

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Ageing

Aged Care Act 1997

Flexible Care Subsidy Amendment Principles 2010 (No. 1)

The *Aged Care Act 1997* (the Act) provides for the funding of aged care services. Persons who are approved under the Act to provide flexible aged care services can be eligible to receive flexible care subsidy payments in respect of the care they provide to approved care recipients.

Subsection 96-1(1) of the Act allows the Minister to make Principles providing for various matters required or permitted by a Part or section of the Act.

The *Flexible Care Subsidy Principles 1997* are one of the sets of Principles made under the Act.

The purpose of the *Flexible Care Subsidy Amendment Principles 2010 (No. 1)* (the Amending Principles) is to amend the *Flexible Care Subsidy Principles 1997* (the Principles) to:

- make necessary changes to the Principles to extend their operation to a new kind of care for which flexible care subsidy may be payable (consumer directed care)
- make a minor technical amendment to update the definition of ‘Aged Care Assessment Team’.

The Australian Government has announced it will fund consumer directed care in selected Australian Government community aged care programs.

Consumer (or self) directed care allows people to have greater control over their lives by allowing them, to the extent that they are capable and wish to do so, to make choices about the types of care services they access and the delivery of those services, including who will deliver the services and when they will be delivered.

To allow this form of care to be delivered by approved providers who have been allocated places in respect of flexible care, amendments need to be made to the Principles. The amendments will specify consumer directed care as a kind of innovative care service for which flexible care subsidy may be payable. A new Determination will also be made (the *Aged Care (Amount of Flexible Care Subsidy – Innovative Care Services) Determination 2010 (No. 1)*) to specify the amount of flexible care subsidy payable in respect of different types of consumer directed care.

The Amending Principles also make a minor change to the definition of ‘Aged Care Assessment Team’ which references the *Aged Care Assessment and Approval Guidelines*. These Guidelines have been updated since the *Aged Care Assessment Program Operational Guidelines* were made in 2002 and the proposed amendment refers to the more recent 2006 Guidelines. These Guidelines set out the national objectives of the Aged Care Assessment Program and the roles and responsibilities of all parties involved in its administration, including the Australian Government, state and territory governments, Aged Care

Assessment Teams and Evaluation Units.

Further details of the amendments to the Principles are attached.

The Amending Principles are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation

The need for increased flexibility, choice and control in aged care for consumers has emerged from previous reviews of community aged care and the Australian Government's consultations on the National Health and Hospitals Network.

As the proposed amendment to the definition of Aged Care Assessment Team is a technical amendment only (reflecting current policy and procedure) no specific consultation was undertaken.

NOTES ON CLAUSES

Clause 1 Name of Principles

This clause states that the name of the Amending Principles is the *Flexible Care Subsidy Amendment Principles 2010 (No. 1)*.

Clause 2 Commencement

This clause states that the Amending Principles commence on 1 July 2010.

Clause 3 Amendment of *Flexible Care Subsidy Principles 1997*

This clause states that Schedule 1 amends the Principles.

Schedule 1 – Amendments

Item 1 amends the definition of Aged Care Assessment Team in section 15.3 to replace the existing definition of Aged Care Assessment Team (which aligns with the *Aged Care Assessment Program Operational Guidelines 2002*) with a new definition which refers to the more recent *Aged Care Assessment and Approval Guidelines 2006*.

Item 2 replaces section 15.22 with a new provision, the effect of which is that care recipients receiving consumer directed care will require approval under Part 2.3 of the Act (consistent with the Government's announcements in relation to this new type of innovative care) while care recipients receiving flexible care through other innovative care services will not require such approval. This is consistent with current practice for innovative care services.

Item 3 inserts a new paragraph (15.24(1) (ea)), specifying for section 50-2(1) of the Act, that consumer directed care is a kind of care for which flexible care subsidy may be payable.

Item 4 inserts into subsection 15.24(2), a new definition of consumer directed care.

Consumer directed care is care provided through a program that:

- provides care recipients with flexibility, choice, and control over the type of care services they access and the delivery of those services; and
- is delivered by an approved provider who has been allocated places in respect of flexible care subsidy.