

# Australian Government

**Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019**

Instrument 2019 No. R17

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| The Repatriation Commission makes the following legislative instrument under section 18 of the *Treatment Benefits (Special Access) Act 2019*.  Dated this 13th of June 2019  The Seal of the )  Repatriation Commission ) SEAL  was affixed hereto in the )  presence of: )   |  |  |  | | --- | --- | --- | | ……Elizabeth Cosson…… |  | ……Craig Orme…… | | **ELIZABETH COSSON** |  | **CRAIG ORME** | | **AM CSC** |  | **DSC AM CSC** | | **PRESIDENT** |  | **DEPUTY PRESIDENT** | |  |  |  | |  |  |  | |  |  |  | | ……M A Kelly…… |  | ……D Spinks…… | | **MAJOR GENERAL MARK KELLY** |  | **DONALD SPINKS** | | **AO DSC** |  | **AM** | | **COMMISSIONER** |  | **COMMISSIONER** | |

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| --- |
| I, Darren Chester, Minister for Veterans and Defence Personnel, approve this instrument under subsection 18(8) of the *Treatment Benefits (Special Access) Act 2019*.  Dated this 25th day of June 2019  Darren Chester  **DARREN CHESTER**  Minister for Veterans and Defence Personnel |

1 Name

This instrument is the *Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019.*

2 Commencement

This instrument commences on 1 July 2019.

3 Authority

This instrument is made under section 18 of the *Treatment Benefits (Special Access) Act 2019*.

4 Schedule—Modifications of the Treatment Principles

The Treatment Principles are modified as set out in the Schedule to this instrument for the purposes of the *Treatment Benefits (Special Access) Act 2019.*

**Schedule**—**Modifications of the Treatment Principles**

Treatment Principles

**1 Title**

Substitute:

Australian Government

REPATRIATION COMMISSION

*Treatment Benefits (Special Access) Act 2019*

Section 18

**Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019**

Instrument 2019 No. R17

**2 Paragraphs 1.1.1 and 1.1.2**

Substitute:

* + 1. The *Treatment Principles* set out the circumstances in which, and the conditions subject to which, treatment of a particular kind, or included in a particular class of treatment, may be provided under the *Treatment Benefits Act* for *entitled persons* and are to be read subject to the *Treatment Benefits Act.*
    2. The *Treatment Principles* state the rules under which the *Commission* may arrange, or accept financial responsibility for the cost of, treatment for *entitled persons*.

Note: Consistent with the *Treatment Benefits Act*, treatment extends beyond medical treatment and also encompasses social and domestic assistance.

**3 Paragraph 1.2.1**

Omit“The Repatriation Private Patient Principles (the RPPPs), determined by the Commission under section 90A of the Act,”, substitute “The RPPPs”.

**4 Paragraph 1.3.1**

Omit “under the *Act*”, substitute “under the *Treatment Benefits Act*”.

**5 Paragraph 1.3.1 (Note)**

Omit “section 213 of the Act”, substitute “section 42 of the *Treatment Benefits Act*”.

**6 Paragraph 1.4 (Interpretation)**

Omit the following definitions:

1. definition of **“ACPMH treatment”**;
2. definition of **“approved provider”** (second occurring);
3. definition of **“Australian Centre for Posttraumatic Mental Health”** and **“ACPMH”**;
4. definition of **“Authorised Representative”**;
5. definition of **“community patient”**;
6. definition of **“community services”**;
7. definition of **“consumable rehabilitation appliance”**.

**7 Paragraph 1.4.1 (definition of “contracted private hospital”)**

Omit “eligible persons”, substitute “entitled persons”.

**8 Paragraph 1.4.1 (paragraph (b) of the definition of “daily care fee”)**

Omit “(including a former *prisoner of war* or a person awarded the Victoria Cross)”.

**9 Paragraph 1.4 (Interpretation)**

Omit the following definitions:

1. definition of **“data repository”**;
2. definition of **“data repository controller”**;
3. definition of **“Department of Prime Minister and Cabinet”**;
4. definition of **“DVA Telemonitoring Practice Incentive”**;
5. definition of **“determined condition”**;
6. definition of **“determined residential care condition”**;
7. definition of **“eligible person”**;
8. definition of **“enrolment day”**.

**10 Paragraph 1.4.1 (definition of “entitled person”)**

Substitute:

**“entitled person”** means a person who is eligible for treatment under section 7 of the *Treatment Benefits Act*.

**11 Paragraph 1.4.1 (definitions of “entitled veteran”, “entitled widow” and “entitled widower”)**

Omit the definitions.

