
EXPLANATORY STATEMENT

Disability Care Load Assessment (Child) Determination 2010

Summary

The *Disability Care Load Assessment (Child) Determination 2010* (the Determination) is made by the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs (the Secretary) under sections 38D and 38E of the *Social Security Act 1991* (the Act).

The Determination will revoke the *Child Disability Assessment Determination 2001* (the CDAD) and the *Disability Care Load Assessment (Child) Determination 2009* (2009 Determination). As a consequence of amendments made in the social security law by Schedule 1 of the *Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Act 2010*, there is a single assessment tool for both carer payment and carer allowance in respect of a child aged under 16 years.

The Determination retains the essential components of the 2009 Determination. The Determination retains the method for giving a qualifying rating to a carer claiming carer payment for care of a child. The Determination now also sets out a method for giving a qualifying rating to a carer claiming carer allowance for care of a child. The List of Recognised Disabilities previously set out in the CDAD is now included in this Determination.

As was the case with the 2009 Determination, the Determination will enable the Secretary to assess the functional ability, behaviour and special care needs of a child through the assessment of care load (which is completed by the claimant) and a professional questionnaire (completed by a treating health professional). Completion of the two parts of the Determination is part of the qualification criteria for carer payment (under section 197B, 197C or 197D of the Act) and for carer allowance (under section 953 of the Act).

However, if a person has made a claim for carer allowance for the care of a child with a disability listed on the List of Recognised Disabilities (Schedule 3 of the Determination), the carer need not complete either the assessment of care load questionnaire (ACL questionnaire) nor submit the professional questionnaire (Schedule 1 of the Determination).

Background

In the 2008-09 Budget, the Government announced measures to expand qualification for carer payment paid in respect of a child. As part of these measures, the Government announced that it would implement a new assessment process to determine qualification for carer payment paid in respect of a child, based on the amount of care required by a child with disability or two or more children with disability, rather than the rigid medical criteria used to assess qualification for the payment.

The *Social Security Legislation Amendment (Improved Support for Carers) Act 2009* (the Improved Support for Carers Act) changed the qualification criteria and assessment process for carer payment for care provided to children with disability or a medical condition to provide a fairer and more equitable process based on the level of care required.

The *Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Act 2010* provides that the assessment tool that has been used for carer payment in respect of a child since 1 July 2009 will be the same assessment tool used for carer allowance in respect of a child. This means that there will now only be one assessment tool used to determine qualification for carer payment and carer allowance paid in respect of a child.

Section 38E of the Act provides that the Disability Care Load Assessment (Child) Determination may provide a method for giving a qualifying rating to a person who is a carer, that takes into account the care provided by the carer to the child and the assessment completed by a treating health professional. As a part of the process in providing the qualifying rating, the Secretary may devise a test for assessing the functional ability, behaviour and special care needs of a person aged under 16 and a method for rating the care needs of the child. Section 38E provides that the test is to include an assessment that must be completed by a treating health professional.

If the carer who is caring for a child is also providing care for one or more other people, whether it is other children or a disabled adult, the Determination may provide a method for giving a qualifying rating to the carer that takes into account the care provided for the child by the carer, the assessment completed by the treating health professional and the care provided by the carer for each other person.

Subsection 953(1) of the Act has been amended to remove references to the child requiring to be assessed and rated under the Child Disability Assessment Tool (CDAT); instead, the qualification criteria for carer allowance when caring for 1 child remain the same except that new subparagraph 953(1)(e)(ii) provides that the person has to be given a qualifying rating of “intense” under the Disability Care Load Assessment (Child) Determination (DCLA (Child) Determination) for caring for the child.

Subsection 953(2) of the Act has also been amended to remove references to the child requiring to be assessed and rated under the CDAT; instead, the qualification criteria for carer allowance when caring for 2 children remain the same except that new paragraph 953(2)(e) provides that the person has to be given a qualifying rating of intense under the Determination for caring for the child.

A child with a disability on the List of Recognised Disabilities will not be required to complete a Disability Care Load Assessment under the Determination for a claim made for carer allowance. The List of Recognised Disabilities has no application in determining qualification for carer payment.

The Determination is divided into two parts and has three schedules attached. Schedule 1 contains the ACL questionnaire and the professional questionnaire. Schedule 2 contains the rating methods for the ACL questionnaire and the professional questionnaire. Schedule 3 contains the List of Recognised Disabilities.

