



# **Aged Care Legislation Amendment (Capping Home Care Charges) Principles 2022**

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

Dated 15 December 2022

Anika Wells  
Minister for Aged Care

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## 1 Name

This instrument is the *Aged Care Legislation Amendment (Capping Home Care Charges) Principles 2022*.

## 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 January 2023.	1 January 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Note: This table relates only to the provisions of this instrument as originally made.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 *Aged Care 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Information Principles 2014*

#### **1 Paragraph 8(b)**

Repeal the paragraph.

### *Quality of Care Principles 2014*

#### **2 Section 12**

Omit “may”, substitute “must”.

#### **3 Section 13 (heading)**

Omit “**may**”, substitute “**must**”.

#### **4 Subsection 13(1)**

Repeal the subsection, substitute:

- (1) An approved provider of a home care service must provide, to a care recipient to whom the approved provider provides home care through the home care service, a package of care and services that includes:
  - (a) care management (as specified in item 1 of the table in clause 1A of Schedule 3); and
  - (b) at least one other service that is specified in Part 1 of Schedule 3 or agreed under subsection (2).

#### **5 Clause 1 of Schedule 3 (at the end of the heading)**

Add “that may be provided”.

#### **6 After clause 1 of Schedule 3**

Insert:

#### **1A Support services that must be provided**

The following table specifies the support services that an approved provider of a home care service must provide.

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<b>Support services</b>		
<b>Item</b>	<b>Column 1 Service</b>	<b>Column 2 Content</b>
1	Care management	Ongoing assessment and planning to ensure that the care recipient receives the care and services they need: <ol style="list-style-type: none"><li>(a) that is undertaken on at least a monthly basis; and</li><li>(b) that includes the following:<ol style="list-style-type: none"><li>(i) regularly assessing the care recipient’s needs, goals and preferences;</li><li>(ii) reviewing the care recipient’s home care agreement and care and services plan;</li><li>(iii) ensuring the care recipient’s care and services are</li></ol></li></ol>

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**Support services**

<b>Item</b>	<b>Column 1 Service</b>	<b>Column 2 Content</b>
		aligned with other supports; (iv) partnering with the care recipient and the care recipient's representatives about the care recipient's care and services; (v) ensuring that the care recipient's care and services are culturally safe; (vi) identifying and addressing risks to the care recipient's safety, health and wellbeing.

**7 Clause 2 of Schedule 3 (at the end of the heading)**

Add “that may be provided”.

**8 Clause 2 of Schedule 3 (table item 3)**

Repeal the item.

**9 Clause 3 of Schedule 3 (at the end of the heading)**

Add “that may be provided”.

***Records Principles 2014*****10 Paragraph 7(u)**

Repeal the paragraph.

***Subsidy Principles 2014*****11 Section 99B (method statement, step 2)**

Omit “paragraphs 19B(1)(b), (c) and (d) of the *User Rights Principles 2014* (certain travel, subcontracting arrangements and package management)”, substitute “paragraphs 19B(1)(b) and (d) of the *User Rights Principles 2014* (certain travel and package management)”.

**12 After Chapter 4**

Insert:

## **Chapter 5—Application, saving and transitional provisions**

### **Part 1—Amendments made by the Aged Care Legislation Amendment (Capping Home Care Charges) Principles 2022**

**112 Application of amendments**

The amendment of section 99B made by the *Aged Care Legislation Amendment (Capping Home Care Charges) Principles 2022* applies in relation to a payment period beginning on or after 1 January 2023.

## ***User Rights Principles 2014***

### **13 Section 4 (definition of *agreement exit amount*)**

Repeal the definition.

### **14 Section 4 (paragraph (b) of the definition of *business costs*)**

Repeal the paragraph, substitute:

- (b) does not include the following:
  - (i) the costs of the matters mentioned in paragraphs 19B(1)(b) and (d) (certain travel and package management);
  - (ii) the costs of providing care or services through a subcontracting arrangement.

### **15 Section 4**

Insert:

***care management*** means the service specified in item 1 of the table in clause 1A of Schedule 3 to the *Quality of Care Principles 2014*.

### **16 Section 4 (definition of *exit amount*)**

Repeal the definition.

### **17 Section 4 (paragraph (b) of the definition of *package management*)**

Omit “as described in item 3 of the table in clause 2 of Schedule 3 to the *Quality of Care Principles 2014*”.

### **18 Section 4 (at the end of the note to the definition of *package management*)**

Add:

- ; (f) activities the Secretary requires of an approved provider when conducting an assurance review under Part 6.8 of the Act.

### **19 Section 4 (definition of *published exit amount*)**

Repeal the definition.

### **20 Paragraph 16(1)(e)**

Omit “paragraph 56-2(l)”, substitute “paragraphs 56-2(ab) and (l)”.

### **21 Paragraph 16(2)(a)**

Omit “and in relation to exit amounts”.

### **22 Paragraph 19B(1)(c)**

Repeal the paragraph.

