

Aged Care Legislation Amendment (Subsidies) Instrument 2023

I, Anika Wells, Minister for Aged Care, make the following instrument.

Dated 22 June 2023

Anika Wells

Minister for Aged Care

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1 Name

This instrument is the *Aged Care Legislation Amendment (Subsidies) Instrument 2023*.

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 | 1 July 2023. | 1 July 2023 |

Note: This table relates only to the provisions of this instrument as originally made.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 following:

(a) the *Aged Care Act 1997*;

(b) the *Aged Care (Transitional Provisions) 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Residential care subsidy

Subsidy Principles 2014

1 Section 4

Insert:

***day of eligible residential care***: see subsection 70AM(2).

***operational places*** has the same meaning as in Chapter 2A of the *Aged Care (Subsidy, Fees and Payments) Determination 2014*.

***qualifying facility***, for a payment period: see subsection 70AM(1).

2 At the end of paragraph 20(e)

Add:

; (viii) the hotelling supplement;

(ix) the registered nurse supplement.

3 At the end of Division 5 of Part 3 of Chapter 2

Add:

Subdivision J—Hotelling supplement

70AI Hotelling supplement

For the purposes of paragraph 44‑27(1)(c) of the Act, the hotelling supplement for a care recipient in respect of a payment period beginning on or after 1 July 2023 is the sum of all the hotelling supplements for the days during the period on which:

(a) the care recipient was provided with residential care through the residential care service in question; and

(b) the care recipient was eligible for a hotelling supplement under section 70AJ.

70AJ Eligibility for hotelling supplement

(1) A care recipient is eligible for a hotelling supplement on a particular day if, on that day, the care recipient is being provided with residential care other than as respite care.

(2) A care recipient is eligible for a hotelling supplement on a particular day if, on that day:

(a) the care recipient is being provided with residential care as respite care; and

(b) under Division 3 of Part 3 of Chapter 2A of the *Aged Care (Subsidy, Fees and Payments) Determination 2014*, the basic subsidy amount for the day for the care recipient is not nil.

Subdivision K—Registered nurse supplement

70AK Registered nurse supplement

For the purposes of paragraph 44‑27(1)(c) of the Act, the registered nurse supplement for a care recipient in respect of a payment period beginning on or after 1 July 2023 is the sum of all the registered nurse supplements for the days during the period on which:

(a) the care recipient was provided with residential care through the residential care service in question; and

(b) the care recipient was eligible for a registered nurse supplement under section 70AL.

70AL Eligibility for registered nurse supplement

(1) A care recipient is eligible for a registered nurse supplement on a particular day during a payment period if:

(a) on that day, the care recipient is being provided with residential care other than as respite care through a residential care service; and

(b) during the period, residential care is provided through the residential care service at at least one residential facility that is a qualifying facility for the period.

(2) A care recipient is eligible for a registered nurse supplement on a particular day during a payment period if:

(a) on that day, the care recipient is being provided with residential care as respite care through a residential care service; and

(b) under Division 3 of Part 3 of Chapter 2A of the *Aged Care (Subsidy, Fees and Payments) Determination 2014*, the basic subsidy amount for the day for the care recipient is not nil; and

(c) during the period, residential care is provided through the residential care service at at least one residential facility that is a qualifying facility for the period.

70AM Meaning of *qualifying facility*

(1) A residential facility is a ***qualifying facility*** for a payment period if all of the following criteria are met:

(a) an exemption from section 54‑1A of the Act in relation to the facility is not in force at any time during the period;

(b) a report in relation to the facility and the period has been submitted in accordance with section 44B of the *Accountability Principles 2014*;

(c) the total number of days of eligible residential care provided in respect of care recipients at the facility during the period, divided by the number of days in the period, is no more than 60;

(d) the total number of hours, on days during the period on which residential care was provided at the facility, that a registered nurse was not on site and on duty at the facility is no more than the number of such days in the period multiplied by 4.

Note: Residential care might be provided at a facility through more than one residential care service.

(2) A ***day of eligible residential care*** is provided in respect of a care recipient if:

(a) residential care is provided to the care recipient during a day:

(i) other than as respite care; or

(ii) as respite care and, under Division 3 of Part 3 of Chapter 2A of the *Aged Care (Subsidy, Fees and Payments) Determination 2014*, the basic subsidy amount for the day for the care recipient is not nil; and

(b) the approved provider of the residential care service through which the care is provided is eligible for residential care subsidy in respect of the day.

(3) If, during a payment period, days of eligible residential care are provided in respect of care recipients through the same residential care service at more than one residential facility, then, for the purposes of paragraph (1)(c), the total number of days of eligible residential care provided at each facility is taken to be proportional to the number of operational places allocated in respect of the service, on the last day of the payment period, in respect of the location of each facility.

Aged Care (Subsidy, Fees and Payments) Determination 2014

4 Section 64H

Insert:

***day of eligible residential care*** has the same meaning as in the *Subsidy Principles 2014*.

***qualifying facility*** has the same meaning as in the *Subsidy Principles 2014*.

5 At the end of Part 7 of Chapter 2A

Add:

Division 5—Hotelling supplement

64ZT Amount of hotelling supplement

For the purposes of subsection 44‑27(3) of the Act, the amount of the hotelling supplement for a day for a care recipient is $10.80.