**12 Paragraph 1.4.1 (definition of “Gold Card”)**

Substitute:

**“Gold Card”** means an identification card, or written authorisation, provided to an *entitled person* in relation to treatment for all injuries or diseases.

**13 Paragraph 1.4.1**

Omit the following definitions:

1. definition of **“home care”**;

(b) definition of **“in‑home telemonitoring equipment”**;

(c) definition of **“In‑Home Telemonitoring for Veterans Initiative”**;

(d) definition of **“internet carriage service”**;

(e) definition of **“ISP Provider”**;

(f) definition of **“Level A attendance”**;

(g) definition of **“limited VHC – type service”**;

(h) definition of **“National Broadband Network”**;

(i) definition of **“NBN”**;

(j) definition of **“NBN wave site”**;

(k) definition of **“nominated residence”**;

(l) definition of **“outpatient service”**;

(m) definition of **“participating LMO”**;

(n) definition of **“prisioner of war”**.

**14 Paragraph 1.4.1 (definition of “Principles”)**

Substitute:

**“Principles”** means the Treatment Principles made under section 90 of the *Act* as modified by the *Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019*.

**15 Paragraph 1.4.1 (definition of “Repatriation Pharmaceutical Benefits Scheme”)**

Substitute:

**“Repatriation Pharmaceutical Benefits Scheme”** means the *Repatriation Pharmaceutical Benefits Scheme* as modified by the *Treatment Benefits (Special Access) (Modifications of the Repatriation Pharmaceutical Benefits Scheme) Instrument 2019.*

**16 Paragraph 1.4.1 (Note to the definition of “Respite Care”)**

Omit the note.

**17 Paragraph 1.4.1 (definitions of “revoked Treatment Principles” and “Rural Enhancement Scheme”**)

Omit the definitions.

**18 Paragraph 1.4.1 (definition of “RPPPs”)**

Substitute:

**“RPPPs”** means the Repatriation Private Patient Principles as modified by the *Treatment Benefits (Special Access) (Modifications of the Repatriation Private Patient Principles) Instrument 2019*.

**19 Paragraph 1.4.1**

Omit the following definitions:

(a) definition of **“short term restorative care”**;

(b) definition of **“telemonitoring care plan”**;

(c) definition of **“telemonitoring equipment”**;

(d) definition of **“telemonitoring initiative data”**;

(e) definition of **“telemonitoring initiative participant”**;

(f) definition of **“telemonitoring treatment”**;

(g) definition of **“TRCP treatment”**;

(h) definition of **“TRCP provider”**.

**20 Paragraph 1.4.1**

Insert:

**“Treatment Benefits Act”** means the *Treatment Benefits (Special Access) Act 2019*.

**21 Paragraph 1.4.1**

Insert:

**“Treatment Principles”** means the Treatment Principles made under section 90 of the *Act* as modified by the *Treatment Benefits (Special Access) (Modifications of the Treatment Principles) Instrument 2019*.

**22 Paragraph 1.4.1 (definition of “veteran”)**

Substitute:

**“veteran”** means an *entitled person*.

**23 Paragraph 1.4.1 (paragraph (a) of the definition of “Veterans’ Home Care Program”)**

Omit “made under section 90 of the Act”.

**24 Paragraph 1.4.1 (definitions of “Victoria Cross” and “Vietnam veteran”)**

Omit the definitions.

**25 Paragraph 1.4.1 (definition of “VVCS criterion”)**

Omit “eligible for treatment under the *Act”*, substitute “an *entitled person”*.

**26 Paragraph 1.4.1 (definitions of “war-caused” and “White Card”)**

Omit the definitions.

**27 Paragraph 2.1.1**

Substitute:

**2.1.1** Subject to these *Principles*, the *Commission* may provide or arrange for treatment in Australia of *entitled persons* who have been issued with:

(a) a Gold Card; or

(b) a written authorisation issued on behalf of the *Commission*.

**28 Principles 2.2, 2.3, 2.4, 2.5, 2.5A, 2.7A and 2.7B**

Omit the principles*.*

**29 Paragraph 2.8.1**

Substitute:

**2.8.1** The *Commission* will not provide, arrange or accept financial responsibility for treatment for a person, as an *entitled person,* on or from the date of notification from the *Department* that the person is no longer eligible under section 12 of the *Treatment Benefits Act*.

**30 Subparagraph 3.2.1(e) (Note)**

Omit the note.

**31 Subparagraph 3.2.2(a)**

Omit “Act”, substitute “*Treatment Benefits Act*”.

**32 Subparagraph 3.4.1(a)**

Omit “Act”, substitute “*Treatment Benefits* *Act*”.

