EXPLANATORY STATEMENT

*Hearing Services Administration Act 1997*

***Hearing Services Program (Voucher) Amendment Instrument (No. 2) 2020***

Authority

Authority for this instrument is provided by subsection 11(1) of the *Hearing Services Administration Act 1997* (the Act). That subsection empowers the Minister to make rules relating to vouchers issued under the Act (the voucher rules). Subsection 11(2) states that, among other things, the voucher rules may provide for the duration of vouchers.

Purpose

The *Hearing Services Program (Voucher) Amendment Instrument (No. 2) 2020* amends the *Hearing Services Program (Voucher) Instrument 2019* (the 2019 Instrument). The amendment extends the duration of vouchers issued under the Act from three years to five years. This will delay reapplications for vouchers by two years. The change will come into effect on 1 July 2021, and will apply to both new and existing vouchers.

Background

As Australia’s population ages, the number of people with a hearing impairment is expected to double to an estimated 7.8 million people in 2060.

The Hearing Services Program (Program) – established by the Act – aims to reduce the incidence and consequences of avoidable hearing loss in the Australian community by providing access to high quality hearing services and devices. Under the Program, eligible people can receive government-funded hearing services, including a fully subsidised hearing assessment, hearing rehabilitation and, if appropriate, hearing devices.

The Program consists of two components – the voucher system, and the Community Service Obligations. This amendment relates to the voucher system component only.

The voucher system is established by the Act, which sets up a scheme under which hearing services are provided to voucher-holders by contracted services providers. The 2019 Instrument facilitates the administration of the voucher component of the Program as established by the Act. Among other things, it:

* determines classes of ‘eligible persons’ (ie, persons eligible to become participants in the voucher system) additional to those described by the Act;
* sets out rules regarding the issuing, validity and effect of vouchers for government-funded hearing services; and
* specifies hearing services that are available to voucher-holders.

Under section 14 of the instrument, a voucher‑holder may receive ‘available’ hearing services while the voucher remains valid. Under section 13 of the 2019 Instrument, vouchers were valid for 3 years from the date of issue (subject to some exceptions). The purpose of this instrument is to extend the duration of vouchers to five years. This change applies both to:

* new vouchers issued on or after the commencement of the amendments on 1 July 2021; and
* vouchers issued before the amendments commence, provided that they are still in force on 1 July 2021.

The change ensures the program remains client-focused, fit-for-purpose and sustainable without compromising outcomes for consumers.

There is no clinical risk to participants from this change. The change to the duration of a voucher is in line with the current eligibility policy for refitting of aids that mandates that a new device cannot be refitted in less than five years unless there is a significant change in a participant’s circumstances.

Further, the existing annual clinical review to monitor changes in hearing and device usage will be maintained. Should deterioration in a participant’s hearing be identified in an annual review, existing program settings (Eligibility Criteria for Refitting and Requests for Revalidated Services) ensure that participants receive a new aid outside of the voucher life-cycle.

The existing five-year replacement restriction mirrors industry standards that devices last at least five years. Extending the voucher to five years creates a default device replacement point and will streamline providers’ interaction with government to reduce administration costs.

The change comes into effect 1 July 2021, providing reasonable time for hearing services sector and consumers to prepare.

**Details of the *Hearing Services Program (Voucher) Amendment Instrument (No. 2) 2020***

**1 Name**

Section 1 provides that the name of the instrument is the *Hearing Services Program (Voucher) Amendment Instrument (No. 2) 2020*.

**2 Commencement**

Section 2 states that Schedule 1 of the instrument commences 1 July 2021.

**3 Authority**

Section 3 provides that the authority for making the instrument is subsection 11(1) of the *Hearing Services Administration Act 199*7.

**4 Schedules**

Section 4 provides that each instrument specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.

Schedule 1 – Amendments commencing 1 July 2021

**Item 1 – Subsection 13(3)**

Item 1 of Schedule 1 amends subsection 13(3) of the 2019 Instrument to extend the 3-year validity period of vouchers issued under the Act to 5 years.

