

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Mental Health and Ageing

Aged Care Act 1997

*Aged Care (Residential Care Subsidy – Amount of Oxygen Supplement)
Determination 2013 (No. 1)*

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

Paragraph 44-13(6)(a) of the Act provides that the Minister may determine by legislative instrument the amount of the oxygen supplement for a particular day. Paragraph 44-13(6)(b) of the Act provides that the Minister may determine by legislative instrument a method for working out the amount of oxygen supplement for a particular day.

An oxygen supplement will be provided where a care recipient needs to use oxygen on a regular and continuing basis. It does not include the provision of oxygen on a short-term, episodic or emergency basis. It is a daily supplement for eligible recipients.

The purpose of the *Aged Care (Residential Care Subsidy – Amount of Oxygen Supplement) Determination 2013 (No. 1)* (the Determination) is to set the oxygen supplement rate with effect from 1 July 2013. The Determination also outlines a method for calculating the amount of oxygen supplement to be paid where the actual cost to the approved provider of administering oxygen to the care recipient is equal to, or more than, 125 per cent of the daily rate.

This Determination also revokes *Aged Care (Residential Care Subsidy – Amount of Oxygen Supplement) Determination 2012 (No. 1)*. The difference between the Determinations is that the daily amount of oxygen supplement has been increased in accordance with movements in the consumer price index (CPI) as a measure of the movements in the non-labour costs of approved providers.

Consultation

Indexation of the supplement is in accordance with the general policy for indexation of aged care payments upon which extensive consultation was undertaken. No specific consultation was undertaken with respect to this instrument.

Information about the increase in the amount of the supplement will be disseminated via electronic media to approved providers.

This Determination commences on 1 July 2013.

The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Aged Care (Residential Care Subsidy – Amount of Oxygen Supplement) Determination 2013 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of Legislative Instrument

The purpose of the *Aged Care (Residential Care Subsidy – Amount of Oxygen Supplement) Determination 2013 (No. 1)* (the Determination) is to set the oxygen supplement rate with effect from 1 July 2013. The Determination also outlines a method for calculating the amount of oxygen supplement to be paid where the actual cost to the approved provider of administering oxygen to the care recipient is equal to, or more than, 125 per cent of the daily rate. This Determination also revokes *Aged Care (Residential Care Subsidy – Amount of Oxygen Supplement) Determination 2012 (No. 1)*.

Human Rights Implications

This Legislative Instrument promotes the human right to health contained in article 12 of the International Covenant on Economic Social and Cultural Rights. The legislative instrument engages the right of everyone to the enjoyment of the highest attainable standard of physical and mental health by ensuring that the amount of oxygen supplement payable to approved providers of residential aged care services is increased in line with movements in the consumer price index (CPI) as a measure of the movements in the non-labour costs of approved providers.

This helps to ensure that the standard of care and services provided to recipients of residential aged care services is maintained.

Conclusion

This Legislative Instrument is compatible with human rights because it enhances the protection of human rights.

The Hon. Mark Butler MP, Minister for Mental Health and Ageing