**33 Paragraph 3.4.3**

Omit “and, subject to principle 2.2, for emergency treatment overseas for a war-caused injury or disease”.

**34 Paragraph 3.4.3 (Note)**

Substitute:

Note: this Principle does not apply to residential care or residential care (respite). In such a case, the extent of Commission liability is determined under Part 10 of the Principles.

**35 Subparagraphs 3.4.4(b), 3.4.5(b) and 3.5.2(a)**

Omit “eligible person”, substitute “*entitled person*”.

**36 Paragraph 4.3.1**

Substitute:

**4.3.1** Subject to paragraph 3.5.1, and unless otherwise indicated in these Principles, the Commission will accept financial responsibility for treatment costs where a LMO or other GP or specialist provides or arranges for treatment of:

1. an entitled person who has been issued with a Gold Card; or

(b) a person who has been issued with a written authorisation on behalf of the Commission.

Note: Paragraph 3.5.1 also deals with financial liability for medical practitioner fees.

**37 Paragraph 4.8.1 (Note 1)**

Substitute:

Note 1: a vaccination is not treatment of an injury or disease. It is preventive treatment. An *entitled person* is only eligible for treatment of an injury or disease.

**38 Paragraph 5.2.5**

Omit the paragraph.

**39 Paragraph 5.3.1**

Omit “, White Card”

**40 Paragraph 5.3.2**

Substitute

**5.3.2** A person who holds a *Gold Card* will be provided with the following dental services:

1. the dental services listed in Schedules A, B and C of the *DVA document* entitled “Fee Schedule of Dental Services for Dentists and Dental Specialists”, referred to in Schedule 1 — on condition the services are provided in accordance with those Schedules;

Note: Schedule C imposes an annual monetary limit.

1. the dental services listed in the *DVA document* entitled “Fee Schedule of Dental Services for Dental Prosthetists”, referred to in Schedule 1 — on condition the services are provided in accordance with that Schedule.

**41 Paragraphs 5.3.3, 5.3.4 and 5.4.2**

Omit the paragraphs.

**42 Principle 5.5**

Omit the principle.

**43 Paragraphs 5.7.3 and 5.7.4**

Substitute:

**5.7.3** The *Commission* will accept financial responsibility for Pharmaceutical Benefits, available under the PBS, that are required as part of dental treatment for entitled persons who hold a *Gold Card*, other than the amount that would have been payable by the person if the person were a “concessional beneficiary” under the *National Health Act 1953*.

**5.7.4** The *Commission* will accept financial responsibility for Pharmaceutical Benefits that are not available under the PBS and are required as part of dental treatment for persons who hold a*Gold Card*, but such a prescription must be written on a private prescription.

**44 Paragraph 6.1.1**

Omit “(Part I of the Scheme prepared under section 91 of the Act)”.

**45 Subparagraph 6.2.1(a)**

Omit the subparagraph.

**46 Subparagraph 6A.5.1(2)**

Substitute:

(2) the person is an *entitled person*; and.

**47 PART 6B**

Omit the Part.

**48 The heading “Transitional” before paragraph 7.3A.14**

Omit the heading.

**49 Paragraphs 7.3A.14 to 7.3A.22**

Omit the paragraphs.

**50 Paragraph 9.1.1**

Omit “as well as urgent treatment for Vietnam veterans**,** not otherwise entitled**,** and their dependants as indicated in principle 2.5,”.

**51 Paragraph 9.1.1 (Note)**

Omit “93 of the Act”, substitute “59 of the *Treatment Benefits* *Act*”.

**52 Paragraph 9.1.3**

Omit “eligible person”, substitute “*entitled person*”.

**53 Paragraph 9.3.2**

Substitute:

**9.3.2** If an entitled person:

(a) is eligible for a residential care subsidy under the *Aged Care Act 1997*; and

(b) is receiving nursing-home-type care as defined in paragraph 9.3.1;

the *Commission* will accept financial responsibility for the standard hospital fee for nursing-home-type patients under the *National Health Act 1973*, or other agreed fee, less the *daily care fee*.

**54 Paragraph 9.3.3**

Omit “the *Veterans’ Entitlements Act 1986*”, substitute “the *Treatment Benefits Act”.*

**55 Paragraph 10.1.1**

Substitute:

**10.1.1**  Residential care may be provided in accordance with this Part to a person who has a current valid Gold Card.

*Note:*‘*residential care* is defined in paragraph 1.4.1.

