



Contenance Aids Payment Scheme Amendment (Merits Review) Instrument 2020

I, Richard Colbeck, Minister for Aged Care and Senior Australians, make the following instrument.

Dated 19 December 2020

Richard Colbeck
Minister for Aged Care and Senior Australians

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1 Name

This instrument is the *Continence Aids Payment Scheme Amendment (Merits Review) Instrument 2020*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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 section 12 of the *National Health Act 1953*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Continence Aids Payment Scheme 2020

1 Section 21

At the end of the section, add:

- Note: Section 26 of this Instrument provides that if the Secretary makes a decision under subsection (1) or (3), he or she must give the participating person and the individual a signed notice that includes the reasons for the decision and advising that the person may apply to the Secretary for a review of the decision.

2 Subsection 22(8)

Repeal the subsection, substitute:

- (8) If a direction is given under subsection (7) the Chief Executive Medicare must comply with the direction.

- Note: Section 26 of this Instrument provides that if the Secretary makes a decision under subsection (7), he or she must give the participating person and the organisation a signed notice that includes the reasons for the decision and advising that the person or organisation may apply to the Secretary for a review of the decision.

3 Section 25 (Heading)

Repeal the heading, substitute:

25 Review of decisions relating to eligibility

4 After section 25

Add:

26 Review of Secretary's decisions

Decisions to which this section applies

- (1) This section applies to decisions of the Secretary under the following provisions of this Instrument:
- (a) subsection 21(1);
 - (b) subsection 21(3);
 - (c) subsection 22(7).

Secretary must give notice of decision

- (2) After making a decision referred to in subsection (1), the Secretary must give each person or organisation referred to in subsection (3) a signed notice that states:
- (a) the decision; and
 - (b) the day when the decision has effect; and
 - (c) the reasons for the decision; and
 - (d) that, within 28 days after receiving the notice (or such longer period allowed by the Secretary), the person or organisation may apply to the Secretary for a review of the decision; and

(e) how the person or organisation may apply for the review.

- (3) For subsection (2), the persons or organisations are:
- (a) for a decision under subsection 21(1) or (3):
 - (i) the participating person; and
 - (ii) the individual; and
 - (b) for a decision under subsection 22(7):
 - (i) the participating person; and
 - (ii) the organisation.

Aggrieved person or organisation may seek internal review of decision

- (4) A person or organisation that is aggrieved by a decision of the Secretary referred to in subsection (1) may apply for a review of the decision.
- (5) An application under subsection (4) must:
- (a) be made by written notice given to the Secretary;
 - (b) be made within:
 - (i) 28 days after the day on which the person or organisation received notice of the decision; or
 - (ii) if the Secretary allows a longer period (whether before or after the end of the 28-day period referred to in subparagraph (i))—that longer period; and
 - (c) set out the reasons for making the request.
- (6) If an application is made under subsection (4), the Secretary must review the decision and give the person or organisation a signed notice that states:
- (a) the decision; and
 - (b) the day when the decision has effect; and
 - (c) the reasons for the decision; and
 - (d) that, within 28 days after receiving the notice, the person or organisation may apply to the Administrative Appeals Tribunal for a review of the Secretary's decision.

External merits review

- (7) An application may be made to the Administrative Appeals Tribunal for the review of the Secretary's decision mentioned in subsection (6).