



## **Classification Amendment (2016 Budget Savings Measures) Principles 2017**

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I, Ken Wyatt AM, Minister for Aged Care, make the following principles.

Dated 27 February 2017

Ken Wyatt AM  
Minister for Aged Care

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## 1 Name

This instrument is the *Classification Amendment (2016 Budget Savings Measures) Principles 2017*.

## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	1 March 2017.	1 March 2017

Note: This table relates only to the provisions of this instrument as originally made.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 the *Aged Care Act 1997*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Main amendments

### *Classification Principles 2014*

#### **1 Section 4 (paragraph (b) of the note)**

Repeal the paragraph, substitute:

- (b) disqualified individual;
- (c) lowest applicable classification level.

#### **2 Paragraph 15(2)(a)**

Repeal the paragraph, substitute:

- (a) complete an Answer Appraisal Pack in accordance with the requirements mentioned in subsection (3); and

#### **3 At the end of section 15**

Add:

- (3) For the purposes of paragraph (2)(a), the requirements are that:
  - (a) the Answer Appraisal Pack must be completed in accordance with the User Guide, using:
    - (i) accurate and reliable information; and
    - (ii) if required by the Answer Appraisal Pack—the assessment tools in the Assessment Pack; and
  - (b) if the User Guide requires a directive from a health care practitioner as evidence in respect of care mentioned in a question or part of a question in the Answer Appraisal Pack, the care may be taken into account only if:
    - (i) a directive has been given for the care by the kind of health care practitioner mentioned in the User Guide in respect of that care; and
    - (ii) the directive states the manner in which the care is to be provided and the qualifications of the person who is to provide the care; and
    - (iii) the care was, is or is to be provided in the manner, and by a person with the qualifications, stated in the directive.

#### **4 Section 16**

Repeal the section, substitute:

#### **16 Purpose of this Part**

For the purposes of sections 25-4A and 25-4C of the Act, this Part:

- (a) excludes a class of persons from being appointed as advisers under stay of suspension agreements; and
- (b) specifies matters that the Secretary must take into account in specifying the period within which an adviser must be appointed under a stay of suspension agreement; and
- (c) specifies requirements that must be met by an application for the lifting of a suspension of an approved provider from making appraisals and reappraisals.

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## **16A Stay of suspension agreements—class of persons excluded from being appointed as advisers**

For the purposes of subsection 25-4A(4) of the Act, a disqualified individual is excluded from being appointed as an adviser.

Note: For the meaning of *disqualified individual*, see section 10A-1 of the Act.

## **16B Stay of suspension agreements—matters to be taken into account in specifying period for appointing advisers**

For the purposes of subsection 25-4A(5) of the Act, in specifying, in a stay of suspension agreement, the period within which an approved provider must appoint an adviser, the Secretary must take into account:

- (a) the location of each aged care service to which the proposed suspension under subsection 25-4(1) of the Act relates; and
- (b) the number of classifications to which the proposed suspension relates; and
- (c) the extent to which the information to which the proposed suspension relates is false, misleading or inaccurate.

## **5 Section 17**

Omit “The application”, substitute “For the purposes of paragraph 25-4C(3)(b) of the Act, an application for the lifting of a suspension of an approved provider from making appraisals and reappraisals”.

## **6 After Part 8**

Insert:

## **Part 9—Changing classifications**

### **24 Purpose of this Part**

For the purposes of paragraph 29-1(3)(b) of the Act, this Part specifies matters that the Secretary must have regard to in reviewing the classification of a care recipient being provided with residential care.

### **25 Changing classifications**

For the purposes of paragraph 29-1(3)(b) of the Act, if care mentioned in paragraph 15(3)(b) (care covered by a directive) was taken into account in making the appraisal in respect of the care recipient that was taken into account in classifying the care recipient, the Secretary must have regard to whether that care was, is or is to be provided in the manner, and by a person with the qualifications, stated in the directive.

## **Part 10—Application fees for reconsideration of decisions to change classification of care recipients**

### **26 Purpose of this Part**

For the purposes of section 85-6 of the Act, this Part:

- (a) specifies the application fee for a request made under subsection 85-5(1) of the Act for reconsideration of a reviewable decision made under subsection 29-1(1) of the Act (a decision to change the classification of a care recipient); and
- (b) deals with the circumstances in which the Secretary may waive the fee; and
- (c) deals with the circumstances in which the fee may be refunded.

## **27 Application fees**

- (1) For the purposes of subsection 85-6(1) of the Act, the application fee for a request is the sum of \$375 for each question in the Answer Appraisal Pack that the request relates to.
- (2) A request relates to a question if the request relates to the change of the rating for that question.

## **28 Waiver of application fees**

For the purposes of paragraph 85-6(3)(a) of the Act, the Secretary may waive the application fee for a request if the Secretary is satisfied that there are exceptional circumstances that justify the waiver.

## **29 Refund of application fees**

For the purposes of paragraph 85-6(3)(c) of the Act, the application fee for a request may be refunded if:

- (a) the whole or a part of the decision to which the request relates is varied or set aside; and
- (b) the decision or part of the decision relates to the change of the rating for one or more questions in the Answer Appraisal Pack; and
- (c) as a result of the varying or setting aside of the decision or part of the decision, the classification of the care recipient to which the decision relates is changed back to the classification that applied to the care recipient before the decision took effect; and
- (d) the request did not include any material or information that was not available to the Secretary for the purposes of the review of the classification under subsection 29-1(3) of the Act.



## **Schedule 2—Technical amendments**

### ***Classification Principles 2014***

#### **1 Section 4 (definition of *Answer Appraisal Pack*)**

Omit “the commencement of the *Classification Amendment (Budget Savings Measures No. 1) Principles 2016*”, substitute “9 December 2016”.

#### **2 Section 4 (definition of *Assessment Pack*)**

Omit “the commencement of the *Classification Amendment (Budget Savings Measures No. 1) Principles 2016*”, substitute “9 December 2016”.

#### **3 Section 4 (definition of *User Guide*)**

Omit “the commencement of the *Classification Amendment (Budget Savings Measures No. 1) Principles 2016*”, substitute “9 December 2016”.

#### **4 Subsection 50(2) (definition of *old principles*)**

Omit “the commencement of the *Classification Amendment (Budget Savings Measures No. 1) Principles 2016*”, substitute “9 December 2016”.