



Medicare Australia Amendment Regulations 2009 (No. 1)¹

Select Legislative Instrument 2009 No. 197

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Medicare Australia Act 1973*.

Dated 30 July 2009

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

CHRIS BOWEN
Minister for Human Services

1 Name of Regulations

These Regulations are the *Medicare Australia Amendment Regulations 2009 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Medicare Australia Regulations 1975*

Schedule 1 amends the *Medicare Australia Regulations 1975*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 3, definition of *reappraisal period*

omit

section 28-3

insert

section 27-2

[2] After regulation 3

insert

3A Principal officers for Commonwealth authorities

For paragraph (b) of the definition of *principal officer* in section (3) of the Act, a person is the principal officer of a Commonwealth authority:

- (a) if:
 - (i) the person is the Chief Executive of a prescribed Agency, within the meaning of paragraph (a) of the definition of *Chief Executive* in section 5 of the *Financial Management and Accountability Act 1997*; and
 - (ii) the prescribed Agency is a Commonwealth authority; or
- (b) if:
 - (i) the person performs the functions of the chief executive of the Commonwealth authority; and
 - (ii) the Commonwealth authority is a Commonwealth authority within the meaning of section 7 of the *Commonwealth Authorities and Companies Act 1997*.

Note For paragraph (a), Chief Executives of prescribed Agencies are identified in Schedule 1 to the *Financial Management and Accountability Regulations 1997*.

[3] After regulation 4

insert

4A Application

This Part sets out prescribed functions for paragraph 5 (1) (e) of the Act.

[4] Paragraph 6 (b)*omit*

from a person applying for approval to become a recipient of one or more types of aged care

[5] Regulation 7*substitute***7 Renewal and change of classifications**

The Chief Executive Officer has the following functions, to be carried out on behalf of the Health Secretary:

- (a) in accordance with section 27-6 of the Aged Care Act:
 - (i) to receive a reappraisal of the level of care needed by a care recipient; and
 - (ii) to renew the classification of a care recipient;
- (b) to make a decision under subsection 27-8 (2) of the Aged Care Act:
 - (i) about whether a reappraisal of the level of care needed by a care recipient was sent in sufficient time to be received, in the ordinary course of events, within the reappraisal period; and
 - (ii) having regard to any relevant information under subsection 27-8 (3) of that Act;
- (c) if the Chief Executive Officer, acting on behalf of the Health Secretary, is not satisfied that a reappraisal received outside the reappraisal period was sent in sufficient time — to notify the approved provider under subsection 27-8 (4) of the Aged Care Act;
- (d) to change a classification of a care recipient in accordance with subsection 29-1 (1) of the Aged Care Act;
- (e) in accordance with subsection 29-1 (3) of the Aged Care Act, to review a classification of a care recipient before changing the recipient's classification under subsection 29-1 (1) of that Act;

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- (f) in accordance with subsection 29-1 (4) of the Aged Care Act, to notify an approved provider that is providing care to a care recipient that the classification of the care recipient has changed.

[6] Regulation 11

substitute

11 Reconsideration and review of decisions

The Chief Executive Officer has the following functions, to be carried out on behalf of the Health Secretary:

- (a) to exercise the powers and perform the functions of the Health Secretary under Part 6.1 of the Aged Care Act for a reviewable decision described in any of the following items of the table in section 85-1 of that Act:
- (i) items 28 to 31;
 - (ii) items 39AA and 39AB;
 - (iii) items 40 and 41;
 - (iv) items 44 to 47;
 - (v) items 49A and 49B;
- (b) to act in any legal proceeding that concerns the exercise of those powers or the performance of those functions.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.