



Aged Care Legislation Amendment (Subsidy and Other Measures) Instrument 2024

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

Dated 12 September 2024

Anika Wells
Minister for Aged Care

Contents

1	Name	1
2	Commencement.....	1
3	Authority	1
4	Schedules.....	1
Schedule 1—Required amounts of direct care		2
	<i>Quality of Care Principles 2014</i>	2
Schedule 2—Hotelling supplement		3
	<i>Aged Care (Subsidy, Fees and Payments) Determination 2014</i>	3
	<i>Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014</i>	3
Schedule 3—Basic subsidy amount		4
	<i>Aged Care (Subsidy, Fees and Payments) Determination 2014</i>	4
	<i>Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014</i>	6
Schedule 4—Direct care responsibility and registered nurse supplement		8
	<i>Quality of Care Principles 2014</i>	8
	<i>Subsidy Principles 2014</i>	8
	<i>Aged Care (Subsidy, Fees and Payments) Determination 2014</i>	8
	<i>Aged Care (Transitional Provisions) (Subsidy and Other Measures) Determination 2014</i>	11
Schedule 5—Accommodation payments		15
	<i>Fees and Payments Principles 2014 (No. 2)</i>	15

1 Name

This instrument is the *Aged Care Legislation Amendment (Subsidy and Other Measures) Instrument 2024*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	14 September 2024
2. Schedule 1	15 September 2024.	15 September 2024
3. Schedule 2	20 September 2024.	20 September 2024
4. Schedules 3 to 5	1 October 2024.	1 October 2024

Note: This table relates only to the provisions of this instrument as originally made.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—Required amounts of direct care

Quality of Care Principles 2014

1 Subsection 9(1)

After “worked out”, insert “, on the calculation day for the quarter,”.

2 Paragraph 9(1)(a)

After “amounts”, insert “, as in force on the calculation day,”.

3 Subsection 9(2)

After “worked out”, insert “, on the calculation day for the quarter,”.

4 Paragraph 9(2)(a)

After “amounts”, insert “, as in force on the calculation day,”.

5 Subsection 9(3) (table)

Repeal the table, substitute:

Daily amounts			
Item	Column 1 For a care recipient classified as ...	Column 2 the combined staff daily amount is ... (minutes)	Column 3 and the registered nurse daily amount is ... (minutes)
1	Class 1	281	53
2	Class 2	122	25
3	Class 3	169	35
4	Class 4	138	29
5	Class 5	185	41
6	Class 6	177	37
7	Class 7	215	45
8	Class 8	239	50
9	Class 9	209	42
10	Class 10	254	50
11	Class 11	244	47
12	Class 12	243	46
13	Class 13	281	53
14	Respite Class 1	163	33
15	Respite Class 2	196	42
16	Respite Class 3	252	49

Schedule 2—Hotelling supplement

Aged Care (Subsidy, Fees and Payments) Determination 2014

1 Section 64ZT

Omit “\$11.24”, substitute “\$12.55”.

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

2 Section 91R

Omit “\$11.24”, substitute “\$12.55”.

Schedule 3—Basic subsidy amount

Aged Care (Subsidy, Fees and Payments) Determination 2014

1 Section 64H (definition of *national efficient price*)

Omit “\$253.82”, substitute “\$280.01”.

2 Section 64K (table)

Repeal the table (not including the note), substitute:

NWAU		
Item	If the classification level for the classification of the recipient for non-respite care that is in effect on the day is ...	the NWAU is ...
1	Class 1	0.80
2	Class 2	0.19
3	Class 3	0.37
4	Class 4	0.25
5	Class 5	0.44
6	Class 6	0.40
7	Class 7	0.55
8	Class 8	0.64
9	Class 9	0.52
10	Class 10	0.70
11	Class 11	0.66
12	Class 12	0.66
13	Class 13	0.80

3 Section 64L (table)

Repeal the table (not including the note), substitute:

