



Aged Care (Conditions of Allocation) Determination 2016

I, Kerrie Westcott, delegate of the Secretary of the Department of Health, make the following determination.

Dated 16 March 2016

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Contents

Part 1—Preliminary	1
1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
5 Purpose of this instrument.....	2
Part 2—Conditions	3
6 General conditions	3
7 Conditions relating to provisional allocations of residential care places	3
8 Conditions relating to allocations of certain flexible care places	4

Part 1—Preliminary

1 Name

This is the *Aged Care (Conditions of Allocation) Determination 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 14-6(1) of the *Aged Care Act 1997*.

4 Definitions

Note: A number of expressions used in this instrument are defined in Schedule 1 to the Act, including the following:

- (a) flexible care subsidy;
- (b) place;
- (c) provisionally allocated;
- (d) residential care subsidy.

In this instrument:

Act means the *Aged Care Act 1997*.

authorised person means:

- (a) the Secretary; or
- (b) an officer in the Department authorised by the Secretary, in writing, for the purposes of this instrument.

flexible care place means a place that is allocated under Part 2.2 of the Act in respect of flexible care subsidy.

Section 5

residential care place means a place that is allocated under Part 2.2 of the Act in respect of residential care subsidy.

5 Purpose of this instrument

- (1) This instrument specifies conditions that apply to allocations of places to a person under Part 2.2 of the Act.

Note 1: The conditions specified in this instrument are in addition to the conditions specified in, or under, section 14-5 of the Act.

Note 2: Approved providers have a responsibility under Part 4.3 of the Act to comply with any conditions to which an allocation of places is subject (see paragraph 63-1(1)(d) of the Act). Failure to comply with a responsibility can result in a sanction being imposed under Part 4.4 of the Act.

- (2) The conditions specified in this instrument apply to all allocations of places, whether they occurred before or after the commencement of this instrument.

Note: Subsection (2) is consistent with subsection 14-6(3) of the Act.

Part 2—Conditions

6 General conditions

- (1) The conditions specified in this section apply to allocations of places generally.
- (2) A care recipient must not be discharged from an aged care service and readmitted to an aged care service:
 - (a) to attract the accommodation supplement under the Act; or
 - (b) to attract the accommodation supplement or the concessional resident supplement under the *Aged Care (Transitional Provisions) Act 1997*; or
 - (c) to enable an aged care service to charge the care recipient an accommodation bond or a refundable accommodation deposit.
- (3) An aged care service will be recognised as a new service only if the service relocates to:
 - (a) a facility built for the service's relocation; or
 - (b) a location that has no part of its catchment area in common with the catchment area of the location from which it moves.

Example: An aged care service will not be recognised as a new service only because of any of the following:

- (a) a change of approved provider for the service;
 - (b) a change in the number of places allocated to the service;
 - (c) a temporary relocation of the service;
 - (d) an amalgamation of co-located services.
- (4) Part III of Determination No. ADPCA 10F 3/1995 made under the *Aged or Disabled Persons Care Act 1954*, as in force on 30 September 1997, applies to a care recipient who was a resident of an approved hostel under that Act on that date.

7 Conditions relating to provisional allocations of residential care places

- (1) The conditions specified in this section apply to an approved provider who holds a provisional allocation of residential care places (the *places*).

Note: An allocation of places to a person takes effect when the Secretary determines that the person is in a position to provide care, in respect of those places, for which subsidy may be paid. Before an allocation takes effect, it is a provisional allocation. (See section 15-1 of the Act.)

- (2) During the first 3 years of the provisional allocation period, the approved provider must give annual reports about the approved provider's progress towards satisfying the Secretary that the approved provider is in a position to provide care, in respect of the places, for which residential care subsidy may be paid.

Note: The provisional allocation period is 4 years or, if that period is extended, the extended period (see section 15-7 of the Act).

- (3) If an authorised person requests, in writing, the approved provider to give an additional report about the approved provider's progress towards being in a

Section 8

position to provide care, in respect of the places, for which residential care subsidy may be paid, the approved provider must comply with the request within 14 days of receiving it, or such longer period as is specified in the request.

Note: More than one request may be made under this subsection.

- (4) A report under subsection (2) or (3) must:
 - (a) be in writing; and
 - (b) be in a form approved by an authorised person; and
 - (c) be given to the Department.
- (5) The approved provider must make timely progress towards being in a position to provide care, in respect of the places, for which residential care subsidy may be paid.

8 Conditions relating to allocations of certain flexible care places

- (1) The conditions specified in this section apply to an allocation of flexible care places for care recipients with disabilities who:
 - (a) are being provided with flexible care in disability supported accommodation that is funded by a State or Territory; and
 - (b) were receiving aged care services under the Aged Care Innovative Pool Disability Aged Care Programme on 25 May 2006.

Conditions relating to care and services

- (2) The care and services provided to care recipients in respect of the places must:
 - (a) be responsive to the needs of individual care recipients; and
 - (b) include case management and coordination, and the development of appropriate individual care plans; and
 - (c) include all necessary personal care and nursing services, over and above those that are provided in respect of the care recipient's disability.

Conditions relating to approved provider

- (3) The approved provider to whom the places are allocated must:
 - (a) demonstrate a commitment to continuous improvement through participation in an externally recognised quality improvement cycle; and
 - (b) ensure that the care and services provided are of a high quality and adequately address safety and security issues in relation to the provision of care and services to care recipients; and
 - (c) inform care recipients, their families, advocates or guardians of the details of the care and services provided in respect of the places; and
 - (d) ensure that the care recipients, their families, advocates or guardians are made aware of the implications of leaving the State or Territory funded disability supported accommodation; and
 - (e) participate in research concerning people with disabilities who are ageing, if requested to do so by an authorised person; and
 - (f) give an authorised person relevant associated data and information as requested by an authorised person.