Australian Government

Veterans’ Entitlements Act 1986

Veterans’ Entitlements (Transition Care Co-Payment for Former Prisoners of War and Victoria Cross Recipients) Instrument 2011

Instrument No. R2/2011

I, Warren Snowdon, Minister for Veterans’ Affairs, pursuant to subsection 90(5) of the Veterans’ Entitlements Act 1986, approve this instrument made by the Repatriation Commission.

Dated this 3rd day of March 2011

Warren Snowdon

………………………………………………………………………………

WARREN SNOWDON

The Repatriation Commission, pursuant to subsection 90(4) of the Veterans’ Entitlements Act 1986, varies the Treatment Principles (Instrument No.R8 of 2004) in accordance with the Schedule.

Dated this 21st day of February 2011

Ian Campbell………Shane Carmody………Major General Mark Kelly AO DSC

IAN CAMPBELL SHANE CARMODY MAJOR GENERAL MARK KELLY AO DSC

PRESIDENT DEPUTY PRESIDENT COMMISSIONER
[1] **Name of Instrument**

This instrument is the *Veterans’ Entitlements (Treatment Principles – Transition Care Co-Payment for Former Prisoners of War and Victoria Cross Recipients) Instrument 2011*

[2] **Commencement**

This instrument commences on the day after the day it is registered on the Federal Register of Legislative Instruments.
Schedule

1. **Paragraph 1.4.1**

   *insert:*

   “approved provider”, in relation to *transition care*, has the meaning it has in the *Aged Care Act 1997*.

   Note: the *Aged Care Act 1997* can be found on COMLAW: http://www.comlaw.gov.au

   “flexible care” has the meaning it has in section 49-3 of the *Aged Care Act 1997*.

   “transition care” has the meaning it has in section 15.28 of the *Flexible Care Subsidy Principles 1997*.

   Note: the *Flexible Care Subsidy Principles 1997* can be found on COMLAW: http://www.comlaw.gov.au

   “Victoria Cross” includes the Victoria Cross for Australia.

2. **Heading to PART 10**

   *substitute:*

   **PART 10 – RESIDENTIAL CARE, CARE AT HOME PACKAGES AND TRANSITION CARE CO-PAYMENT**

3. **Part 10 Part D**

   *after this Part, insert:*

   **Part E – TRANSITION CARE CO-PAYMENT**

   **10.12 Financial Responsibility for Co-Payment**

   **10.12.1** Subject to 10.12.2 the *Commission* may accept financial responsibility for *transition care* (care) provided by an *approved provider* to:
(a) a former prisoner of war (POW); or
(b) an entitled veteran awarded the Victoria Cross (VC recipient);

on condition that the care is provided on a day in respect of which flexible care subsidy is payable for the care under the Flexible Care Subsidy Principles 1997.

Note: as at December 2010 the maximum number of days for which flexible care subsidy was payable for transition care was 126 days.

10.12.2 For 10.12.1, financial responsibility is limited to responsibility for the amount (co-payment) the POW or VC recipient paid, or is to pay, to an approved provider — to the extent:

(a) the co-payment does not exceed the amount the approved provider is permitted to charge the POW or VC recipient under section 56-3 of the Aged Care Act 1997; and

(b) the co-payment does not exceed the amount the approved provider is permitted to charge the POW or VC recipient under any agreement between the Secretary of the Department that administers the Aged Care Act 1997 and the approved provider pursuant to section 15.33 of the Flexible Care Subsidy Principles 1997.

10.12.3 In deciding whether to accept financial responsibility for transition care (care) provided to a POW or VC recipient the Commission should take into account:

(a) whether the care was provided in accordance with the relevant provisions of the Aged Care Act 1997 and the relevant instruments thereunder;

Note 1: Part 3.3 of Chapter 3 of the Aged Care Act 1997 deals with transition care (flexible care)

Note 2: The Approval of Care Recipients Principles 1997, the Flexible Care Subsidy Principles 1997 and the User Rights Principles 1997 are relevant to transition care (flexible care).

(b) whether the care complies with:
(i) any agreement between the approved provider of the care and the Secretary of the Department that administers the *Aged Care Act 1997* — under the *Aged Care Act 1997* and under 15.33 of the *Flexible Care Subsidy Principles 1997*; and

(c) whether, if there is an agreement mentioned in (b)(i) and the agreement (Provider/Secretary Agreement) sets out requirements for agreements (client agreement) between an approved provider and a recipient of flexible care or flexible care that is transition care:

(i) the client agreement satisfies any requirements in respect of it in the Provider/Secretary Agreement; and

(ii) the provision of care complies with the client agreement.

(d) whether the care essentially duplicates treatment the POW or VC recipient is receiving under other provisions of the Principles (double-dipping).

### 10.13 Billing

10.13.1 An approved provider should bill Medicare Australia for the co-payment for transition care, rather than the POW or VC recipient (client) but if the client is billed, the Commission may, subject to 10.12.2 and 10.12.3, accept financial responsibility for the amount.