

EXPLANATORY STATEMENT

Veterans' Affairs (Treatment Principles – Updating of Rehabilitation Appliance Schedules/VVCS Outreach Program Counsellors Fees Schedule) Amendment Instrument 2015

EMPOWERING PROVISIONS

For Schedule 1 of the attached instrument — subsection 90(5) of the *Veterans' Entitlements Act 1986* (the VEA).

For Schedule 2 of the attached instrument — subsection 286(3) of the *Military Rehabilitation and Compensation Act 2004* (the MRCA).

For Schedule 3 of the attached instrument — subsection 16(7) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (the APBNT(T)A).

PURPOSE

The attached instrument (2015 No. R73/MRCC73) varies the legislative instruments known as:

- the *Treatment Principles*;
- the *MRCA Treatment Principles*; and
- the *Treatment Principles (Australian Participants in British Nuclear Tests) 2006*.

Hereinafter these 3 legislative instruments are referred to collectively as the Treatment Principles.

The attached instrument has been approved by the Minister for Veterans' Affairs as required by the empowering provisions mentioned above.

The Treatment Principles set out the circumstances in which treatment may be provided to clients of the Department of Veterans' Affairs (DVA). The variations to the Treatment Principles made by the attached instrument relate to updating references in the Treatment Principles to documents that are incorporated-by-reference into the Treatment Principles and that have changed.

The purpose of the variations is to ensure that the changed (updated) version of the relevant document as it exists on the date mentioned in the variation is the version of the document that is incorporated into, and made part of, the Treatment Principles.

The documents in question are known as:

- the "RAP National Schedule of Equipment" (RAP Schedule); and
- the Veterans and Veterans Families Counselling Service (VVCS) Outreach Program Counsellors (OPC) Schedule of Fees (OPC Fee Schedule).

RAP Schedule changes

The RAP Schedule lists the rehabilitation appliances that DVA may supply (via providers) to appropriate DVA clients.

The “Cognitive, Dementia and Memory Assistive Technology category” of the RAP Schedule has been changed to include the following new items:

- glow tape (high performance photo luminescent);
- locator devices (item finder);
- medication timer/alerts (pill box reminder);
- memory jogger (verbal reminder alarm);
- exit reminder (wander reminder system, personalised messages);
- safety home bracelet; and
- home safety items (locks; plugs including flood prevention bath and sink plug stopper; tap cap, power point safety cover, stove guard, anti-leak water alarm)

In order for DVA to be able to supply these new items the Treatment Principles need to be varied to refer to the changed RAP Schedule as it exists on a particular date (the date chosen is 1 November 2015). The RAP Schedule is incorporated into the Treatment Principles only in the version in which it exists on 1 November 2015 and not as it may exist “from time to time”.

OPC Fee Schedule changes

The OPC Fee Schedule sets out the fees DVA will pay for outreach program counselling services provided to DVA clients. Outreach Program Counselling is counselling provided under the Veterans and Veterans Family Counselling Services (VVCS) to clients who are unable for some reason (usually remoteness) to attend at an established VVCS centre.

The OPC Fee Schedule has been changed to include two new fee items:

- an extended consultation (90 minute) session fee for delivery of specific, evidence-based, trauma focussed Prolonged Exposure and Eye Movement Desensitisation and Reprocessing therapy sessions; and
- a fee for the drafting and delivery of a Risk Assessment and Management Plan to facilitate appropriate and effective management of high risk clients.

The first fee is for an extended counselling session. By being able to extend a counselling session where a client’s anxiety is high, distress arising from a premature termination of a session could be avoided.

The second fee is for the preparation and delivery of a Risk Assessment and Management Plan (RAMP). All VVCS clients are screened for risk of self-harm and harm to others, but the new fee item will ensure that where the initial risk assessment discloses a high risk case then a more detailed risk assessment can be made and a RAMP prepared in relation to the client.

These two new fees will result in direct and immediate client benefits at a relatively low cost.

In order for DVA to be able to pay the new fees the Treatment Principles (except the Treatment Principles under the APBNT(T)A because the VVCS is not available to clients covered by the APBNT(T)A) need to be varied to refer to the changed OPC Fee Schedule as it exists on a particular date (the date chosen is 1 November 2015). The OPC Fee Schedule is incorporated into the Treatment Principles only in the version in which it exists on 1 November 2015 and not as it may exist “from time to time”.

Other Incorporated Documents

As the references in the Treatment Principles to the RAP Schedule and the OPC Fee Schedule are being updated the opportunity was taken to update the references to other incorporated documents in the Treatment Principles so that any later version of these documents in existence on 1 November 2015 is recognised by the Treatment Principles.

Further details of the attached instrument are set out in Attachment A.

CONSULTATION

RAP Schedule changes

Yes – indirectly for the new RAP schedule items in that the RAP Reference Committee, a Committee which operates under the auspices of DVA and comprised of independent health professionals from the fields of Specialist Rehabilitation Medicine, General Practice, Occupational Therapy, Physiotherapy, and Nursing, originally endorsed the creation of the category of items in the RAP Schedule (Cognitive, Dementia and Memory Assistive Technology category) to which the new items have been added.

Noting that paragraph 26(1A)(d) of the *Legislative Instruments Act 2003* requires an Explanatory Statement for a legislative instrument to contain a description of the nature of any consultation, the nature of the consultation in the present case was meetings of the RAP Reference Committee; e-mail correspondence; and telephone conversations between Committee members and DVA.

OPC Fee Schedule changes

Yes – indirectly for the “extended consultation session fee”. The views of the relevant professional associations, the Australian Psychological Society (APS) and the Australian Association of Social Workers (AASW) on the introduction of an extended session fee for trauma focused therapy were considered with the introduction some years ago of the fee into the DVA psychology and clinical psychology fee schedules. The AASW and the APS have not been approached again regarding this proposal because it is beneficial and stakeholders could be expected to agree to it thereby making further consultation unnecessary.

