

Aged Care Alert

April 2013

Sweeping Reform in Aged Care

Five Bills were introduced into Federal Parliament on 13 March 2013, as part of the Government's 10-year plan for aged care reform: 'Living Longer Living Better'.

The introduced Bills include the:

- Aged Care (Living Longer Living Better) Bill 2013;
- Australian Aged Care Quality Agency Bill 2013;
- Australian Aged Care Quality Agency (Transitional Provisions) Bill 2013;
- Aged Care (Bond Security) Amendment Bill 2013; and
- Aged Care (Bond Security) Levy Amendment Bill 2013.

The introduction of these Bills to Parliament represents a significant step in the Government's 10 year commitment to the aged care sector, which it recognises is 'at tipping point', and comes almost 12 months after the initial Living Longer Living Better reform initiative was announced. The Bills introduce a variety of changes which significantly alter the existing aged care system.

Notable changes initiated by each Bill

Aged Care (Living Longer Living Better) Bill 2013

Some changes begin as early as 1 July 2013, with the majority commencing from 1 July 2014.

Significant changes initiated by Living Longer Living Better reforms centre around the funding of aged care in the future. There is acceptance that with people living longer, more people will require aged care services and therefore a key goal is to make dealing with the increased costs which will flow more manageable. Associated reforms

include the introduction of means testing and removal of the distinction between low care and high care recipients.

1 July 2013 changes:

- The former community care programs operated under Community Aged Care Packages are to be replaced by a new home care scheme, including some specialist flexible home care packages such as Extended Aged Care at Home and Extended Aged Care at Home – Dementia. The current community visitor scheme will extend to the new home care scheme.
- New supplements have been made available to care providers housing eligible care recipients including an additional dementia supplement and new veterans' mental health supplement, whilst a workforce supplement is available to applicable providers.

1 July 2014 changes:

- Significant changes to home care fees and subsidy arrangements will be in force for people that enter residential aged care or community care arrangements from 1 July 2014. Notable changes include the way in which care recipients fund their accommodation in residential aged care facilities. The Bill offers care recipients a choice of lump sum or periodic payments, or a combination of both, for those that can afford to contribute to the costs of accommodation.
- The introduction of means testing for care recipients using Centrelink income and assets assessment tests.
- The Bill removes the distinction between low level and high level residential care that operates under the current system.
- Care recipients under the current arrangements will continue under those arrangements unless the person leaves care for 28 days, moves to another facility or

elects to be subject to the new arrangements on or after 1 July 2014.

Administrative and governance amendments are also associated with the Bill and include a new Aged Care Pricing Commissioner and the commissioning of a report reviewing the proposed reforms, commencing in 2016 and scheduled to be presented to both Houses of Parliament by 30 June 2017.

Australian Aged Care Quality Agency Bill 2013

The Government plans to implement a key recommendation of the Uhrig Review by replacing the current Aged Care Standards and Accreditation Agency with the new Australian Aged Care Quality Agency on 1 January 2014. The Bill proposes that the new Australian Aged Care Quality Agency will be a 'prescribed agency' for the purposes of the *Financial Management and Accountability Act 1997*.

All key functions of the new agency are outlined in the Bill, and range from CEO and advisory body functions to reporting requirements and details of the quality standards to be enforced.

Australian Aged Care Quality Agency (Transitional Provisions) Bill 2013

This Bill transfers assets and liabilities of the currently operating agency, the Aged Care Standards and Accreditation Agency, to the new Australian Aged Care Quality Agency, commencing from 1 January 2014.

Aged Care (Bond Security) Amendment Bill 2013

Minor changes to the current accommodation bond lump sum payment arrangements are proposed through the Aged Care (Bond Security) Amendment Bill.

The new payment scheme, incorporating periodic payments, lump sum payments or a combination of the two, mirrors the old scheme in terms of requiring the lump sum repayments to be repaid (less agreed deductions) to the care recipient upon leaving the residential or flexible aged care service. The Bill proposes to extend the current Accommodation Bond Guarantee Scheme to include the new forms of lump sum accommodation payments, protecting refundable accommodation deposits and refundable accommodation contributions.

Aged Care (Bond Security) Levy Amendment Bill 2013

Minor changes will be made to the *Aged Care (Bond Security) Levy Act 2006* to ensure that the existing legislative requirements remain in place within the aged care reforms.

Refundable accommodation deposits and accommodation contributions are guaranteed by maintaining the existing levy scheme, where the Commonwealth agrees to secure the newly categorised accommodation payments in the event of an aged care provider's default. Residents assign their rights to the Commonwealth to recover the accommodation payments from the defaulting care provider. Any shortfall in recovery will be covered by the Commonwealth, which in turn recoups these funds from the industry levy charged to other aged care providers.

What happened to private insurance?

The Living Longer Living Better reform package initially indicated the potential for reform of the existing levy scheme relating to privately insured accommodation bonds to include private sector insurance, removing the need for an industry wide levy. This has not been pursued by the Government. Private insurance arrangements are unlikely to be introduced until the review is undertaken of the Living Longer Living Better reform package scheduled for 30 June 2017.

Senate Committee

On 14 March 2013, the Senate jointly referred all of the above bills to a Senate Committee for inquiry and report. The report date has been set to 17 June 2013.

Submissions by interested persons and organisations close within a very short time frame, with submissions due this Monday 22 April 2013.

Those parties with interest in any of the Bills for inquiry by the Senate Committee are advised to work quickly in preparing a submission due to the short submission period for this inquiry.

