation
[1]	sets out the name of the instrument.
[2]	provides that the instrument is taken to have commenced on 1 November 2010.
[3]	<p>provides:</p> <ul style="list-style-type: none"> • that the amendments made by the attached instrument which, among other things, end the coverage of a social worker (clinical counsellor) by the Treatment Principles do not apply to a person in this category of mental health care provider until the person’s contract with DVA has ended. When a relevant person’s contract ends, the amendments made by the attached instrument apply to the person and end their coverage as a social worker (clinical counsellor) under the Treatment Principles. • that the amendments made by the attached instrument that impose the requirement on a psychologist to have a provider number from Medicare Australia only apply to a psychologist after the day the attached instrument is registered on the Federal Register of Legislative Instruments.
[4]	is a definition section.

Schedule

1. is a definition section. In particular the document called “Notes for Allied Mental Health Care Providers” is defined. This document is incorporated into the Treatment Principles by the attached instrument and contains additional conditions (to those in the Treatment Principles) that determine if DVA will pay for treatment provided to entitled persons by allied mental health care providers.
- 2-5. substitute provisions in paragraph 3.5.1.
 - (ia) provides that the Commission’s financial liability for fees charged by a neuropsychologist for treating an entitled person is worked out under the “Neuropsychologists Schedule of Fees” in force on 1 November 2010.

The condition on which the Commission will accept financial liability for a neuropsychologist fees is that the neuropsychologist's treatment was provided in accordance with the Treatment Principles and the Notes for Allied Mental Health Care Providers (Notes) (as the document relates to a neuropsychologist).

The Notes set out requirements for neuropsychologists treating entitled persons and are incorporated into the Treatment Principles as the Notes exist on 1 November 2010.

(ja) provides that the Commission's financial liability for fees charged by an occupational therapist (other than an occupational therapist (mental health)) for treating an entitled person is worked out under the "Occupational Therapists Schedule of Fees" in force on 1 November 2010 (as the document relates to occupational therapists (other than occupational therapists (mental health))).

The condition on which the Commission will accept financial liability for an occupational therapists' fees is that the occupational therapy was provided in accordance with the Treatment Principles and the Notes for Occupational Therapists (a document setting out requirements for occupational therapists treating entitled persons and incorporated into the Treatment Principles as the document (the Notes) exists on 1 November 2010).

(j) provides that the Commission's financial liability for fees charged by an occupational therapist (mental health) for treating an entitled person is worked out under the "Occupational Therapists (Mental Health) Schedule of Fees" in force on 1 November 2010. The condition on which the Commission will accept financial liability for an occupational therapist's (mental health) fees is that the occupational therapy was provided in accordance with the Treatment Principles and the Notes for Allied Mental Health Care Providers (a document setting out requirements for allied mental health care providers treating entitled persons and incorporated into the Treatment Principles as the document (the Notes) exists on 1 November 2010).

(ra) provides that the Commission's financial liability for fees charged by a clinical psychologist for treating an entitled person is worked out under the "Clinical Psychologists Schedule of Fees" in force on 1 November 2010.

The condition on which the Commission will accept financial liability for a clinical psychologist's fees is that the psychology was provided in accordance with the Treatment Principles and the Notes for Allied Mental Health Care Providers (a document setting

out requirements for allied mental health care providers treating entitled persons and incorporated into the Treatment Principles as the document (the Notes) exists on 1 November 2010).

(r) provides that the Commission's financial liability for fees charged by a psychologist for treating an entitled person is worked out under the "Psychologists Schedule of Fees" in force on 1 November 2010 (as the document relates to a psychologist other than specifically as a clinical psychologist),

The condition on which the Commission will accept financial liability for a psychologist's fees is that the psychology was provided in accordance with the Treatment Principles and the Notes for Allied Mental Health Care Providers (a document setting out requirements for allied mental health care providers treating entitled persons and incorporated into the Treatment Principles as the document (the Notes) exists on 1 November 2010).

(sa) provides that the Commission's financial liability for fees charged by a social worker (general) for treating an entitled person is worked out under the "Social Workers Schedule of Fees" in force on 1 November 2010 (as the document relates to a social worker other than specifically as a social worker (mental health)), on condition that the treatment was provided in accordance with the Treatment Principles.

The condition on which the Commission will accept financial liability for a social worker's (general) fees is that the social work was provided in accordance with the Treatment Principles and the Notes for Social Workers (a document setting out requirements for social workers treating entitled persons and incorporated into the Treatment Principles as the document (the Notes) exists on 1 November 2010).

(s) provides that the Commission's financial liability for fees charged by a social worker (mental health) for treating an entitled person is worked out under the "Social Workers (Mental Health) Schedule of Fees" in force on 1 November 2010.

The condition on which the Commission will accept financial liability for a social worker's (mental health) fees is that the social work was provided in accordance with the Treatment Principles, and the Notes for Allied Mental Health Care Providers (a document setting out requirements for allied mental health care providers treating entitled persons and incorporated into the Treatment

Principles as the document (the Notes) exists on 1 November 2010), as the Treatment Principles and the Notes affect a social worker (mental health).

6. requires allied health care providers to seek the prior-approval of the Commission before treating an entitled person unless:
- the Treatment Principles or
 - notes for the relevant providers (Notes for Providers is a defined term in the Treatment Principles and means a DVA document setting out the terms on which a particular health care provider may treat an entitled person in order for DVA to pay for the treatment) or
 - a fees schedule incorporated into the Treatment Principles

states that the Commission's prior approval for a particular treatment is not required.

7. is the main amendment that extends statutory registration to most of the allied mental health care providers (clinical psychologists, psychologists, occupational therapist (mental health), social worker (mental health) by including them with the other health care providers who have statutory registration under the Treatment Principles.

Statutory Registration is not fully applied to Neuropsychologists because Medicare Australia does not register neuropsychologists as a separate provider type.

New paragraph 7.1A.1 largely duplicates former paragraph 7.1A.3 but makes provision for allied mental health care providers by providing that in order for the Commission to accept financial responsibility for treatment provided by a particular health care provider, including an allied mental health care provider, the treatment must have been provided in accordance with the notes for the provider. The notes are a DVA document setting out the terms on which a particular health care provider may treat an entitled person in order for DVA to pay for the treatment.

8. substitutes a revised schedule of incorporated documents in the Treatment Principles and specifies the date of 1 November 2010 for the documents. This means that a document in the schedule is incorporated into the Treatment Principles as it existed on 1 November 2010 (and only on 1 November 2010).

New documents in the schedule are:

- Notes for Allied Mental Health Care Providers
- Neuropsychologists Schedule of Fees
- Clinical Psychologists Schedule of Fees
- Occupational Therapists (Mental Health) Schedule of Fees
- Social Workers (Mental Health) Schedule of Fees
- Notes for Social Workers.