**Item 2 – Subsection 13(5)**

Item 2 of Schedule 1 amends the reference to the 3-year validity period in subsection 13(5) to reflect the amendment to subsection 13(3).

**Item 3 – Section 56**

Item 3 of Schedule 1 inserts a new transitional provision in Part 8 of the Act. The new section 56 provides that a voucher issued under the 2019 Instrument that remains in force as at 1 July 2021 is taken to have been issued under the instrument as amended. The effect of this provision is that vouchers that are issued before the amendments take effect on 1 July 2021, and which remain in force at that date, will be valid for 5 years. However, the section does not revive vouchers that have already expired.

**Statement of Compatibility with Human Rights**

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

***Hearing Services Program (Voucher) Amendment Instrument (No. 2) 2020***

This legislative instrument is 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**

The purpose of the *Hearing Services Program (Voucher) Amendment Instrument (No. 2) 2020* is to amend the *Hearing Services Program (Voucher) Instrument 2019* (the 2019 Instrument) to extend the duration of vouchers issued under the *Hearing Services Administration Act 1997* (the Act) from three years to five years. It will take effect from 1 July 2021. The changes will apply to new and existing vouchers.

**Human rights implications**

This legislative instrument engages the following rights:

* right to the enjoyment of the highest attainable standard of physical and mental health; and
* the rights of persons with disabilities to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.

*Right to the enjoyment of the highest attainable standard of physical and mental health*

The overarching purpose of the hearing services legislation is to improve the accessibility of hearing services for vulnerable Australians. The 2019 Instrument promotes the right in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to the enjoyment of the highest attainable standard of physical and mental health, as it facilitates the provision of Government-subsidised hearing services to persons who require them.

The amendments will extend the duration of vouchers from three to five years. A voucher allows its holder to obtain hearing services specified in the schedule of service items and fees made by the Minister:

* subject to assessment of their clinical need for the service; and
* provided that any relevant conditions set out in the schedule are met; and
* provided that the service is still available on the voucher (see sections 41-42 of the instrument).

Some service items in the schedule can only be claimed a specified number of times per voucher (subject to provisions of the instrument allowing additional hearing services to be provided in specified circumstances). However, when one voucher expires and the participant obtains another, those services can be claimed again under the new voucher. The extension to the voucher period means that this ‘renewal’ will occur less frequently.

In practice, this means (among other things) that participants in the program will generally have their hearing devices refitted at less frequent intervals. However, this change mirrors current industry standards that hearing devices are to last for at least 5 years. This will help streamline the administration of the program, and, where the participant’s device is not fully subsidised, prevent unnecessary replacement costs from being charged to participants.

Safeguards will also apply to ensure that participants’ hearing needs will continue to be met. For instance, participants will still undergo annual clinical reviews to monitor changes in their hearing and device usage. If deterioration in a participant’s hearing is identified in an annual review, their service provider may apply to the Minister for additional services to be made available to the participant.

The Minister may approve the provision of additional hearing services under section 43 of the instrument, having regard to factors that include the voucher-holder’s clinical need for the services. This process enables participants to receive new hearing devices outside of the 5-year voucher life-cycle.

Accordingly, there is no clinical risk to participants from this amendment and the amended instrument continues to promote the right to health in Article 12 of the ICESCR.

*Rights of persons with disabilities*

The 2019 Instrument promotes the right in Article 25 of the Convention on the Rights of Persons with Disabilities for persons with disabilities to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability, as it facilitates the provision of Government-subsidised hearing services to persons living with hearing impairment. The effect of the Amending Instrument on this right is the same as its effect on the right to health in Article 12 of the ICESCR (as outlined above).

**Conclusion**

This disallowable legislative instrument is compatible with human rights because it promotes the protection of human rights.

**The Hon Greg Hunt**

**Minister for Health**