NWAU		
Item	If the classification level for the classification of the recipient for respite care that is in effect on the day is ...	the NWAU is ...
1	Respite Class 1	0.365
2	Respite Class 2	0.479
3	Respite Class 3	0.691

4 Subsection 64M(1) (table)

Repeal the table, substitute:

Requirements and amount		
Item	Column 1 Requirements	Column 2 Amount
1	The service: (a) has specialised ATSI status; and (b) has a street address that is in the MM category known as MM 7	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 1.80
2	The service: (a) has specialised ATSI status; and (b) has a street address that is in the MM category known as MM 6	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.78
3	All of the following apply: (a) the service does not have specialised ATSI status or specialised homeless status; (b) the service has a street address that is in the MM category known as MM 6 or MM 7; (c) the number of operational places in respect of the service is less than 30	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.68
4	All of the following apply: (a) the service does not have specialised ATSI status or specialised homeless status; (b) the service has a street address that is in the MM category known as MM 6 or MM 7; (c) the number of operational places in respect of the service is 30 or more	The sum of the following amounts: (a) the amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.68 and that the number of operational places were 29; (b) the amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.52 and that the number of operational places were reduced by 29
5	The service: (a) does not have specialised homeless status; and (b) has a street address that is in an MM category known as MM 4 or MM 5	The amount worked out by multiplying the national efficient price by the NWAU of 0.57
6	The service: (a) has specialised homeless status; and (b) has a street address that is in any of the MM categories	The amount worked out by multiplying the national efficient price by the NWAU of 0.92
7	The service: (a) does not have specialised homeless status; and (b) has a street address that is in an MM category known as MM 2 or MM 3	The amount worked out by multiplying the national efficient price by the NWAU of 0.55
8	The service: (a) does not have specialised homeless status; and (b) has a street address that is in the MM category known as MM 1	The amount worked out by multiplying the national efficient price by the NWAU of 0.50

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

5 Section 81 (definition of *national efficient price*)

Omit “\$253.82”, substitute “\$280.01”.

6 Section 83 (table)

Repeal the table (not including the note), substitute:

NWAU		
Item	If the classification level for the classification of the recipient for non-respite care that is in effect on the day is ...	the NWAU is ...
1	Class 1	0.80
2	Class 2	0.19
3	Class 3	0.37
4	Class 4	0.25
5	Class 5	0.44
6	Class 6	0.40
7	Class 7	0.55
8	Class 8	0.64
9	Class 9	0.52
10	Class 10	0.70
11	Class 11	0.66
12	Class 12	0.66
13	Class 13	0.80

7 Subsection 84(1) (table)

Repeal the table, substitute:

Requirements and amount		
Item	Column 1 Requirements	Column 2 Amount
1	The service: (a) has specialised ATSI status; and (b) has a street address that is in the MM category known as MM 7	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 1.80
2	The service: (a) has specialised ATSI status; and (b) has a street address that is in the MM category known as MM 6	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.78
3	All of the following apply: (a) the service does not have specialised ATSI status or specialised homeless status; (b) the service has a street address that is in the MM category known as MM 6 or MM 7;	The amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.68

Requirements and amount		
Item	Column 1 Requirements	Column 2 Amount
	(c) the number of operational places in respect of the service is less than 30	
4	<p>All of the following apply:</p> <p>(a) the service does not have specialised ATSI status or specialised homeless status;</p> <p>(b) the service has a street address that is in the MM category known as MM 6 or MM 7;</p> <p>(c) the number of operational places in respect of the service is 30 or more</p>	<p>The sum of the following amounts:</p> <p>(a) the amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.68 and that the number of operational places were 29;</p> <p>(b) the amount worked out using the formula in subsection (2) if it were assumed that the NWAU were 0.52 and that the number of operational places were reduced by 29</p>
5	<p>The service:</p> <p>(a) does not have specialised homeless status; and</p> <p>(b) has a street address that is in an MM category known as MM 4 or MM 5</p>	The amount worked out by multiplying the national efficient price by the NWAU of 0.57
6	<p>The service:</p> <p>(a) has specialised homeless status; and</p> <p>(b) has a street address that is in any of the MM categories</p>	The amount worked out by multiplying the national efficient price by the NWAU of 0.92
7	<p>The service:</p> <p>(a) does not have specialised homeless status; and</p> <p>(b) has a street address that is in an MM category known as MM 2 or MM 3</p>	The amount worked out by multiplying the national efficient price by the NWAU of 0.55
8	<p>The service:</p> <p>(a) does not have specialised homeless status; and</p> <p>(b) has a street address that is in the MM category known as MM 1</p>	The amount worked out by multiplying the national efficient price by the NWAU of 0.50

