

## **EXPLANATORY STATEMENT**

**Issued by the authority of the Assistant Minister for Social Services**

***Aged Care Act 1997***

***Aged Care (Subsidy, Fees and Payments) Amendment (September 2014 Indexation) Determination 2014***

The *Aged Care Act 1997* (the Act) provides for the regulation and funding of aged care services. Persons who are approved under the Act to provide aged care services (approved providers) can be eligible to receive subsidy and supplement payments in respect of the care they provide to approved care recipients.

The Act provides that for each type of aged care, the Minister may determine the amount of subsidy and supplement payable to an approved provider for the provision of that type of aged care.

The purpose of the *Aged Care (Subsidy, Fees and Payments) Amendment (September 2014 Indexation) Determination 2014* (the Amending Determination) is to increase the amount of supplements payable to approved providers of aged care services in respect of a day from 20 September 2014 in line with the changes to the consumer price index (CPI), in addition to increasing the value of the caps and thresholds in line with the age pension.

The Amending Determination applies only in respect of care recipients who are not continuing care recipients. Continuing care recipients are those who entered a care service before 1 July 2014 and since that time have not left the service for a continuous period of more than 28 days (other than because the person is on leave) or before moving to another service, made a written choice to be subject to the new rules relating to fees and payments that took effect on 1 July 2014. The amount of subsidy and supplements payable in respect of continuing care recipients is detailed in the *Aged Care (Transitional Provisions) Amendment Determination 2014*).

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

### **Consultation**

Routine indexation of subsidies and supplements in this Amending Determination is calculated through the use of a well-established formula based on the consumer price index (CPI) as a measure of the movements in the non-labour costs of providers. As this is in accordance with the general policy for indexation of aged care payments upon which extensive consultation was undertaken, no specific consultation was undertaken with respect to this indexation.

Information about the increase in the amount of the subsidies and supplements payable to approved providers from 20 September 2014 will be disseminated via electronic media to approved providers.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) has advised that no Regulation Impact Statement is required (OBPR ID 17541).

Commencement

The amendments in Schedule 1 commence on 20 September 2014.

***Details of the Aged Care (Subsidy, Fees and Payments) Amendment (September 2014 Indexation) Determination 2014***

**Clause 1** states that the name of the determination is the *Aged Care (Subsidy, Fees and Payments) Amendment (September 2014 Indexation) Determination 2014*.

**Clause 2** sets out the commencement date for the Amending Determination.

**Clause 3** provides that the authority for the making of the determination is the *Aged Care Act 1997*.

**Clause 4** provides that 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.

**Schedule 1 – Amendments**

***Aged Care (Subsidy, Fees and Payments) Determination 2014***

**Item 1 – Amendments of listed provisions – indexation of amounts**

This item provides for the indexation of amounts in relation to the following:

- the respite supplement;
- the caps which limit the amount of means tested and income tested care fees payable by care recipients;
- the cap on the value of the former principal residence;
- the asset thresholds at which different taper rates apply in the asset test;
- the accommodation supplement; and
- the income thresholds at which the different caps on the income tested care fees in home care apply.

## **Statement of Compatibility with Human Rights**

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

### ***Aged Care (Subsidy, Fees and Payments) Amendment (September 2014 Indexation) Determination 2014***

The *Aged Care (Subsidy, Fees and Payments) Amendment (September 2014 Indexation) Determination 2014* 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 Legislative Instrument**

This legislative instrument amends the *Aged Care (Subsidy, Fees and Payments) Determination 2014*, and increases the amount of particular supplements payable to approved providers of aged care services in line with the changes to the consumer price index (CPI), in addition to increasing the value of the caps and thresholds in line with the age pension.

#### **Human Rights Implications**

This legislative instrument is compatible with the right to an adequate standard of living and the right to the enjoyment of the highest attainable standard of physical and mental health as contained in article 11(1) and article 12(1) of the International Covenant on Economic, Social and Cultural Rights, and article 25 and article 28 of the Convention on the Rights of Persons with Disabilities.

This legislative instrument concerns the amount of subsidy payable to approved providers for the provision of care and services to people with a condition of frailty or disability who require assistance to achieve and maintain the highest attainable standard of physical and mental health.

Specifically, this legislative instrument increases the amounts of additional payments in the form of supplements that are payable to approved providers to assist with the costs of caring for people who are financially disadvantaged. It also increases the thresholds and caps that are taken into account in determining how much people who can afford to contribute to the cost of their care can be asked to pay. These increases are designed to ensure the payments and contributions keep pace with increases in the consumer price index.

#### **Conclusion**

This legislative instrument is compatible with human rights as it promotes the human right to an adequate standard of living and the highest attainable standard of physical and mental health.

**Senator the Hon Mitch Fifield**  
**Assistant Minister for Social Services**