The following submission options are available:

Submission via the online system at <https://senate.aph.gov.au/submissions/pages/index.aspx>;

- Emailing the submission in PDF or MS Word Document format to community.affairs.sen@aph.gov.au; or
- Postal submission: Committee Secretary
Senate Standing Committee on
Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Have your say on accommodation pricing

On 9 April 2013, the Department of Health and Ageing released a Discussion Paper on the Accommodation Pricing Guidelines, relating to the legislative changes discussed earlier in this Alert regarding the pricing of residential care and accommodation payments applicable to residents entering residential care from 1 July 2014.

A **very short time frame** has been allowed with submissions due **Wednesday 1 May 2013**.

Background

The general background of the regulatory framework proposed by the Minister for Mental Health and Ageing, the Hon Mark Butler MP, is summarised in the Discussion Paper. The following issues were announced on 21 December 2012 and are repeated in the Discussion Paper:

- The proposed introduction of three levels of classification for accommodation prices;
- Requirement for accommodation payments, accommodation deposits and a combination of payments to be published in advance by aged care providers;
- Conversion method for accommodation payments into refundable accommodation deposits;
- Aged Care Pricing Commissioner pre-approval of Level 3 prices, considering factors for stakeholder comment and consultation as outlined in the Discussion Paper;
- Aged care provider self-assessment of Level 2 prices in accordance with the same factors as above;
- The granting of a 28 day period to residents following entry into an aged care home to decide on their chosen form of paying for their accommodation; and
- Government assistance to those with limited means to fund aged care services.

The three pricing classifications

- Level 1 – prices up to the maximum Government accommodation supplement (\$50 per day at 2012 prices)
- Level 2 – prices between Level 1 and \$85 per day at 2012 prices
- Level 3 – prices above the Level 2 threshold.

Pricing Commissioner - factors to consider

Outlined in the Discussion Paper are a detailed list of factors to be considered by the Pricing Commissioner when setting and proposing pricing at the three pricing levels. It is important to note that the relative wealth of an individual is not an applicable factor in determining pricing levels. The five main factors include:

- Room quality;
- Room privacy;
- Common areas quality and scope;
- Facility location; and
- Other relevant factors.

Information disclosure requirements

The Discussion Paper outlines the requirements of disclosure for aged care facilities. These are outlined in the Paper in more detail and include:

- Prices to be published on the Government's My Aged Care website (the prices charged must not exceed these published prices);
- Key Features Statement to be published on the provider's site with room details and specifications; and
- Self-assessment of prices after assessing the relevant factors to consider must be published and supported by documentation.

Level 3 application process

An aged care provider must obtain permission from the Aged Care Pricing Commissioner to charge Level 3 prices, beginning 1 January 2014. The application forms are still being finalised but it is planned that they will be in final form prior to 1 January 2014.

Minimum requirements must be met for Level 3 pricing to be authorised, including a private, large, modern room with ensuite, along with the facility achieving building and certification requirements.

A pricing plan must be submitted by providers seeking to charge Level 3 prices. This pricing plan must detail and demonstrate compliance with requirements for approval, including room quality and privacy, quality and scope of common areas, location and any other relevant factors to price.

The Pricing Commissioner will assess the application, which may be altered by the provider while the application is being considered, and make a decision on

the approved price (which may be converted to a refundable accommodation deposit). The Pricing Commissioner has scope to vary a price between a specified range without requiring a further application for approval.

Additional fees

A resident can only be charged for services once. Therefore, a provider which is charging an extra service fee in relation to accommodation cannot also include a component in the accommodation price that is covered by that extra service fee.

Additional amenity fees may be charged from 1 July 2014 on an opt-in/opt-out basis, however these will not replace existing designated extra service fees which can still be charged from this date. Additional amenity fees exist outside of the agreed accommodation price, and will be subject to separate agreement between the resident and provider. Additional amenity fees cannot be charged if the same amenities are covered by the accommodation price.

Complaints

Complaints relating to aged care providers' legislative obligations may be made under the existing Aged Care Complaints Scheme. Complaints regarding the points made in the Accommodation Pricing Guidelines may also be made within the existing complaints mechanism.

The Accommodation Pricing Guidelines may be accessed at:

<http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-bids-email-advice-2013-0904.htm>

Submissions can be emailed to FFBconsultation@health.gov.au or posted to:

Director, Aged Care Providers Policy
Finance and Funding Branch
Ageing and Aged Care Division
MDP 550
GPO Box 9848
CANBERRA ACT 2601

Concessional Residential Subsidy now indexed

The Minister for Mental Health and Ageing, the Hon. Mark Butler MP, has introduced the *Aged Care (Residential Care Subsidy – Amount of Concessional Resident Supplement) Determination 2013 (No.1)*, which sets the new concessional resident supplement rate for concessional and assisted residents, coming into effect from 20 March 2013. The Determination revokes the *Aged Care (Residential Care Subsidy – Amount of Concessional Resident Supplement) Determination 2012 (No.2)*.

A change in calculations has been introduced since the Determination No. 2 of 2012, with the first of the bi-annual 2013 daily concessional resident supplement Determinations now being indexed using a formula reviewing the movements in non-labour costs for providers and assessing the Consumer Price Index as a measure relating to these movements.

The *Aged Care Act 1997* provides that the Minister may determine the concessional resident supplement by way of legislative instrument, which is provided for in subsection 44-6(4). It is important to note that while these changes have been made in accordance with the *Aged Care Act 1997*, longer term changes associated with the implementation of the Living Longer Living Better aged care reform package have been proposed, and will continue to affect resident supplements.

Most notable are the proposed changes to the calculation of a variety of supplements, with the concessional resident supplement to be removed from the list of supplements for care recipients entering into a facility on or after 1 July 2014. However, the concessional resident supplement will remain in place for care recipients accepted into a facility before 1 July 2014.

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