Schedule 4—Direct care responsibility and registered nurse supplement

Quality of Care Principles 2014

1 Section 4

Insert:

enrolled nurse staff member means a staff member of an approved provider who is an enrolled nurse.

2 Subsection 10(2)

Omit “The provider must”, substitute “The approved provider must”.

3 Subsection 10(3)

After “at least”, insert “90% of”.

4 After subsection 10(3)

Insert:

Responsibility—direct care provided by registered nurse staff members and enrolled nurse staff members

- (3A) The approved provider must ensure that the average amount of direct care provided through the service by registered nurse staff members and enrolled nurse staff members of the provider per counted care recipient per day is at least the required registered nurse average amount of direct care per care recipient per day calculated under subsection 9(2) in respect of the service for the quarter.

Subsidy Principles 2014

5 Paragraph 70AM(1A)(c)

Omit “60”, substitute “50”.

Aged Care (Subsidy, Fees and Payments) Determination 2014

6 Subsection 64ZU(3)

Omit “(5), (6), (6A) and (6B)”, substitute “(5) to (6C)”.

7 Subsections 64ZU(5) to (6B)

Repeal the subsections, substitute:

Facility amount—group A facilities in MM category 1

- (5) The facility amount for a payment period, for a group A facility for the period with a street address in the MM category known as MM 1, is the amount set out in the following table for the average daily care count for the facility for the period.

Facility amount—group A facilities in MM category 1

Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 20	27,055
2	More than 20 but less than or equal to 25	24,124
3	More than 25 but less than or equal to 30	13,167
4	More than 30 but less than or equal to 35	10,687
5	More than 35 but less than or equal to 40	8,207
6	More than 40 but less than or equal to 45	5,727
7	More than 45 but less than or equal to 50	3,247

Facility amount—group A facilities in MM categories 2 and 3

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

Facility amount—group A facilities in MM categories 2 and 3

Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 20	29,715
2	More than 20 but less than or equal to 25	26,496
3	More than 25 but less than or equal to 30	14,461
4	More than 30 but less than or equal to 35	11,738
5	More than 35 but less than or equal to 40	9,014
6	More than 40 but less than or equal to 45	6,290
7	More than 45 but less than or equal to 50	3,566

Facility amount—group A facilities in MM categories 4 and 5

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

Facility amount—group A facilities in MM categories 4 and 5

Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 5	70,883
2	More than 5 but less than or equal to 10	60,143
3	More than 10 but less than or equal to 15	49,403
4	More than 15 but less than or equal to 20	38,663
5	More than 20 but less than or equal to 25	27,162
6	More than 25 but less than or equal to 30	14,825
7	More than 30 but less than or equal to 35	12,032
8	More than 35 but less than or equal to 40	9,240
9	More than 40 but less than or equal to 45	6,448
10	More than 45 but less than or equal to 50	3,655

Facility amount—group A facilities in MM categories 6 and 7

- (5C) The facility amount for a payment period, for a group A facility for the period with a street address in the MM category known as 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—group A facilities in MM categories 6 and 7		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 5	84,057
2	More than 5 but less than or equal to 10	71,321
3	More than 10 but less than or equal to 15	58,585
4	More than 15 but less than or equal to 20	45,849
5	More than 20 but less than or equal to 25	32,210
6	More than 25 but less than or equal to 30	17,580
7	More than 30 but less than or equal to 35	14,269
8	More than 35 but less than or equal to 40	10,958
9	More than 40 but less than or equal to 45	7,646
10	More than 45 but less than or equal to 50	4,335

Facility amount—group B facilities in MM category 1

- (6) The facility amount for a payment period, for a group B facility for the period with a street address in the MM category known as MM 1, is the amount set out in the following table for the average daily care count for the facility for the period.

