

EXPLANATORY STATEMENT

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

Aged Care Act 1997

Aged Care (Community Care Subsidy Amount) 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 community aged care services can be eligible to receive community care subsidy payments in respect of the care they provide to approved care recipients.

Community care is care consisting of a package of personal care services and other personal assistance provided to a person who is not being provided with residential care. An approved provider is eligible for community care subsidy if it holds an allocation of places for community care subsidy and has a community care agreement in force with an approved care recipient and provides community care in accordance with that agreement.

Subsection 48-1(3) of the *Aged Care Act 1997* (the Act) provides that the amount of community care subsidy that is payable to an approved provider in respect of a day is the amount determined by the Minister by legislative instrument or worked out in accordance with a method determined by the Minister by legislative instrument.

The purpose of the *Aged Care (Community Care Subsidy Amount) Determination 2013 (No. 1)* (the Determination) is to specify the method for working out the amount of community care subsidy payable for a day in respect of a community care recipient, with rates effective from 1 July 2013. The Determination ensures coverage for the period between 1 July 2013 and the intended commencement of the *Aged Care (Living Longer Living Better) Act 2013*.

The total amount of community care subsidy payable in respect of a care recipient is the sum of following amounts as set out in the Determination:

- the base subsidy amount
- an additional daily amount payable to an approved provider of community care who provides community care to a care recipient in a rural or remote location, provided that location has an Accessibility/Remoteness Index of Australia (ARIA) score of 3.52 or more. The additional daily amount increases as the ARIA score (the measure of accessibility and remoteness of the geographical location at which the care recipient resides) increases.

Under the ARIA, each suburb and town in Australia is allocated an ARIA score based on its accessibility and remoteness. ARIA scores for all Australian locations are contained in the document entitled *Viability Funding — ARIA scores for locations as at 30 July 1999*, published by the Department of Health and Ageing.

The *Community Care Subsidy Principles 1997* specify that community care for a person may be provided at one of four levels. The transition to four levels of community care will not commence until the commencement of the *Aged Care (Living Longer Living Better) Act 2013*.

Therefore, the base subsidy amount in paragraph 5(a) of the Determination will continue to apply to all care recipients receiving community care.

This Determination also revokes *Aged Care (Community Care Subsidy Amount) Determination 2012 (No. 1)*.

The difference between the Determinations is that components of the daily amount of community care subsidy payable have been increased in accordance with increases in the consumer price index (CPI) as a measure of movements in the non-labour costs of providers and the decisions of the Fair Work Commission as a measure of non-productivity based movements of the wage costs of providers.

The base subsidy in paragraph 5(a) of the Determination (which is one of the components of Community Care Subsidy) has then been decreased via a re-calibration of 1.5% to partially offset the costs and transition to the new Dementia and Cognition Supplement and Veterans' Supplement. These supplements are intended to be made as new supplements following the commencement of the *Aged Care (Living Longer Living Better) Act 2013*.

The *Living Longer Living Better* aged care reform package provides for the establishment of a new Dementia and Cognition Supplement and a new Veterans' Supplement. The purpose of the Dementia and Cognition Supplement is to provide additional financial assistance to approved providers in recognition of the additional costs associated with caring for people with cognitive impairment associated with dementia and other conditions. Approved providers will be required to apply for the supplement in home care in respect of an eligible resident using an application form developed and released by the Department of Human Services.

The Veterans' Supplement in home care will be introduced to facilitate access to home care for veterans with service related mental health conditions. The supplement will aim to minimise difficulties that these veterans may experience in accessing home care services and ensures that a veteran's service related mental health condition does not act as a barrier to accessing appropriate care. Approved providers will receive the supplement for veterans who have a mental health condition which has been accepted by the Department of Veterans' Affairs as associated with their service.

It is intended that following the commencement of the *Aged Care (Living Longer Living Better) Act 2013*, the Dementia and Cognition Supplement and the Veterans' Supplement will be implemented from 1 August 2013.

The re-calibration is required in order to ensure approved providers are appropriately funded for additional costs of providing care to these groups. In construing the objects of the Act under subsection 2-1(2) of the Act, due regard must be had to the limited resources available to support services and programs under the Act and the need to consider equity and merit in accessing those resources.

Consultation

Targeted discussions and broad public consultation has been undertaken on the proposed legislative amendments from November 2012 through the release of an overview of the proposed legislation changes and industry briefings. Further industry briefings on the Bills

were undertaken by the Department of Health and Ageing in late March and April 2013 in all capital cities. Approximately 1,500 industry stakeholders have attended these briefings.

On 24 May 2013, a mailfax was sent to approved providers advising the indicative subsidy and supplement rates for the 2013-14 financial year. The rates were provided in advance to support providers in planning. Approved providers were also informed of the re-calibration of the base subsidy amount for community care.

Indexation of all components other than the base subsidy amount in the Determination uses a well established formula based on the CPI as a measure of the movements in the non-labour costs of providers and the decisions of the Fair Work Commission as a measure of non-productivity based movements of the wage costs of providers. As this is in accordance with policy upon which extensive consultation was undertaken, no specific consultation was undertaken with respect to this indexation.

Information about the increase in the amount of the subsidy 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 (Community Care Subsidy Amount) 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 (Community Care Subsidy Amount) Determination 2013 (No. 1)* (the Determination) is to specify the indexed rates of basic subsidy to apply from 1 July 2013. This Determination also revokes *Aged Care (Community Care Subsidy Amount) 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 components of the amount of the community care subsidy payable to approved providers are increased in line with the increase in the non-labour costs of providers and the decisions of the Fair Work Commission as a measure of non-productivity based movements of the wage costs of providers. This helps to ensure approved providers are appropriately funded for additional costs of providing care to these groups as well as ensuring that the standard of care and services provided to recipients aged care services is maintained.

The re-calibration of the base subsidy amount of community care subsidy payable of 1.5% is required to partially offset the costs and transition to the new Dementia and Cognition Supplement and a new Veterans' Supplement which are intended to commence as new supplements following passage of the *Aged Care (Living Longer Living Better) Act 2013*.

Conclusion

This legislative instrument is compatible with human rights as it promotes the human right to health.

The Hon Mark Butler MP
Minister for Mental Health and Ageing