**56 Paragraph 10.1.3 (Note)**

Substitute*:*

Note: The effect of paragraph 10.1.3 is to provide for payment to be made under the *Treatment Benefits* *Act* instead of the *Aged Care Act 1997*. Section 96-10 of the *Aged Care Act 1997* provides that subsidies payable under Chapter 3 of the *Aged Care Act 1997* in respect of treatment under, among other Acts, the *Treatment Benefits* *Act*, are not payable as an automatic appropriation out of the Consolidated Revenue Fund under the *Aged Care Act 1997* but are payable out of that Fund in accordance with the relevant appropriation provisions relating to the arrangement of treatment by the Repatriation Commission under the *Treatment Benefits* *Act*.

**57 Paragraph 10.1.4**

Omit “the *Veterans’ Entitlements Act 1986*”, substitute *“the Treatment Benefits Act”.*

**58 Principles 10.2, 10.3 and 10.4**

Omit the principles.

**59 Paragraph 10.6.2 (Note (3)**

Omit the note.

**60 Paragraph 10.6.2 (Table and definitions)**

Substitute:

**LIMITS OF FINANCIAL RESPONSIBILITY ACCEPTED BY THE REPATRIATION COMMISSION FOR RESIDENTIAL CARE (RESPITE)**

|  |  |  |
| --- | --- | --- |
| ***category of patient*** | ***type of care; max.period of care permitted; type of care costs accepted*** | ***type of care; max.period of care permitted; type of care costs accepted*** |
|  | *residential care (28 day respite)*  up to 28 days (inclusive) in a Financial year | *residential care (respite)* other than *residential care (28 day respite*)  upon an entitled person exhausting 28 days of *residential care (28 day respite)* in a Financial year *—* between and including 29 to 63 days\* in that Financial year |
| *entitled person* | RCS + DCF | RCS |

For the purposes of this table:

**‘DCF’** means the Commission will accept financial responsibility for the *daily care fee.*

**‘RCS’** means the Commission will accept financial responsibility for the residential care subsidy.

**‘RCS + DCF’** means the Commission will accept financial responsibility for the residential care subsidy and the *daily care fee*.

**\*** or for such further period permitted under the *Subsidy Principles 2014***.**

**61 Paragraph 10.6.8 Note (1)**

Substitute:

Note (1): the effect of paragraph 10.6.8 is to provide for payment to be made under the Treatment Benefits Actinstead of the *Aged Care Act 1997*. Section 96-10 of the *Aged Care Act 1997* provides that subsidies payable under Chapter 3 of the *Aged Care Act 1997* in respect of treatment under, among other Acts, the *Treatment Benefits* *Act*, are not payable as an automatic appropriation out of the Consolidated Revenue Fund under the *Aged Care Act 1997* but are payable out of that Fund in accordance with the relevant appropriation provisions relating to the arrangement of treatment by the Repatriation Commission under the *Treatment Benefits Act.*

**62 Paragraph 10.6.9**

Omit “the *Veterans’ Entitlements Act 1986*”, substitute “the *Treatment Benefits Act*”.

**63 Parts D, E and F of Part 10**

Omit Parts D, E and F.

**64 Paragraph 11.3.1**

Omit the paragraph.

**65 Subparagraph 11.3.3(d)**

Substitue:

(d) the *entitled person* is a *Gold Card* holder; and

**66 Paragraph 11.3.3 (Note 2)**

Omit “, or dependant of a *veteran*, eligible under the *Act*”, substitute “eligible under the *Treatment Benefits* *Act*”.

**67 Paragraph 11.3.3 (Note 3)**

Omit the note.

**68 Paragraph 11.3.8**

Omit the paragraph.

**69 Paragraph 11.5.1**

Substitute

**11.5.1** The Commission will approve the supply of a spectacle hearing aid to an *entitled person* who is a *Gold Card* holder if it is the only type of hearing aid that is appropriate.

**70 Paragraph 11.5.2**

Omit the paragraph.

**71 Paragraph 11.5.4**

Omit “eligible person”, substitute “*entitled person*”.

**72 Paragraph 11.6.1**

Substitute

**11.6.1** Subject to this Part, the *Commission* may arrange for a wig to be supplied to an entitled person who requires a wig as part of medical treatment for disfigurement.

**73 Paragraph 11.7.4**

Substitute

**11.7.4** The Commission will not be financially responsible for repair or replacement of a rehabilitation appliance for any injury or disease while an entitled person is travelling overseas.

**74 Paragraph 12.2.3**

Omit “the Act”, substitute “the *Treatment Benefits* *Act*”.

**75 Paragraph 12.3.1 (the Note)**

Omit “93 or 93A of the Act”, substitute “59 of the *Treatment Benefits* *Act*”.

**76 Paragraph 12.4.1**

Omit “eligible person”, substitute “*entitled person*”.

**77 Principle 12.5**

Omit the principle.

9