Facility amount—group B facilities in MM category 1		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 20	13,528
2	More than 20 but less than or equal to 25	12,062
3	More than 25 but less than or equal to 30	6,584

Facility amount—group B facilities in MM categories 2 and 3

- (6A) The facility amount for a payment period, for a group B facility for the period with a street address in the MM category known as MM 2 or MM 3, is the amount set out in the following table for the average daily care count for the facility for the period.

Facility amount—group B facilities in MM categories 2 and 3		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 20	14,858
2	More than 20 but less than or equal to 25	13,248
3	More than 25 but less than or equal to 30	7,231

Facility amount—group B facilities in MM categories 4 and 5

- (6B) The facility amount for a payment period, for a group B facility for the period with a street address in the MM category known as MM 4 or MM 5, is the amount set out in the following table for the average daily care count for the facility for the period.

Facility amount—group B facilities in MM categories 4 and 5		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 5	35,442
2	More than 5 but less than or equal to 10	30,072
3	More than 10 but less than or equal to 15	24,702
4	More than 15 but less than or equal to 20	19,332
5	More than 20 but less than or equal to 25	13,581
6	More than 25 but less than or equal to 30	7,413

Facility amount—group B facilities in MM categories 6 and 7

- (6C) The facility amount for a payment period, for a group B facility for the period with a street address in the MM category known as 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—group B facilities in MM categories 6 and 7		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 5	42,029
2	More than 5 but less than or equal to 10	35,661
3	More than 10 but less than or equal to 15	29,293
4	More than 15 but less than or equal to 20	22,925
5	More than 20 but less than or equal to 25	16,105
6	More than 25 but less than or equal to 30	8,790

8 Subsection 64ZU(7)

Omit “(5), (6) and (6B)”, substitute “(5) to (6C)”.

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

9 Subsection 91S(3)

Omit “(5), (6), (6A) and (6B)”, substitute “(5) to (6C)”.

10 Subsections 91S(5) to (6B)

Repeal the subsections, substitute:

Facility amount—group A facilities in MM category 1

- (5) The facility amount for a payment period, for a group A facility for the period with a street address in the MM category known as MM 1, is the amount set out

in the following table for the average daily care count for the facility for the period.

Facility amount—group A facilities in MM category 1		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 20	27,055
2	More than 20 but less than or equal to 25	24,124
3	More than 25 but less than or equal to 30	13,167
4	More than 30 but less than or equal to 35	10,687
5	More than 35 but less than or equal to 40	8,207
6	More than 40 but less than or equal to 45	5,727
7	More than 45 but less than or equal to 50	3,247

Facility amount—group A facilities in MM categories 2 and 3

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

Facility amount—group A facilities in MM categories 2 and 3		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 20	29,715
2	More than 20 but less than or equal to 25	26,496
3	More than 25 but less than or equal to 30	14,461
4	More than 30 but less than or equal to 35	11,738
5	More than 35 but less than or equal to 40	9,014
6	More than 40 but less than or equal to 45	6,290
7	More than 45 but less than or equal to 50	3,566

Facility amount—group A facilities in MM categories 4 and 5

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

Facility amount—group A facilities in MM categories 4 and 5		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 5	70,883
2	More than 5 but less than or equal to 10	60,143
3	More than 10 but less than or equal to 15	49,403
4	More than 15 but less than or equal to 20	38,663
5	More than 20 but less than or equal to 25	27,162
6	More than 25 but less than or equal to 30	14,825
7	More than 30 but less than or equal to 35	12,032
8	More than 35 but less than or equal to 40	9,240

