



Child Care Benefit (Session of Care) Amendment Determination 2017

A New Tax System (Family Assistance) Act 1999

I, Simon Birmingham, Minister for Education and Training, make this Determination under section 9 of the *A New Tax System (Family Assistance) Act 1999*.

Dated: 19 February 2017

Simon Birmingham

Minister for Education and Training

1 Name

This Determination is the *Child Care Benefit (Session of Care) Amendment Determination 2017*.

2 Commencement

- (1) The amendments in Schedule 1 of this Determination commence on 13 March 2017.
- (2) The amendments in Schedule 2 of this Determination commence on 1 July 2017.

3 Authority

This Determination is made under section 9 of the *A New Tax System (Family Assistance) Act 1999*.

4 Application

To avoid doubt, the amendments made by this Determination apply in relation to eligibility for sessions of care that occur on and from commencement of the relevant amendments.

5 Amendments

The *Child Care Benefit (Session of Care) Determination 2016* is amended as set out in Schedules 1 and 2.

Schedule 1

1 Subsection 11(2)

After “in accordance with the *Child Care Benefit (Allocation of Child Care Places) Determination 2000*” add:

“and the *Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000*”.

”

2 New sections 12 and 13

After section 11 add:

“12 Care provided by an approved family day care service that is not a session of care for special grandparent rate purposes

- (1) This section applies to care provided by an approved family day care service only.
- (2) If an individual would otherwise be eligible for the special grandparent rate under section 50S of the Family Assistance Administration Act for care in relation to a child, that care is not a session of care if:
 - (a) the hourly fees reported for that care exceed what the Secretary considers the individual has incurred a genuine legal liability for, as set out in section 6 of this Determination; or
 - (b) subject to subsection (4), the hourly fees reported for that care exceed the *maximum amount*.
- (3) In this section, the *maximum amount* is \$12.67 per hour.
- (4) Where the fees reported exceed the *maximum amount*, the care is only a session of care if the Secretary considers that the fees reported:
 - (a) have been set in accordance with section 219BC of the *A New Tax System (Family Assistance) (Administration) Act 1999* because the fees set for the session do not exceed the amount of the fees that the service would charge for the same session for the same child if the special grandparent rate did not apply; and

- (b) reflect a genuine legal liability that has been incurred by the individual, despite the fee exceeding the *maximum amount*.

13 Care provided by an approved family day care service that is not a session of care where a child is at risk or individual is in hardship

- (1) This section applies to care provided by an approved family day care service only.
- (2) If an individual or a service would otherwise be eligible for a rate of fee reduction as determined under Subdivision C of Division 4 of Part 4 of the Family Assistance Act for care in relation to a child, that care is not a session of care if:
 - (a) the hourly fees reported for that care exceed what the Secretary considers the individual has incurred a genuine legal liability for, as set out in section 6 of this Determination; or
 - (b) subject to subsection (4), the hourly fees reported for that care exceed the *maximum amount*.

Note: Subdivision C of Division 4 of Part 4 of the Family Assistance Act refers to the rate of fee reduction applicable where a child is at risk of serious abuse or neglect or an individual is in hardship.

- (3) In this section, the *maximum amount* is \$12.67 per hour.
- (4) Where the fees reported exceed the *maximum amount*, the care is only a session of care if the Secretary considers that the fees reported:
 - (a) have been set in accordance with section 219BB of the *A New Tax System (Family Assistance) (Administration) Act 1999* because the fees set for the session do not exceed the amount of the fees that the service would charge for the same session for the same child if the rate, referred to in sections 76 or 81 of the Family Assistance Act, did not apply; and
 - (b) reflect a genuine legal liability that has been incurred by the individual, despite the fee exceeding the *maximum amount*.”

Schedule 2

1 Subsection 12(3)

Replace the subsection with:

“(3) In this section, the *maximum amount* is \$12.84 per hour.”

2 Subsection 13(3)

Replace the subsection with:

“(2) In this section, the *maximum amount* is \$12.84 per hour.”