Sections 197B, 197C, 197D and 953 of the Act provide, as part of the qualification criteria, that a person be given a qualifying rating of intense under the Determination. If a person does not achieve a qualifying rating of intense in relation to care that they provide for 1 or more care receivers then they are unable to qualify for carer payment under section 197B,

197C or 197D or carer allowance under section 953 of the Act (except where a disability is on the List of Recognised Disabilities).

The assessment of care load, found in Part 1 of Schedule 1 to the Determination and completed by a claimant, and the professional questionnaire, found in Part 2 of Schedule 1 to the Determination and completed by a treating health professional, comprise the test that determines satisfaction of the requirement to have a rating of intense.

Explanation of the provisions

Part 1 - Preliminary

Section 1 states the name of the Determination.

Section 2 states that the Determination commences on 1 July 2010. This corresponds with the commencement date of the amendments to the Act under which the Determination is made. The amendments are made by the *Social Security and Indigenous Legislation Amendment (Budget and Other Measures) Act 2010*.

Section 3 sets out the instruments to be revoked by this Determination.

Subsection 3(1) revokes the *Child Disability Assessment Tool 2001* as amended.

Subsection 3(2) revokes the *Disability Care Load Assessment (Child) Determination 2009*.

Section 4 contains interpretation provisions.

Section 5 states that the Secretary may delegate any or all of his or her powers under this Determination. The delegation of the Secretary's powers under this Determination is within the Secretary's discretion. In order to facilitate the day to day administration of the social security law the Secretary's powers under this Determination will be required to be delegated to officers of the Department of Families, Housing, Community Services and Indigenous Affairs and Centrelink employees. The delegation power is cast in broad terms to reflect that the powers contained in this Determination may be exercised by a wide range of officers and employees. Careful consideration is given to the delegation of such powers to ensure that they are exercised by persons at appropriate levels and performing relevant tasks.

Section 6 sets out the disability assessment care load components.

Subsection 6(1) states that Part 2 of the Determination sets out the Disability Care Load Assessment (Child) (Carer Payment) in respect of a person claiming for carer payment.

Subsection 6(2) states that Part 3 of the Determination sets out the Disability Care Load Assessment (Child) (Carer Allowance) in respect of a person claiming for carer allowance.

Section 7 states that Schedule 3 declares, for the purposes of section 953 of the Act, recognised disabilities.

Section 8 provides that there are two questionnaires.

Subsection 8(1) states that Part 1 of Schedule 1 sets out the ACL questionnaire about the functional ability, behaviour and special care needs of a child.

Subsection 8(2) provides the ACL questionnaire must only be completed by a person seeking to claim a carer payment for the care of a child or a carer allowance for the care of a disabled child under the Act.

Subsection 8(3) provides that the professional questionnaire is set out in Part 2 of Schedule 1.

Subsection 8(4) provides that a treating health professional must complete the professional questionnaire.

Section 9 sets out the rating method for the Disability Care Load Assessment (Child). A claimant achieves a qualifying rating if they achieve a rating of intense in accordance with Part 2 or Part 3.

Section 10 sets out further detail in relation to the ACL questionnaire.

Subsections 10(1) – (4) set out the scoring method for the ACL questionnaire. The questions in the ACL questionnaire are grouped into four domains (subsection 10(1)) and the total score for each domain must not be less than 0 (subsection 10(4)).

Subsection 10(2) provides that if the claimant marks more than one answer to any question then only the answer that gives the highest score should be taken. There are exceptions given of questions 54 and 55 which allow multiple responses. The scoring for questions within each domain, and the method used to determine the total score for each ACL questionnaire is set out in Part 1 of Schedule 2 (subsection 10(3)).

Subsection 10(5) provides that the Secretary must be satisfied that a completed ACL questionnaire is an accurate reflection of the functional ability, behaviour and special care needs of the child to whom it relates. Subsection 10(6) provides that if the Secretary is not satisfied that the completed ACL questionnaire is an accurate reflection of the child's functional ability, behaviour and special care needs, then the Secretary has the power to amend the scores for any of the domains if a question is deemed to have been missed or misinterpreted. Subsection 10(7) provides that the Secretary may only add additional points to the scores of the domains to reflect unaccounted for care load that is not presently recognised by the ACL questionnaire.

Section 11 sets out further detail in relation to the professional questionnaire.

Subsection 11(1) provides that the scoring method for the professional questionnaire is set out in Part 2 of Schedule 2.

Subsection 11(2) states that as regards calculations in Part 2 of Schedule 2, numbers extending to more than 2 decimal places must be rounded to 2 decimal places.

