

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Ageing

Aged Care Act 1997

Classification Amendment Principles 2008 (No. 1)

The *Aged Care Act 1997* (the Act) provides for the regulation and Commonwealth funding of aged care services.

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

Among the Principles made under s 96-1(1) are the *Classification Principles 1997* (the Classification Principles).

The purpose of the *Classification Amendment Principles 2008 (No. 1)* (the Amending Principles) is to implement a new residential aged care funding model.

Background

In the 2004 Budget, measures were announced to implement a new funding model for residential aged care with a reduced number of funding categories for personal care. The funding model is also designed to better target funding towards the care of care recipients with challenging behaviours related to dementia and complex nursing and health care needs including palliative care.

To initiate these changes these Amending Principles will replace the Resident Classification Scale (RCS) with the Aged Care Funding Instrument (ACFI) as the means of allocating subsidy to providers of residential aged care.

Purpose and operation

The ACFI reduces the number of questions used to determine funding levels in residential aged care and provides basic subsidy payments for care recipients with complex health care needs, including palliative care, and for care recipients who have mental or behavioural conditions, including dementia. The ACFI classification is based on 12 questions each having four ratings (A, B, C or D).

The ACFI measures the care needed by a care recipient through the use of defined assessment instruments and care records outlined in the ACFI Assessment Pack and ACFI Answer Appraisal Pack. This process is designed to reduce the amount of documentation and record-keeping which aged care staff create in order to justify the funding classification for each care recipient.

The Amending Principles will commence on the commencement of Schedule 1 to the *Aged Care Amendment (Residential Care) Act 2008*.

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

Documents included by reference

Answer Appraisal Pack

Application for classification

Assessment Pack

User Guide

Consultation

The Department of Health and Ageing has worked closely with a Reference Group to advise on the development of the new funding model. Members of this reference group include peak industry bodies, consumer bodies, the Aged Care Standards and Accreditation Agency and the Australian Nursing Federation.

Regulation Impact Statement

The Office of Regulation has advised that no Regulation Impact Statement is required (RIS ID 8112).

Details of the Amending Principles are set out in Attachment A.

Details of the *Classification Amendment Principles 2008 (No. 1)*

Section 1 states that the name of the Amending Principles is the *Classification Amendment Principles 2008 (No. 1)*.

Section 2 states that the Amending Principles commence on the commencement of Schedule 1 to the *Aged Care Amendment (Residential Care) Act 2007*.

Section 3 states that Schedule 1 amends the Classification Principles.

Section 4 outlines certain provisions in the Classification Principles that will apply on and after the commencement of the Amending Principles. In particular:

- An appraisal (ACFI) of a care recipient to whom an approved provider began providing care on or after commencement;
- An ACFI classification of a care recipient, under section 25-1 of the Act, to whom an approved provider began providing care on or after commencement;
- A reappraisal (ACFI) of a care recipient whose RCS classification expires on or after commencement;
- A reappraisal (ACFI) of a care recipient under section 27-4 of the Act;
- A renewal (using the ACFI), under section 27-6 of the Act, of a classification, of a care recipient whose RCS classification expired on or after commencement ; and
- A renewal, under section 27-6 of the Act, of an ACFI classification of a care recipient who was reappraised under section 27-4 of the Act, on or after commencement ; and
- A change in an ACFI classification by the Secretary made under section 29-1 of the Act on or after commencement.

Section 5 outlines certain provisions in the Classification Principles that will continue to apply as they operated immediately before the commencement of the Amending Principles. In particular:

- An appraisal (RCS) of a care recipient to whom an approved provider began providing care before commencement;
- A RCS classification of a care recipient, under section 25-1 of the Act (as in force immediately before commencement), to whom an approved provider began providing care before commencement;
- A reappraisal (RCS) of a care recipient whose classification expired before commencement;
- A reappraisal (RCS) of a care recipient under subsection 28-2(5) of the Act (as in force immediately before commencement) that was received by the Secretary before commencement;
- A renewal of a RCS classification, under section 28-1 of the Act (as in force immediately before commencement), of a care recipient whose RCS classification expired before commencement ; and
- A renewal of a RCS classification, under section 28-1 of the Act (as in force immediately before commencement), of a care recipient who was reappraised under subsection 28-2(5) of the Act (as in force immediately before commencement), before commencement ; and

- A change in a RCS classification by the Secretary made under section 29-1 of the Act (as in force immediately before commencement) before commencement.

