**EXPLANATORY STATEMENT**

Issued by the authority of the Assistant Minister for Health

*Hearing Services Administration Act 1997*

***Hearing Services (Eligible Persons) Amendment Determination 2014 (No. 1)***

The *Hearing Services Administration Act 1997* (the Act) sets up the voucher system component of the Australian Government Hearing Services Program (the Program), under which hearing services are provided to voucher-holders. Subsection 5(3) of the Act provides that the Minister may, by writing, determine that a specified person is an *eligible person* for the purposes of the Act.

From 1 July 2014, Western Australia (WA) will participate in a two-year trial of the National Disability Insurance Scheme (NDIS) in select sites using two different models operating in parallel: the Commonwealth NDIS model, which will be run by the National Disability Insurance Agency (NDIA); and the WA NDIS My Way model, which will be run by the WA Disability Services Commission, under State legislation, on behalf of the WA State Government. The *Hearing Services (Eligible Persons) Amendment Determination 2014 (No. 1)* (the Determination) extends eligibility for hearing services under the voucher system component of the Program to certain WA NDIS My Way participants.

The Determination amends subsection 4(6) of the *Hearing Services (Eligible Persons) Determination 1997* (the Principal Determination), which specifies various classes of eligible person for the purposes of the Act. The Determination repeals and replaces paragraph 4(6)(b) of the Principal Determination to expand eligibility to WA NDIS My Way participants who have reached the age of 21 years (see paragraph 4(6)(a)) and who have been referred to the Minister for hearing services under the Program in connection with the funding or provision of supports under a participant’s plan prepared under section 26I of the *Disability Services Act 1993* (WA). These requirements are consistent with those applying to other NDIS participants under the Principal Determination.

The age requirement is consistent with that applying to eligible persons under subsection 5(1) of the Act.

The amendment made by the Determination ensures that eligible WA NDIS My Way participants who require hearing services can be issued a hearing services voucher and can receive the same suite of hearing services as other NDIS voucher participants.

The Determination commences on 1 July 2014, or on the commencement of the *Disability Services Amendment Act 2014* (WA) – whichever is later. That Act will amend the *Disability Services Act 1993* (WA) to provide for the WA NDIS My Way model, including enabling the prescription of the WA NDIS My Way trial sites.

The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

**CONSULTATION**

Consultation has occurred with the Department of Social Services and the WA State Government on the proposed amendments. Broader consultation was not undertaken as the amendments simply provide a mechanism by which the new cohort of eligible persons can be issued with a Hearing Services Voucher, to meet the COAG commitment of implementing the National Disability Insurance Scheme.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Hearing Services (Eligible Persons) Amendment Determination 2014 (No. 1)***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

From 1 July 2014, Western Australia (WA) will participate in a two-year trial of the National Disability Insurance Scheme (NDIS) in select sites using two different models operating in parallel: the Commonwealth NDIS model, which will be run by the National Disability Insurance Agency (NDIA); and the WA NDIS My Way model, which will be run by the WA Disability Services Commission, under State legislation, on behalf of the WA State Government. The *Hearing Services (Eligible Persons) Amendment Determination 2014 (No. 1)* (the Determination) extends eligibility for hearing services under the voucher system component of the Australian Government Hearing Services Program (the Program) to certain WA NDIS My Way participants.

The Determination amends subsection 4(6) of the *Hearing Services (Eligible Persons) Determination 1997* (the Principal Determination). The Principal Determination specifies classes of eligible persons for the purposes of the *Hearing Services Administration Act 1997* (the Act), which establishes the voucher component of the Program. The amendment expands eligibility to WA NDIS My Way participants who have reached the age of 21 years and who have been referred to the Minister for hearing services under the Program in connection with the funding or provision of supports under a participant’s plan prepared under the *Disability Services Act 1993* (WA). These requirements are consistent with those applying to other NDIS participants under the Principal Determination.

The amendment outlined in the Determination ensures that WA NDIS My Way participants who require hearing services can be issued a hearing services voucher and can receive the same suite of hearing services as other NDIS voucher participants.

**Human rights implications**

This Legislative Instrument engages the following human rights:

*Rights of people with disability*

The amendments advance the rights of people with disability by facilitating access to hearing services for a new cohort, namely WA NDIS My Way participants aged 21 years and over whose participant’s plan identifies the need for the types of hearing services available under the Program and who would not otherwise be eligible under the Program. Access to hearing rehabilitation services, hearing aids and other assistive listening devices will assist this cohort to take part in, and be included in, the community and improve their social and economic participation.

The new class of eligible persons is restricted on the basis of age, with members of the class required to be 21 years or over. This restriction reflects subsection 5(1) of the Act, which establishes the same age requirement in relation to general eligibility for the voucher component of the Program under that subsection. Hearing services for persons aged under 21 years are instead provided by Australian Hearing Services under the Community Services Obligations (CSO) component of the Program. Corresponding amendments to the *Declared Hearing Services Determination 1997* will facilitate access to hearing services under the CSO component of the Program to WA NDIS My Way participants aged less than 21 years whose participant’s plan identifies the need for the types of hearing services available under the Program. As a result, WA NDIS My Way participants of any age can access Commonwealth funded hearing services where required under their participant plan.

**Conclusion**

This Legislative Instrument is compatible with human rights as it advances the protection of rights for people with disability.

**Senator the Hon Fiona Nash**

**Assistant Minister for Health**