

EXPLANATORY STATEMENT

Disability Care Load Assessment (Child) Amendment Determination 2011

Summary

The *Disability Care Load Assessment (Child) Amendment Determination 2011* (the Amending Determination) is made by the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs under section 38E of the *Social Security Act 1991* (the Act).

The Amending Determination amends Schedule 3, Part 2, clause 11 of the *Disability Care Load Assessment (Child) Determination 2010* (the Determination). Schedule 3, Part 2 of the Determination declares for the purposes of section 953 of the Act recognised disabilities; this Schedule is known as the List of Recognised Disabilities (the LoRD). The LoRD sets out medical conditions from which the child care receiver must suffer in order to qualify a carer for carer allowance in respect of a child under the age of 16 years.

Schedule 3, Part 2, clause 11 of the Determination provides that a young person will qualify his or her carer for carer allowance under section 953 of the Act if the following apply:

- (1) the young person suffers from Diabetes Mellitus Type 1; *and*
- (2) the young person is aged under 10 years.

The Amending Determination removes the second requirement. Therefore a child may qualify his or her carer for carer allowance under the Act if that child suffers from Diabetes Mellitus Type 1. Under section 953 of the Act, a carer may only receive carer allowance in respect of a child where the child is aged under 16.

Explanation of the provisions

Section 1 states the name of the Amending Determination.

Section 2 states that the Amending Determination is taken to have commenced on 1 July 2011. This is a retrospective commencement date, but given the beneficial nature of the amendment, no carer with a child who suffers from Diabetes Mellitus Type 1 under the age of 16 years will be disadvantaged by the retrospective commencement date. However, under no circumstances can a carer receive carer allowance in respect of a child with Diabetes Mellitus Type 1 who is over the age of 10 years prior to 1 July 2011.

Due to the retrospective commencement date of the Amending Determination and the many individual circumstances that may apply, it is not feasible to provide a general statement that if a person lodges a claim on a stipulated day they will be paid from a certain day. The decision-maker will apply the relevant provisions of the *Social Security (Administration) Act 1999* (the Administration Act) including Schedule 2, Part 3, Division 3, clause 16 and subclause 4(1) of Schedule 2 in determining the relevant start date.

Section 3 provides that Schedule 1 of the Amending Determination amends the *Disability Care Load Assessment (Child) Determination 2010*.

Schedule 1, Clause 1 amends Schedule 3, Part 2, Clause 11 of the *Disability Care Load Assessment (Child) Determination 2010*. This provision omits the requirement that the young person who suffers from Diabetes Mellitus Type 1 must be under the age of 10 years in order to qualify his or her carer for carer allowance under section 953 of the Act. The result of the Amending Determination is that a child with Diabetes Mellitus Type 1 will qualify his or her carer for carer allowance under section 953 of the Act.

Consultation

Consultations were undertaken with families of children with diabetes, diabetes peak groups, Carers Australia, health and medical professionals, the Department of Health and Ageing and the Department of Human Services.

Regulatory Impact Analysis

The Amending Determination does not require a Regulatory Impact Statement as it is not regulatory in nature and will not impact on business or the not-for-profit sector.