Unlike the ACL questionnaire, the total score for the professional questionnaire may be less than 0 (subsection 11(3)). The Secretary must be satisfied that a completed professional questionnaire is an accurate reflection of the functional ability, behaviour and special care needs of the child to whom it relates (subsection 11(4)). If the Secretary is not satisfied that a completed professional questionnaire is an accurate reflection of the functional ability,

behaviour and special care needs of the child to whom it relates, then subsection 11(5) provides the Secretary with the power to request a replacement questionnaire be completed by another treating health professional.

Part 2 – Disability Care Load Assessment (Child) (Carer Payment)

Section 12 sets out the qualifying scores that a person who is caring for a child with a severe disability or severe medical condition has to obtain to achieve a qualifying rating of intense (subsection 12(1)).

Subsection 12(2) provides that a professional questionnaire must be completed for the child and that an ACL questionnaire must be completed for the child. A claimant receives a qualifying rating of intense under subsection 12(3) if the total score on the person's ACL questionnaire is 85 or more and the score on the professional questionnaire is greater than 0.

Section 13 sets out the qualifying scores that a person, who is caring for two or more children, each with disability or medical condition, has to obtain to achieve a qualifying rating of intense (subsection 13(1)). If a claimant is caring for two or more children, each of whom has a disability or medical condition, the claimant must complete an ACL for each child and a professional questionnaire must be completed for each child (subsection 13(2)). In order for the claimant to achieve a qualifying rating of intense the total score from the contributing ACLs must be 85 or higher and each child must receive a professional questionnaire score of greater than 0 (subsection 13(4)). An ACL score in respect of care that the claimant gives to a child must be 20 or more for the ACL to be able to contribute to the qualifying rating (subsection 13(5)). If a claimant does not achieve an ACL score of 20 or more in respect of care that they provide to a child then that ACL cannot contribute to the claimant's qualifying rating. A maximum of 4 ACLs and 4 professional questionnaires can contribute to a person's qualifying rating (subsection 13(3)).

Example

Nigel provides care for his four children, Carol, Phil, Stephen and Thomas, each of whom has a disability or medical condition. Nigel completes an ACL in respect of the care that he provides to each of the four children. A professional questionnaire is also completed for each child. The children receive the following scores:

	ACL Score	Professional questionnaire score
Carol	22	2
Phil	21	1.9
Stephen	20	1.8
Thomas	23	2.2

Carol's, Phil's, Stephen's and Thomas's ACL scores are all at or above 20 and their scores can be used to contribute to Nigel's qualifying rating. Their combined score is 86 and they each have a professional questionnaire score of greater than 0. Therefore, Nigel achieves a qualifying rating of intense for the care that he provides to Carol, Phil, Stephen and Thomas.

Section 14 sets out the qualifying scores that a person who is caring for a lower ADAT score adult (lower Adult Disability Assessment Tool score adult) and 1 or more children with a

disability or medical condition (subsection 14(1)) is to achieve to have a qualifying rating of intense.

Subsection 14(2) states that one professional questionnaire and one ACL questionnaire must be completed for each child.

To achieve a qualifying rating of intense in this situation a total ACL score of 85 or more must be achieved and the score on the contributing professional questionnaire for each child must be greater than 0 (subsection 14(3)). The lower ADAT score adult is taken to contribute 40 to the total combined score for the contributing ACLs (subsection 14(4)). A maximum of 2 ACLs and 2 professional questionnaires can contribute to a person's qualifying rating (subsection 14(5)). The ACL is a contributing ACL for the purposes of subsection 14(3) only if the total score for that ACL is 20 or more (subsection 14(6)).

Example

Kelly provides care to her husband, John, and daughter, Sharon. John has been assessed and rated under the Adult Disability Assessment Tool and given a score of 25, with a professional questionnaire score of 10. Kelly has completed an ACL for Sharon and has achieved a rating of 47. Sharon's professional questionnaire score is 3. Kelly's combined ACL score is 87 and as Sharon's professional questionnaire score is greater than 0, Kelly achieves a qualifying rating of intense.

PART 3 – Disability Care Load Assessment (Child) (Carer Allowance)

Section 15 sets out the qualifying scores that a person who is caring for a single disabled child has to obtain to achieve a qualifying rating of intense.

Subsection 15(1) provides that a professional questionnaire must be completed for the child and that an ACL questionnaire must be completed for the child. A claimant receives a qualifying rating of intense under subsection 15(2) if the total score on the person's ACL questionnaire is 85 or more and the score on the professional questionnaire is greater than 0.