Note: The hotelling supplement is set out in Subdivision J of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*. Eligibility for the supplement is dealt with in that Subdivision.

Division 6—Registered nurse supplement

64ZU Amount of registered nurse supplement

(1) This section is made for the purposes of subsection 44‑27(3) of the Act.

Note: The registered nurse supplement is set out in Subdivision K of Division 5 of Part 3 of Chapter 2 of the *Subsidy Principles 2014*. Eligibility for the supplement is dealt with in that Subdivision.

(2) The amount of the registered nurse supplement for a day during a payment period for a care recipient is:



where:

***service supplement amount*** is the service supplement amount for the payment period, determined under subsections (3) and (4), for the residential care service through which residential care is provided to the care recipient.

***total service care days*** is the total number of days of eligible residential care provided in respect of care recipients during the payment period through that residential care service.

Service supplement amount

(3) Subject to subsection (4), the service supplement amount for a payment period for a residential care service is the sum of the facility amounts, determined under subsections (5) and (6), for each qualifying facility for the period at which days of eligible residential care are provided in respect of care recipients during the period through that service.

(4) If, during a payment period, days of eligible residential care are provided in respect of care recipients at a qualifying facility for the period through more than one residential care service, the facility amount for the facility is to be apportioned between the services, in proportion to the number of days of eligible care provided at the facility through each service.

Facility amount

(5) The facility amount for a payment period, for a qualifying facility for the period with a street address in the MM category known as MM 1, MM 2, MM 3 or MM 4, is the amount set out in the following table for the average daily care count for the facility for the period.

| Facility amount—qualifying facilities in MM categories 1 to 4 | | |
| --- | --- | --- |
| Item | Average daily care count | Facility amount ($) |
| 1 | Less than or equal to 30 | 27,667 |
| 2 | More than 30 but less than or equal to 35 | 19,167 |
| 3 | More than 35 but less than or equal to 40 | 14,750 |
| 4 | More than 40 but less than or equal to 45 | 13,167 |
| 5 | More than 45 but less than or equal to 50 | 11,750 |
| 6 | More than 50 but less than or equal to 55 | 9,833 |
| 7 | More than 55 but less than or equal to 60 | 7,917 |

(6) The facility amount for a payment period, for a qualifying facility for the period with a street address in the MM category known as MM 5, MM 6 or MM 7, is the amount set out in the following table for the average daily care count for the facility for the period.

| Facility amount—qualifying facilities in MM categories 5 to 7 | | |
| --- | --- | --- |
| Item | Average daily care count | Facility amount ($) |
| 1 | Less than or equal to 5 | 77,083 |
| 2 | More than 5 but less than or equal to 10 | 69,000 |
| 3 | More than 10 but less than or equal to 15 | 63,500 |
| 4 | More than 15 but less than or equal to 20 | 53,250 |
| 5 | More than 20 but less than or equal to 25 | 42,250 |
| 6 | More than 25 but less than or equal to 30 | 32,083 |
| 7 | More than 30 but less than or equal to 35 | 23,833 |
| 8 | More than 35 but less than or equal to 40 | 17,750 |
| 9 | More than 40 but less than or equal to 45 | 15,750 |
| 10 | More than 45 but less than or equal to 50 | 13,583 |
| 11 | More than 50 but less than or equal to 55 | 11,250 |
| 12 | More than 55 but less than or equal to 60 | 8,917 |

(7) For the purposes of subsections (5) and (6), the average daily care count for a qualifying facility for a payment period is the total number of days of eligible residential care provided in respect of care recipients at the facility during the period, divided by the number of days in the period.

(8) If, during a payment period, days of eligible residential care are provided in respect of care recipients through the same residential care service at more than one residential facility then, for the purposes of subsection (7), the total number of days of eligible residential care provided at each facility is taken to be proportional to the number of operational places allocated in respect of the service, on the last day of the payment period, in respect of the location of each facility.

Aged Care (Transitional Provisions) Principles 2014

6 Section 4

Insert:

***qualifying facility***, for a payment period, has the same meaning as in the *Subsidy Principles 2014*.

7 At the end of paragraph 17(h)

Add:

; (vii) the hotelling supplement;

(viii) the registered nurse supplement.

8 At the end of Division 8 of Part 3 of Chapter 2

Add:

Subdivision I—Hotelling supplement

64E Hotelling supplement

For the purposes of paragraph 44‑27(1)(e) of the Transitional Provisions Act, the hotelling supplement for a care recipient in respect of a payment period beginning on or after 1 July 2023 is the sum of all the hotelling supplements for the days during the period on which the care recipient was provided with residential care through the residential care service in question.

Subdivision J—Registered nurse supplement

64F Registered nurse supplement

For the purposes of paragraph 44‑27(1)(e) of the Transitional Provisions Act, the registered nurse supplement for a care recipient in respect of a payment period beginning on or after 1 July 2023 is the sum of all the registered nurse supplements for the days during the period on which:

(a) the care recipient was provided with residential care through the residential care service in question; and

(b) the care recipient was eligible for a registered nurse supplement under section 64G.