### **23 Subparagraph 21B(3)(c)(ii)**

Repeal the subparagraph, substitute:

- (ii) the matters mentioned in paragraphs 19B(1)(b) and (d) (certain travel and package management) for which the care recipient was charged in respect of the payment period;



**24 Paragraph 21B(3)(d)**

Omit “, (c)”.

**25 Division 3A of Part 3 (heading)**

Omit “and exit amounts”.

**26 Paragraph 21BB(b)**

Omit “(which deals with exit amounts)”.

**27 Subsection 21CB(1) (method statement, step 7)**

Repeal the step (including the note).

**28 Subsection 21CB(1) (method statement)**

Omit “step 6 or 7 (as applicable)”, substitute “step 6”.

**29 Subparagraph 21E(2)(a)(v)**

Repeal the subparagraph.

**30 Section 21H**

Repeal the section.

**31 Subdivision E of Division 3A of Part 3**

Repeal the subdivision.

**32 Sections 21K and 21L**

Repeal the sections, substitute:

**21K Costs that are not to be charged for separately**

An approved provider of home care must not charge a care recipient to whom the approved provider provides home care the following kinds of costs (however described) as a separate charge:

- (a) business costs;
- (b) costs of providing care or services through a subcontracting arrangement.

**21KA Cap on prices for care management and package management**

*Maximum daily prices for care management and package management*

- (1) The following table specifies the maximum prices for care management and package management for a day for a care recipient.

<b>Maximum daily prices for care management and package management</b>			
<b>Item</b>	<b>If, on the day, the care recipient’s level of care as a prioritised home care recipient determined under subsection 23B-1(1) of the Act is ...</b>	<b>the maximum price for care management for the day for the care recipient is ... (\$)</b>	<b>and the maximum price for package management for the day for the care recipient is ... (\$)</b>
1	Level 1	5.03	3.77

<b>Maximum daily prices for care management and package management</b>			
<b>Item</b>	<b>If, on the day, the care recipient's level of care as a prioritised home care recipient determined under subsection 23B-1(1) of the Act is ...</b>	<b>the maximum price for care management for the day for the care recipient is ... (\$)</b>	<b>and the maximum price for package management for the day for the care recipient is ... (\$)</b>
2	Level 2	8.85	6.64
3	Level 3	19.25	14.44
4	Level 4	29.19	21.89

*Cap on care management price for a period*

- (2) An approved provider of home care must not charge a care recipient to whom the approved provider provides home care a price for care management in respect of a period that is more than the sum of the maximum prices for care management for the days in the period for the care recipient.

*Cap on package management price for a period*

- (3) An approved provider of home care must not charge a care recipient to whom the approved provider provides home care a price for package management in respect of a period that is more than the sum of the maximum prices for package management for the days in the period for the care recipient.

*Payment periods in respect of which no charge for package management permitted*

- (4) An approved provider of home care must not charge a care recipient any amount for package management in respect of a payment period if the approved provider does not provide any care or services to the care recipient during that payment period other than care management.
- (5) Subsection (4) does not apply to the payment period during which the care recipient enters the service through which home care is provided.

## **21L Prices and certain costs to be kept to reasonable amounts**

- (1) An approved provider of home care must not charge a care recipient to whom the approved provider provides home care a price that is more than a reasonable amount for:
- provision of care or a service; or
  - a matter mentioned in paragraph 19B(1)(b) or (d) (certain travel and package management).
- (2) An approved provider of home care must not charge a care recipient to whom the approved provider provides home care, as part of the price that the approved provider charges the care recipient for providing care or services, more than a reasonable amount of the following costs:
- business costs;
  - costs of providing care or services through a subcontracting arrangement.

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**33 Paragraph 21M(2)(b)**

Omit “, (c)”.

**34 Paragraph 23(2)(cba)**

Repeal the paragraph.

**35 Sections 29 and 31**

Repeal the sections.

**36 In the appropriate position in Part 5**

Insert:

**Division 7—Transitional provisions relating to the Aged Care  
Legislation Amendment (Capping Home Care Charges)  
Principles 2022****38 Definitions**

In this Division:

*amending principles* means by the *Aged Care Legislation Amendment (Capping Home Care Charges) Principles 2022*.

*exit amount* has the same meaning as in the old principles.

*old principles* means these principles as in force immediately before 1 January 2023.

**39 Application of amendments**

The amendments made by the amending principles apply in relation to care or services provided on or after 1 January 2023.

**40 Exit amounts**

*General*

- (1) Despite the amendments made by the amending principles, the old principles continue to apply in relation to the deduction of an exit amount when an approved provider ceased to provide home care to a care recipient before 1 January 2023.

*Notices under section 21E*

- (2) Without limiting subsection (1), if:
- (a) before 1 January 2023, an approved provider ceased to provide home care to a care recipient; and
  - (b) immediately before 1 January 2023, the approved provider had not given a notice relating to the care recipient under section 21E of the old principles;
- then, despite the amendments made by the amending principles, section 21E of the old principles continues to apply to the approved provider in relation to that notice.