Facility amount—group A facilities in MM categories 4 and 5

Item	Average daily care count	Facility amount (\$)
9	More than 40 but less than or equal to 45	6,448
10	More than 45 but less than or equal to 50	3,655

Facility amount—group A facilities in MM categories 6 and 7

- (5C) The facility amount for a payment period, for a group A facility for the period with a street address in the MM category known as 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—group A facilities in MM categories 6 and 7

Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 5	84,057
2	More than 5 but less than or equal to 10	71,321
3	More than 10 but less than or equal to 15	58,585
4	More than 15 but less than or equal to 20	45,849
5	More than 20 but less than or equal to 25	32,210
6	More than 25 but less than or equal to 30	17,580
7	More than 30 but less than or equal to 35	14,269
8	More than 35 but less than or equal to 40	10,958
9	More than 40 but less than or equal to 45	7,646
10	More than 45 but less than or equal to 50	4,335

Facility amount—group B facilities in MM category 1

- (6) The facility amount for a payment period, for a group B facility for the period with a street address in the MM category known as MM 1, is the amount set out in the following table for the average daily care count for the facility for the period.

Facility amount—group B facilities in MM category 1

Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 20	13,528
2	More than 20 but less than or equal to 25	12,062
3	More than 25 but less than or equal to 30	6,584

Facility amount—group B facilities in MM categories 2 and 3

- (6A) The facility amount for a payment period, for a group B facility for the period with a street address in the MM category known as MM 2 or MM 3, is the amount set out in the following table for the average daily care count for the facility for the period.

Facility amount—group B facilities in MM categories 2 and 3

Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 20	14,858

Schedule 4 Direct care responsibility and registered nurse supplement

Facility amount—group B facilities in MM categories 2 and 3		
Item	Average daily care count	Facility amount (\$)
2	More than 20 but less than or equal to 25	13,248
3	More than 25 but less than or equal to 30	7,231

Facility amount—group B facilities in MM categories 4 and 5

- (6B) The facility amount for a payment period, for a group B facility for the period with a street address in the MM category known as MM 4 or MM 5, is the amount set out in the following table for the average daily care count for the facility for the period.

Facility amount—group B facilities in MM categories 4 and 5		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 5	35,442
2	More than 5 but less than or equal to 10	30,072
3	More than 10 but less than or equal to 15	24,702
4	More than 15 but less than or equal to 20	19,332
5	More than 20 but less than or equal to 25	13,581
6	More than 25 but less than or equal to 30	7,413

Facility amount—group B facilities in MM categories 6 and 7

- (6C) The facility amount for a payment period, for a group B facility for the period with a street address in the MM category known as 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—group B facilities in MM categories 6 and 7		
Item	Average daily care count	Facility amount (\$)
1	Less than or equal to 5	42,029
2	More than 5 but less than or equal to 10	35,661
3	More than 10 but less than or equal to 15	29,293
4	More than 15 but less than or equal to 20	22,925
5	More than 20 but less than or equal to 25	16,105
6	More than 25 but less than or equal to 30	8,790

11 Subsection 91S(7)

Omit “(5), (6) and (6B)”, substitute “(5) to (6C)”.

Schedule 5—Accommodation payments

Fees and Payments Principles 2014 (No. 2)

1 Paragraph 19(3)(b)

Omit “for publication by the Secretary”.

2 At the end of section 19

Add:

- (4) If an approved provider of a residential care service or an eligible flexible care service proposes to charge an accommodation payment for a room, or a part of a room, in the service, that exceeds the maximum amount determined by the Minister under section 52G-3 of the Act, the provider must give the Secretary a copy of the notice given to the provider by the Pricing Authority under section 27 of these principles that covers the charging of the higher amount.

Note: The Secretary may make information about accommodation payments connected with an aged care service publicly available (see paragraph 86-9(1)(e) of the Act).