64G Eligibility for registered nurse supplement

A care recipient is eligible for a registered nurse supplement on a particular day during a payment period if:

(a) on that day, the care recipient is being provided with residential care through a residential care service; and

(b) during the period, residential care is provided through the residential care service at at least one residential facility that is a qualifying facility for the period.

Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014

9 Section 81

Insert:

***day of eligible residential care*** has the same meaning as in the *Subsidy Principles 2014*.

***qualifying facility*** has the same meaning as in the *Subsidy Principles 2014*.

10 At the end of Part 5 of Chapter 3

Add:

Division 5—Hotelling supplement

91R Amount of hotelling supplement

For the purposes of subsection 44‑27(3) of the Transitional Provisions Act, the amount of the hotelling supplement for a day for a care recipient is $10.80.

Note: The hotelling supplement is set out in Subdivision I of Division 8 of Part 3 of Chapter 2 of the Transitional Provisions Principles. Eligibility for the supplement is dealt with in that Subdivision.

Division 6—Registered nurse supplement

91S Amount of registered nurse supplement

(1) This section is made for the purposes of subsection 44‑27(3) of the Transitional Provisions Act.

Note: The registered nurse supplement is set out in Subdivision J of Division 8 of Part 3 of Chapter 2 of the *Aged Care (Transitional Provisions) Principles 2014*. Eligibility for the supplement is dealt with in that Subdivision.

(2) The amount of the registered nurse supplement for a day during a payment period for a care recipient is:



where:

***service supplement amount*** is the service supplement amount for the payment period, determined under subsections (3) and (4), for the residential care service through which residential care is provided to the care recipient.

***total service care days*** is the total number of days of eligible residential care provided in respect of care recipients during the payment period through that residential care service.

Service supplement amount

(3) Subject to subsection (4), the service supplement amount for a payment period for a residential care service is the sum of the facility amounts, determined under subsections (5) and (6), for each qualifying facility for the period at which days of eligible residential care are provided in respect of care recipients during the period through that service.

(4) If, during a payment period, days of eligible residential care are provided in respect of care recipients at a qualifying facility for the period through more than one residential care service, the facility amount for the facility is to be apportioned between the services, in proportion to the number of days of eligible care provided at the facility through each service.

Facility amount

(5) The facility amount for a payment period, for a qualifying facility for the period with a street address in the MM category known as MM 1, MM 2, MM 3 or MM 4, is the amount set out in the following table for the average daily care count for the facility for the period.

| Facility amount—qualifying facilities in MM categories 1 to 4 | | |
| --- | --- | --- |
| Item | Average daily care count | Facility amount ($) |
| 1 | Less than or equal to 30 | 27,667 |
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| 5 | More than 45 but less than or equal to 50 | 11,750 |
| 6 | More than 50 but less than or equal to 55 | 9,833 |
| 7 | More than 55 but less than or equal to 60 | 7,917 |

(6) The facility amount for a payment period, for a qualifying facility for the period with a street address in the MM category known as MM 5, MM 6 or MM 7, is the amount set out in the following table for the average daily care count for the facility for the period.

| Facility amount—qualifying facilities in MM categories 5 to 7 | | |
| --- | --- | --- |
| Item | Average daily care count | Facility amount ($) |
| 1 | Less than or equal to 5 | 77,083 |
| 2 | More than 5 but less than or equal to 10 | 69,000 |
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| 11 | More than 50 but less than or equal to 55 | 11,250 |
| 12 | More than 55 but less than or equal to 60 | 8,917 |

(7) For the purposes of subsections (5) and (6), the average daily care count for a qualifying facility for a payment period is the total number of days of eligible residential care provided in respect of care recipients at the facility during the period, divided by the number of days in the period.

(8) If, during a payment period, days of eligible residential care are provided in respect of care recipients through the same residential care service at more than one residential facility then, for the purposes of subsection (7), the total number of days of eligible residential care provided at each facility is taken to be proportional to the number of operational places allocated in respect of the service, on the last day of the payment period, in respect of the location of each facility.

Schedule 2—Flexible care subsidy

Aged Care (Subsidy, Fees and Payments) Determination 2014

1 Section 91 (formula)

Repeal the formula, substitute:



2 Section 91 (before the definition of *DEA*)

Insert:

***ACWSA*** is the amount worked out by multiplying:

(a) the amount that applies under section 96A for the day for a place allocated in respect of the service; and

(b) the number of places allocated in respect of the service that are not provisionally allocated.

3 At the end of Division 3 of Part 1 of Chapter 4

Add:

96A Aged care wage supplement amount

The amount for a day for a place allocated in respect of a multi‑purpose service is the amount specified in the following table for the person the place is allocated to.

| Aged care wage supplement amount | | |
| --- | --- | --- |
| Item | Person place allocated to | Amount ($) |
| 1 | Churches of Christ Care in Queensland | 18.89 |
| 2 | Huon Eldercare Limited | 22.72 |
| 3 | Norfolk Island Health and Residential Aged Care Services | 11.19 |
| 4 | Any other person | Nil |