Noting that paragraph 26(1A)(d) of the *Legislative Instruments Act 2003* requires an Explanatory Statement for a legislative instrument to contain a description of the nature of any consultation, the nature of the consultation in the present case was e-mail correspondence and telephone conversations DVA and the AASW and APS.

No – for the Risk Assessment and Management Plan, because it is an enhancement of an existing process (preliminary risk screening) that is well accepted by VVCS counsellors and further, because the proposal is beneficial and stakeholders could be expected to agree to it. For these reasons consultation was considered unnecessary.

RETROSPECTIVITY

None.

DOCUMENTS INCORPORATED-BY-REFERENCE

Yes. The documents listed in the schedules to the attached instrument are incorporated into the Treatment Principles in the form in which those documents were on 1 November 2015 and not in the form they may be in from time to time.

At the time the attached instrument was made, all the documents except:

- the Better Access to Psychiatrists, Psychologists & General Practitioners through the Medical Benefits Schedule Initiative;

were available on the DVA Web Page:

<http://www.dva.gov.au/>

At the time the attached instrument was made, all the documents except the “Better Access to Psychiatrists, Psychologists & General Practitioners through the Medical Benefits Schedule Initiative” were available, or could be made available, at:

Department of Veterans’ Affairs (ACT Office), Lovett Tower, 13 Keltie St, Woden ACT 2606 / GPO Box 9998 Woden ACT 2606.
Tel.no:(02) 6289 6243.

Any State or Territory Office of the Department of Veterans’ Affairs:
Tel.no: 133 254.

At the time the attached instrument was made the document “Better Access to Psychiatrists, Psychologists & General Practitioners through the Medical Benefits Schedule Initiative” was available on the Internet:

<http://www.health.gov.au/internet/mentalhealth/publishing.nsf/Content/better-access-through-mbs-1>

HUMAN RIGHTS STATEMENT

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

The attached legislative instrument does engage an applicable right or freedom. It relates to the Right to Health contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights and to the rights of people with a disability contained in the Convention on the Rights of Persons with Disabilities.

The Right to Health is the right to the enjoyment of the highest attainable standard of physical and mental health. The UN Committee on Economic Social and Cultural

Rights has stated that health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.

The Convention on the Rights of Persons with Disabilities recognises the barriers that people with a disability may face in realising their rights. The rights under all human rights treaties apply to everyone, including people with disability.

The attached legislative instrument engages with the Right to Health and/or the rights of people with a disability by:

- providing free treatment appliances to a section of the community with cognitive difficulties, particularly in relation to memory. The new items are part of DVA's response to the growing incidence of dementia within the veteran community and reflects the classification of dementia as the ninth national health priority area.
- enabling a consultation with a VVCS client to be extended where ending the consultation at the end of the standard allotted time could cause the client distress. This measure provides more flexibility for counsellors in responding to a client's emotional state.
- introducing a standardised risk-assessment and documentation process for "at risk VVCS clients" who are exhibiting signs of potential self-harm or harm to others.

Conclusion

The attached legislative instrument is considered to be compatible with the human right to health and/or the rights of people with a disability because it provides new treatment appliances to a section of the community, enhances counselling sessions for certain people with mental health issues and enables the potential for self-harm and harm to others to be identified among that group so that preventive measures can be taken.

Stuart Robert
Minister for Veterans' Affairs
Rule-Maker

Attachment A

FURTHER EXPLANATION OF INSTRUMENT

Section 1

This section sets out the name of the instrument – *Veterans’ Affairs (Treatment Principles – Updating of Rehabilitation Appliance Schedules/VVCS Outreach Program Counsellors Fees Schedule) Amendment Instrument 2015*.

Section 2

This section provides that the instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Schedule 1 – Part A (Variations to the *Treatment Principles* under the *Veterans’ Entitlements Act 1986*)

Section 1

This section replaces Schedule 1 of the *Treatment Principles* and provides that the documents listed in the schedule are incorporated into the *Treatment Principles* as those documents existed on 1 November 2015.

The RAP Schedule is at item 25 of Schedule 1 and the OPC Fee Schedule at item 27 of Schedule 1.

Schedule 2 – Part A (Variations to the *MRCA Treatment Principles* under the *Military Rehabilitation and Compensation Act 2004*)

Section 1

This section replaces Schedule 1 of the *MRCA Treatment Principles* and provides that the documents listed in the schedule are incorporated into the *MRCA Treatment Principles* as those documents existed on 1 November 2015.

The RAP Schedule is at item 24 of Schedule 1 and the OPC Fee Schedule at item 26 of Schedule 1.

Schedule 3 – Part A (Variations to the *Treatment Principles (Australian Participants in British Nuclear Tests) 2006*)

Section 1

This section substitutes the section that substitutes schedule 1 of the *Treatment Principles* under the *Veterans’ Entitlements Act 1986* (VEA Treatment Principles).

Under section 16 of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* (APBNT(T)A) the VEA Treatment Principles apply under the APBNT(T)A unless modified. The VEA Treatment Principles have been modified in their application under the APBNT(T)A by the substitution of Schedule 1 of the VEA Treatment Principles with a modified schedule. Section 1 of the attached instrument changes that modified schedule by substituting a new modified schedule.

The documents listed in the modified schedule are incorporated into the *Treatment Principles (Australian Participants in British Nuclear Tests) 2006* as those documents existed on 1 November 2015.

The RAP Schedule is at item 23 of Schedule 1.

Note that the OPC Fee Schedule is not listed because the VVCS is not available to clients covered by the APBNT(T)A.