

EXPLANATORY STATEMENT

Aged Care Act 1997

Classification Amendment (Budget Savings Measures No. 1) Principles 2016

Authority

Item 9 in the table to section 96-1 of the *Aged Care Act 1997* (the Act) provides that the Minister may make Classification Principles providing for matters required or permitted by Part 2.4 of that Act.

Purpose

The purpose of the *Classification Amendment (Budget Savings Measures No. 1) Principles 2016* (the Amending Principle) is to improve the Aged Care Funding Instrument (ACFI) so that funding outcomes better align with contemporary care practices and do not encourage distortions in claiming behaviour and care delivery.

Background

This Amending Principle makes changes to the funding provided to residential aged care providers through the ACFI to address higher than anticipated growth in funding. The ACFI is used to determine the level of Commonwealth subsidy that aged care providers receive, based on the care needs of the individual.

This Amending Principle makes changes to the funding levels for certain areas of the Complex Health Care domain of ACFI where funding growth has exceeded expectations.

Documents Incorporated by Reference

This Amending Principle incorporates the following documents by reference:

- The Answer Appraisal Pack
- The Assessment Pack; and
- The User Guide.

In 2016, these documents were accessible at <http://www.agedcare.health.gov.au>.

Consultation

In developing this measure, the Government consulted with the sector to understand the areas of ACFI that could be better aligned with contemporary care practices.

Stakeholder consultation occurred from July 2015 until late September 2016 through the ACFI Technical Reference Group and the ACFI Expenditure Working Group of the Aged Care Sector Committee.

The Committee membership comprises of representatives from across the aged care sector, including, peak bodies, large for-profit and not-for-profit providers, consumers, workforce, the National Aged Care Alliance and the Department.

The committee members also consult broadly within their own memberships and constituencies to ensure that stakeholder views inform the policy development process.

This Amending Principle commences the day after registration on the Federal Register of Legislation.

This Amending Principle is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Classification Amendment (Budget Savings Measures No. 1) Principles 2016

1 Name

Section 1 states that the name of the Amending Principle is the *Classification Amendment (Budget Savings Measures No. 1) Principles 2016*

2 Commencement

Section 2 states that this Amending Principle commences the day after registration on the Federal Register of Legislation.

3 Authority

Section 3 states that this Amending Principle is made under the *Aged Care Act 1997*.

4 Schedules

Section 4 states that Schedule 1 amends the *Classification Principles 2014*.

Schedule 1 Amendments

Item 1

Item 1 inserts a reference to a number of expressions used in the Amending Principles, which are defined in the *Aged Care Act 1997*.

Item 2

Item 2 repeals the definition of the ‘Answer Appraisal Pack’ and substitutes a new definition which incorporates the latest version of the ‘Answer Appraisal Pack’ by reference.

Item 3

Item 3 repeals the definition of the ‘Assessment Pack’ and substitutes a new definition which incorporates the latest version of the ‘Assessment Pack’ by reference.

Item 4

Item 4 repeals the definition of the ‘User Guide’ and substitutes a new definition which incorporates the latest version of the ‘User Guide’ by reference.

Item 5

Item 5 repeals the notes to section 4 which are inserted below the heading by item 1 of this Amending Principle. This change is required to improve the style and accessibility of the *Classification Principles 2014*.

Item 6

Item 6 inserts a new Part 15 and section 50.

Section 50 provides that the ‘old principles’ continue to apply in relation to:

- a) an appraisal of the level of care needed by a care recipient to whom an approved provider began providing care before 1 January 2017; and
- b) a classification of a care recipient mentioned in paragraph (a); and

- c) a reappraisal of the level of care needed by a care recipient whose classification has an expiry date that is before 1 January 2017; and
- d) the renewal of a classification mentioned in paragraph (c).

The 'old principles' mean the *Classification Principles 2014* that were in force, before the commencement of this Amending Principle.

Item 7

Item 7 repeals rows B, C, and D in the Complex Health Care domain matrix, and inserts a new row B and C.

Statement of Compatibility with Human Rights

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

Classification Amendment (Budget Savings Measures No. 1) Principles 2016

The *Classification Amendment (Budget Savings Measures No. 1) Principles 2016* are 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 the Legislative Instrument

This legislative instrument amends the *Classification Principles 2014*, and refines the scoring matrix that determines the level of funding for the Complex Health Care domain. The scoring and funding for the Complex Health Care domain is based on a matrix which considers the scores achieved for questions 11 (medication) and 12 (complex health needs) collectively. These changes ensure that the highest level of funding goes to residents with the highest needs.

Human rights implications

This legislative instrument is compatible with the right to an adequate standard of living and the right to the enjoyment of the highest attainable standard of health and well-being as contained in article 11(1) and article 12(1) of the International Covenant on Economic, Social and Cultural Rights, and article 25 and article 28 of the Convention on the Rights of Persons with Disabilities.

This legislative instrument concerns the amount of subsidy payable to approved providers for the provision of care and services to people with a condition of frailty or disability who require assistance to achieve and maintain the highest attainable standard of physical and mental health.

Conclusion

This legislative instrument is compatible with human rights as it promotes the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

The Hon Sussan Ley
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