Schedule 1 Amendments

Item 1

This item inserts new terms used in the Classification Principles and the definitions for such terms. The following new terms are inserted after the definition of “Act”:

- **Answer Appraisal Pack** – this means the ACFI Answer Appraisal Pack which is published by the Department of Health and Ageing. Note: the Answer Appraisal Pack is available on the Internet at the following address: *www.health.gov.au/acfi*.
- **Application for classification** – this means an application for the Secretary to classify a care recipient under s 25-1 of the Act. The application is in a form approved by the Secretary, which allows approved providers or their authorised agents to submit the ACFI question ratings for the care recipient to the Secretary for the purpose of making the classification. Note: the form for the application for classification is available on the Internet at the following address: *www.health.gov.au/acfi*.
- **Assessment Pack** – this means the ACFI Assessment Pack published by the Department of Health and Ageing. Note: the Assessment Pack is available on the Internet at the following address: *www.health.gov.au/acfi*.
- **Domain** – this means related questions in the ACFI that are grouped together in the following way:
 - Activities of Daily Living (ADL) – ACFI questions 1 to 5;
 - Behaviour – ACFI questions 6 to 10; and
 - Complex Health Care (CHC) – ACFI questions 11 and 12.
- **Domain category** – this means a defined level of nil, low, medium or high for each domain, as mentioned in column 3 of Schedule 2 to the Classification Principles (as amended). The level is then used to allocate a component of the basic care subsidy.

Item 2

This item inserts a definition of a “high level of residential care” based on the ACFI classifications and residential respite care level. Care recipients will be considered to receive a high level of residential care if they are classified at any of the following:

- a medium level ADL domain category;
- a high level ADL domain category; or
- a high level Behaviour domain category; or
- a medium level CHC domain category; or
- a high level CHC domain category; or
- high level residential respite care.

Item 3

This item substitutes a new definition of a “low level of residential care” based on the ACFI classifications. The new low level of residential care definition states that a low level of residential care means:

- care that is not a high level of residential care; or
- is the interim low level; or
- is low level residential respite care.

Item 4

This item inserts a new term used in the Classification Principles and the definition of the term. The following new term is inserted after the definition of “transition care”:

- **User Guide** – this means the ACFI User Guide published by the Department of Health and Ageing. Note: the User Guide is available on the Internet at the following address: www.health.gov.au/acfi.

Item 5

This item inserts a new Part 1A.

Part 1A Classification of Care Recipients

This part specifies the procedure the Secretary must follow to determine the appropriate classification level for a care recipient being provided with residential care.

Section 9.3A Purpose of Part (Act, s 25-1)

This section describes the purpose of the Part as described above.

Section 9.3B Procedure for determining classification level – non-respite care

This section specifies steps the Secretary will use to determine the appropriate classification level for a care recipient (other than a recipient of respite care). Subsection 25-1(2) of the Act gives authority for the Classification Principles to specify procedures that the Secretary must follow in determining the appropriate classification level for a care recipient. When classifying a resident, the Secretary must refer to the ACFI question ratings shown in the application for classification completed by the approved provider or their authorised agent.

Step 1 – For the ADL and Behaviour domains, the Secretary must:

- (a) for each question in the domain, use Schedule 1 of the Classification Principles (as amended) to identify the score for the rating given to the care recipient; then
- (b) add up the identified scores for each domain to calculate a total score for each domain, known as the domain aggregate; then
- (c) using Schedule 2 of the Classification Principles (as amended), identify for each domain the domain aggregate range within which the domain aggregate falls, then identify the domain category (ie Nil, Low, Medium, High) that applies to the domain aggregate range.

Step 2 – For the CHC Domain, the Secretary must use the matrix in Part 3 of Schedule 1 of the Classification Principles (as amended) to determine the domain score, then use Part 3 of Schedule 2 of the Classification Principles (as amended) to determine the applicable Domain category (ie Nil, Low, Medium, High) that the domain score corresponds to.

Step 3 – The Secretary must determine the appropriate classification level for the care recipient based on the domain category identified for each domain.

However, if the domain category identified for the behaviour domain is the high behaviour category, and the completed application for classification does not include a mental and behavioural diagnosis code, then the domain category for the behaviour domain is limited to medium.

Furthermore, if the domain categories identified in Step 2 include a domain category of high level of residential care and the care recipient's approval under Part 2.3 of the Act is limited under subsection 22-2(3) of the Act to a low level of residential care, the Secretary must classify the care recipient at the interim low level.

Section 9.3C Procedure for determining classification level – respite care

This section specifies that the Secretary must determine the appropriate classification level for a care recipient being provided with residential care as respite care based on the limitation of the care recipient's approval under subsection 5.9 (1) of the *Approval of Care Recipients Principles 1997*. Subsection 5.9 (1) of the *Approval of Care Recipients Principles 1997* states that a care recipient's approval may be limited to either a high level or a low level of residential care.

