



Australian Government

Veterans' Entitlements Act 1986
Military Rehabilitation and Compensation Act 2004
Australian Participants in British Nuclear Tests (Treatment) Act 2006

Veterans' Affairs Treatment Principles (Short-term Restorative Care) Amendment Instrument 2016

Instrument 2016 No.R46/MRCC46

I, Dan Tehan, Minister for Veterans' Affairs, approve:

- (a) under subsection 90(5) of the *Veterans' Entitlements Act 1986* (VEA) and under subsection 16(7) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (APBNT(T)A) — the variations by the Repatriation Commission of the *Treatment Principles* in the following instrument; and
- (b) under subsection 286(3) of the *Military Rehabilitation and Compensation Act 2004* (MRCA) — the variations by the Military Rehabilitation and Compensation Commission of the *MRCA Treatment Principles* in the following instrument.

Dated this 25th day of November 2016

Dan Tehan

DAN TEHAN

The Repatriation Commission makes, under subsection 90(4) of the *Veterans' Entitlements Act 1986* and subsection 16(6) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* the variations to the Treatment Principles in the following instrument.

Dated this 3rd day of November 2016

The Seal of the
Repatriation Commission
was affixed hereto in the
presence of:

)
) SEAL
)
)

Simon Lewis

C Orme

M A Kelly

.....
SIMON LEWIS

CRAIG ORME

MAJOR GENERAL MARK KELLY

PRESIDENT

**DSC AM CSC
DEPUTY PRESIDENT**

**AO DSC
COMMISSIONER**

The Military Rehabilitation and Compensation Commission makes, under subsection 286(2) of the *Military Rehabilitation and Compensation Act 2004*, the variations to the *MRCA Treatment Principles* in the following instrument.

Dated this 3rd day of November 2016

The Seal of the
Military Rehabilitation and Compensation Commission
was affixed hereto in the
presence of:

)
)
) SEAL
)

Simon Lewis

C Orme

.....
SIMON LEWIS

**CRAIG ORME
DSC AM CSC
MEMBER**

CHAIR

M A Kelly

T Smart

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**MAJOR GENERAL MARK KELLY
AO DSC
MEMBER**

**AIR VICE-MARSHAL TRACY SMART
AM
MEMBER**

Name

1. This instrument is the *Veterans' Affairs Treatment Principles (Short-term Restorative Care) Amendment Instrument 2016*.

Commencement

2. This instrument commences on 1 January 2017.

Authority

3. This instrument is made under:
 - (a) subsection 90(4) of the *Veterans' Entitlements Act 1986* in respect of the variations to the *Treatment Principles* in Schedule 1;
 - (b) subsection 286(2) of the *Military Rehabilitation and Compensation Act 2004* in respect of the variations to the *MRCA Treatment Principles* in Schedule 2; and
 - (c) subsection 16(6) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* in respect of the variations to the modifications of the *Treatment Principles* made for that Act, in Schedule 3.

Schedules

4. Each instrument that is specified in a Schedule to this instrument is varied as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1

Variations to the Treatment Principles (Instrument 2013 No. R52)

1. Paragraph 1.4 (Interpretation)

Insert the following definitions:

“approved provider”, in relation to *short-term restorative care*, has the meaning it has in the *Aged Care Act 1997*.

“short-term restorative care” has the meaning it has in section 106A of the *Subsidy Principles 2014*.

2. Paragraph 10.7

omit the words: “for a person (being either an *entitled person* or that person’s carer)”

substitute:

“for an *entitled person*”

3. Paragraph 10.12.1

after the paragraph, insert:

Part F – SHORT-TERM RESTORATIVE CARE CO-PAYMENT

Definition:

“co-payment”, in this Part, means an amount a person must pay for *short-term restorative care* but does not include an amount payable to the *approved provider* of the *short-term restorative care* as subsidy under the *Aged Care Act 1997*.

10.13 Financial Responsibility for Co-Payment

10.13.1 The *Commission* may accept financial responsibility for the *co-payment* a former *prisoner of war* (POW), or an *entitled veteran* awarded the Victoria Cross (VC recipient), paid, or is to pay, to an *approved provider* for *short-term restorative care* (care) provided to the person:

- (a) on condition that the care is provided on a day in respect of which flexible care subsidy is payable for the care under the *Subsidy Principles 2014*, in force from time to time; and

Note (1): The maximum number of days for which flexible care subsidy is payable for an episode of short-term restorative care by an *approved provider* for a care recipient is 56 days. See section 111A of the *Subsidy Principles 2014*.

- (b) to the extent the co-payment does not exceed the amount the *approved provider* is permitted to charge the POW or VC recipient under section 56-3 of the *Aged Care Act 1997*.

Note (2): The maximum co-payment amount an *approved provider* is permitted to charge is set out in section 23AB of the *User Rights Principles 2014* made for paragraph 56-3(a) of the *Aged Care Act 1997*.