Example

Ian cares for his daughter Sarie. Ian completes an ACL in respect of the care that he provides to Sarie and a professional questionnaire is also completed. Ian receives an ACL score of 90 and a professional questionnaire score of 1. As the ACL score is above 85 and the professional score is above 0, Ian has achieved a qualifying rating of intense for the care he provides for Sarie.

Section 16 sets out the qualifying scores that a person who is caring for 2 disabled children has to obtain to achieve a qualifying rating of intense. If a claimant is caring for 2 disabled children the claimant must complete an ACL for each child and a professional questionnaire must be completed for each child (subsection 16(1)). In order for the claimant to achieve a qualifying rating of intense the total score from the contributing ACLs must be 85 or higher and each child must receive a professional questionnaire score of greater than 0 (subsection 16(3)). An ACL score in respect of care that the claimant gives to a child must be 20 or more for the ACL to be able to contribute to the qualifying rating (subsection 16(4)). If a claimant does not achieve an ACL score of 20 or more in respect of care that they

provide to a child then that ACL cannot contribute to the qualifying rating. A maximum of 2 ACLs and 2 professional questionnaires can contribute to a person's qualifying rating (subsection 16(2)).

Example

Emma has two children, Georgina and David, each of whom has a disability or medical condition. Emma completes a separate ACL in respect of the care she provides to Georgina and David and a professional questionnaire is also completed for each child. Georgina and David have a combined ACL score of 85, scoring 65 and 20 respectively. The professional questionnaire score for each child is 1. The combined scores of Georgina and David meet the ACL minimum of 85, their individual scores are 20 or more, and each professional score is greater than 0. Therefore, Emma has achieved a qualifying rating of intense for both children together.

Schedule 1, Part 1 provides for the assessment of care load questionnaire.

The assessment of care load questionnaire has been revised following evaluation of the questionnaire after it had been in use for several months. The evaluation took into account the views of a panel of health and medical professionals and feedback from customers and Centrelink employees.

Answer codes have been removed from the assessment of care load questionnaire because they are not needed by claimants. Terminology in many questions in the ACL questionnaire has been changed to make the questions easier for claimants to understand.

Schedule 1, Part 2 provides for the professional questionnaire.

The professional questionnaire has been revised following evaluation of the questionnaire after it had been in use for several months. The evaluation took into account the views of a panel of health and medical professionals and feedback from customers and Centrelink employees.

Schedule 2, Part 1 provides for the scoring for the ACL questionnaire.

The scoring for the ACL questionnaire has been revised in conjunction with the evaluation of the questionnaire.

Schedule 2, Part 2 provides for the Scoring for the professional questionnaire.

The scoring for the professional questionnaire has been revised in conjunction with the evaluation of the questionnaire.

Schedule 3 provides the List of Recognised Disabilities.

The List of Recognised Disabilities remains identical to the List of Recognised Disabilities that was included in the Child Disability Assessment Determination 2001. No new disabilities have been included in the List of Recognised Disabilities and no disabilities have been removed from the list.

Consultation

Assessment of care load

The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) engaged Jenny Pearson and Associates (a company specialising in consulting for the human services sector) to review the Assessment of Care Load questionnaire and the professional questionnaire. Ms Pearson is a member of FaHCSIA's Social Policy Research and Evaluation Panel. She was also a member of the expert reference group established by the Centre for Health Service Development at the University of Wollongong to develop the assessment of care load questionnaire implemented from 1 July 2009.

Ms Pearson consulted with professionals from the following health and medical fields:

- Occupational therapy
- Speech pathology
- Paediatrics
- Child psychiatry
- Clinical and health psychology
- Paediatric nursing.

Ms Pearson also conducted a separate consultation process with Carer Specialist Assessment Team members (social workers) and Customer Service Officers from Centrelink. In addition, FaHCSIA and Centrelink undertook testing of the questionnaires with carers in the Centrelink concept office.

The views obtained through the above consultations were taken into account in the changes made to both the ACL questionnaire and the professional questionnaire.

Professional questionnaire

The professional questionnaire contained in this Determination is similar to the professional questionnaire included in the 2009 Determination. Changes were made to the professional questionnaire as part of the consultation process undertaken in relation to the assessment of care load questionnaire.

Regulatory Impact Analysis

This Determination does not require a Regulatory Impact Statement (RIS) nor a Business Cost Calculator Figure. This Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.