Item 6

This item substitutes a new heading "Classes of care recipients excluded from classification" to replace the existing heading "Exclusion of care recipients" for Part 2 of the Classification Principles. The new heading gives a clearer description of the purpose of this Part.

Item 7

This item removes the heading "General" from Part 2, Division 1 of the Classification Principles.

Item 8

This item removes the heading "Recipients of extended aged care at home" from Part 2, Division 2 of the Classification Principles.

Item 9

This item omits the words "A care recipient" and inserts the words "For subsection 25-1(5) of the Act, a care recipient" into section 9.5 to give a direct reference to the authority provided in the Act for this provision.

Item 10

This item removes the heading "Care recipients of multi-purpose services" from Part 2, Division 4 of the Classification Principles.

Item 11

This item omits the words "Care recipient" and inserts the words "For subsection 25-1(5) of the Act, care recipients" into section 9.9 to give a direct reference to the authority provided in the Act for this provision.

Item 12

This item substitutes new parts, Part 3 "Classification levels", Part 4 "Appraisals of the level of care needed" and Part 5 "Suspending approved providers from making appraisals" for the existing parts 4, 5, 6 and 6A.

Part 3 Classification levels

This part specifies the various classification levels described in section 25-2 of the Act that can apply to care recipients.

Section 9.10 Purpose of Part (Act, s 25-2)

This section describes the purpose of the Part as described above.

Section 9.11 Classification levels for non-respite care

This section specifies that the classification level of a care recipient being provided with residential care, other than respite care, consists of a domain category in each domain and interim low level. For example, the classification would be either nil, low, medium or high for each of the three domains (ADL, behaviour and CHC).

Section 9.12 Classification levels for respite care

This section specifies the classification levels for care recipients being provided with residential care as respite care. The classification levels may be either a low level or a high level of residential respite care.

Section 9.13 Lowest applicable classification level – non-respite care

This section specifies the lowest applicable classification level for a care recipient being provided with residential care is a classification that consists of nil in each of the ADL, behaviour and CHC domains.

Part 4 Appraisals of the level of care needed

This part specifies a circumstance where subsection 25-3(2) of the Act does not apply in relation to an appraisal, and an alternative period in which the appraisal can be made in that circumstance. This part also specifies the procedures for making an appraisal of the level of care needed by a care recipient.

Section 9.15 Purpose of Part (Act, s 25-3)

This section describes the purpose of the Part as described above.

Section 9.16 Circumstance and alternative period

Subsection 25-3(2) of the Act specifies that an appraisal must not be made before 7 days have elapsed since the approved provider began providing care to the care recipient and that that appraisal cannot be given to the Secretary before 28 days have elapsed since the approved provider began providing care to the care recipient.

Subsection 25-3(2A) of the Act allows the Classification Principles to specify the circumstances where subsection 25-3(2) of the Act does not apply and an alternative appraisal period and an alternative period where the appraisal can be given to the Secretary.

As a consequence of subsection 25-3(2A) of the Act, section 9.16 allows for the circumstance where a care recipient leaves a residential care service before 7 days have elapsed since the approved provider began providing care to the care recipient. In this circumstance the appraisal may be made during the period for which the care recipient was provided with care and the appraisal may be given to the Secretary before 28 days have elapsed since the approved provider began providing care to the care recipient.

Section 9.17 Appraisal procedure

This section refers to Subsection 25-3(3) of the Act which states that an appraisal must be made in accordance with the procedures specified in the Classification Principles. Section 9.17 specifies that the person making the appraisal must firstly complete an Answer Appraisal Pack in accordance with the User Guide, using accurate and reliable information

and, if required, the assessment tools in the Assessment Pack. The second step is for the person making the appraisal to complete an application for classification using the completed Answer Appraisal Pack.

Part 5 Suspending approved providers from making appraisals

Under subsection 25-4(1) of the Act the Secretary may suspend an approved provider from making appraisals and reappraisals. This part outlines the requirements under section 25-4C of the Act that an application to the Secretary to lift a suspension from an approved provider must meet.

Section 9.19 Purpose of Part (Act, s 25-4C)

This section describes the purpose of the Part as described above.