10.13.2 In deciding whether to accept financial responsibility for the *co-payment* for *short-term restorative care* (care) provided to a POW or VC recipient the *Commission* should take into account:

- (a) whether the care was provided in accordance with the “agreed care plan” (within the meaning of section 111A of the *Subsidy Principles 2014*) in place between the *approved provider* and the POW or VC recipient;
- (b) whether the care was otherwise provided in accordance with the relevant provisions of the *Aged Care Act 1997* and relevant instruments under that Act; and

Note (1): Part 3.3 of Chapter 3 of the *Aged Care Act 1997* deals with flexible care.

Note (2): The *Approval of Care Recipients Principles 2014*, the *Subsidy Principles 2014*, the *Quality of Care Principles 2014*, the *Accountability Principles 2014* and the *User Rights Principles 2014* are relevant to *short-term restorative care* – a form of flexible care.

- (c) whether the care essentially duplicates treatment the POW or VC recipient is receiving under other provisions of these *Principles* (double-dipping).

10.14 Billing

10.14.1 An *approved provider* is to bill the *Department of Human Services* (via Medicare) for the *co-payment* for *short-term restorative care*, rather than the POW or VC recipient (client) but if the client is billed, the *Commission* may, subject to 10.13.1 and 10.13.2, accept financial responsibility for the amount.

Schedule 2

Variations to the MRCA Treatment Principles (Instrument 2013 No. MRCC53)

1. Paragraph 1.4 (Interpretation)

Insert the following definitions:

“approved provider”, in relation to *short-term restorative care*, has the meaning it has in the *Aged Care Act 1997*.

“short-term restorative care” has the meaning it has in section 106A of the *Subsidy Principles 2014*.

2. Paragraph 10.4

Omit the words: “for a person (being either an entitled person or that person’s carer)”

substitute:

“for an *entitled person*”

3. Paragraph 10.9.1

After the paragraph, insert:

Part F – SHORT-TERM RESTORATIVE CARE CO-PAYMENT

Definition:

“co-payment”, in this Part, means an amount a person must pay for *short-term restorative care* but does not include an amount payable to the *approved*

provider of the short-term restorative care as subsidy under the Aged Care Act 1997.

10.10 Financial Responsibility for Co-Payment

10.10.1 The *Commission* may accept financial responsibility for the *co-payment* a former *prisoner of war* (POW), or an *entitled member* awarded the Victoria Cross (VC recipient), paid, or is to pay, to an *approved provider* for *short-term restorative care* (care) provided to the person:

- (a) on condition that the care is provided on a day in respect of which flexible care subsidy is payable for the care under the *Subsidy Principles 2014*, in force from time to time; and

Note (1): The maximum number of days for which flexible care subsidy is payable for an episode of short-term restorative care by an *approved provider* for a care recipient is 56 days. See section 111A of the *Subsidy Principles 2014*.

- (b) to the extent that the co-payment does not exceed the amount the *approved provider* is permitted to charge the POW or VC recipient under section 56-3 of the *Aged Care Act 1997*.

Note (2): The maximum co-payment amount a provider is permitted to charge is set out in section 23AB of the *User Rights Principles 2014* made for paragraph 56-3(a) of the *Aged Care Act 1997*.

10.10.2 In deciding whether to accept financial responsibility for the *co-payment* for *short-term restorative care* (care) provided to a POW or VC recipient the *Commission* should take into account:

- (a) whether the care was provided in accordance with the “agreed care plan” (within the meaning of section 111A of the *Subsidy Principles 2014*) in place between the *approved provider* and the POW or VC recipient;
- (b) whether the care was otherwise provided in accordance with the relevant provisions of the *Aged Care Act 1997* and relevant instruments under that Act; and

Note (1): Part 3.3 of Chapter 3 of the *Aged Care Act 1997* deals with flexible care.

Note (2): The *Approval of Care Recipients Principles 2014*, the *Subsidy Principles 2014*, the *Quality of care Principles 2014*, the *Accountability Principles 2014* and the *User Rights Principles 2014* are relevant to *short-term restorative care* – a form of flexible care.

- (c) whether the care essentially duplicates treatment the POW or VC recipient is receiving under other provisions of these *Principles* (double-dipping).

10.11 Billing

10.11.1 An *approved provider* is to bill the *Department of Human Services* (via Medicare) for the *co-payment* for *short-term restorative care*, rather than the POW or VC recipient (client) but if the client is billed, the *Commission* may, subject to 10.10.1 and 10.10.2, accept financial responsibility for the amount.

Schedule 3

Variations to the Treatment Principles (Australian Participants in British Nuclear Tests) 2006 (Instrument 2013 No. R54)

1. Paragraph 46

After the paragraph, insert:

46A. (Part 10 Part F – SHORT-TERM RESTORATIVE CARE CO-PAYMENT)

omit.