Section 9.20 Requirements for applications for the lifting of suspensions

This section outlines the detail that an application to the Secretary to lift a suspension must include. Paragraph (a) states that such an application must include details of the action taken by the approved provider to correct the false, misleading or inaccurate information given in appraisals or reappraisals. Paragraph (b) states that an application must include details of consultations (if any) held by the approved provider with staff, care recipients or the relatives of care recipients in relation to the giving of false, misleading or inaccurate information in appraisal or reappraisals. Paragraph (c) states that an application must include details of the action the approved provider proposes to take to ensure that false, misleading or inaccurate information is not given in future appraisals or reappraisals.

Item 13

This item substitutes new part 8 “Expiry and renewal of classifications” for the existing parts 8 and 9.

Part 8 Expiry and renewal of classifications

This part specifies different expiry dates and reappraisal periods for certain classifications, the circumstances in which the care needs of a care recipient are taken to have changed significantly, the procedures that the Secretary must follow in renewing the classification of a care recipient and other matters that the Secretary must take into account in renewing a classification.

Section 9.26 Purpose of Part (Act, Div 27)

This section describes the purpose of the Part as described above.

Section 9.27 Expiry date - respite care classifications (Act, s 27-2)

This section specifies the classification expiry date for respite care classifications. For paragraph 27-2(6)(a) of the Act, the expiry date for the classification of a care recipient approved for respite care is the first day after the earlier of the following days:

- a) the day in a financial year where the number of days on which the care recipient has been provided with respite care in a financial year equals the number of days specified in section 21.18 of the *Residential Care Subsidy Principles 1997*; or
- b) the day when the care recipient’s approval as a care recipient ceases to have effect.

Section 9.28 Circumstances in which care needs are taken to have changed significantly (Act, s 27-4)

This section specifies the circumstances in which the care needs of a care recipient are taken to have changed significantly, for the purposes of applying s 27-4(3) of the Act.

The first circumstance, which applies as a general rule, that the care recipient experiences an event likely to change the level of care needed by either two or more domain categories within a domain, or at least one domain category within two or more domains. For example, a care recipient classified as Low across all domains may be reclassified to High in a single domain or to Medium in two domains.

The second circumstance, which is an exception to the general rule, will be in cases where the care recipient is classified as high in the ADL domain and medium in the CHC domain. In these cases, the care needs of the recipient are taken to have changed significantly if the care recipient experiences an event likely to change the level of complex health care needed to the high CHC category.

Section 9.29 Circumstances in which care needs are taken to have changed significantly (Act, s 27-4) – transitional arrangements

This section provides transitional arrangements which allow a classification made before the commencement of ACFI to be renewed by the Secretary after the commencement of ACFI where the care needs of the care recipient are taken to have changed significantly.

As this type of classification renewal involves a move from a RCS classification to an ACFI classification and the “significant change” criteria for these classification systems are different, this section provides for a common measure of change based on the difference in daily basic subsidy payable.

Therefore, this section allows the Secretary to renew the classification of the care recipient only if the daily basic subsidy amount for the care recipient under the ACFI classification is at least \$30 more than the daily basic subsidy amount of the existing RCS classification.

The difference of at least \$30 or more between the ACFI classification and the existing RCS classification has been determined appropriate as the average difference between the current RCS levels is \$15 and this represents the current RCS arrangements where a reappraisal may be made if there is an increase in care needs of at least two RCS levels.

Section 9.30 Procedure for renewal of classification (Act, s 27-6)

Subsection 27-6(2) of the Act allows for the Classification Principles to specify methods or procedures that the Secretary must follow in determining the appropriate classification level for the care recipient. This section refers to the procedures that are specified in section 9.3B (2) as described in Item 5 earlier.

Item 14 Classification level structure – Schedules 1 and 2

This item substitutes existing schedules 1 and 2 with new schedules based on ACFI questions and domains.

Schedule 1 Scores for question ratings

The ACFI classification is based on 12 questions each having four ratings (A, B, C or D).

- ADL domain is based on the ratings from ACFI questions 1 (Nutrition), 2 (Mobility), 3 (Personal hygiene), 4 (Toileting), and 5 (Continence);
- Behaviour domain is based on the ratings from ACFI questions 6 (Cognitive skills), 7 (Wandering), 8 (Verbal behaviour), 9 (Physical behaviour) and 10 (Depression); and

- CHC domain is based on the ratings from ACFI questions 11 (Medication) and 12 (Complex health care).

Schedule 1 states a nominal score for each rating for questions 1 to 10 and nominal scores derived from a matrix for questions 11 and 12. These scores are used to determine the domain category as defined in Schedule 2.

Schedule 2 Domain categories

Schedule 2 defines the aggregate score ranges for ADL and behaviour domains and the domain score for the CHC domain. These domain score ranges and scores determine which domain category will apply for the particular domains.