

Prioritised Home Care Recipients Principles 2016

I, Sussan Ley, Minister for Health and Aged Care, make the following principles.

Dated 21 September 2016

Sussan Ley

Minister for Health and Aged Care

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Part 1—Preliminary

1 Name

 These are the *Prioritised Home Care Recipients Principles 2016*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | At the same time as Part 1 of Schedule 1 to the *Aged Care Legislation Amendment (Increasing Consumer Choice) Act 2016* commences. | 27 February 2017 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under the *Aged Care Act 1997*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

(a) approved provider;

(b) home care;

(c) prioritised home care recipient;

(d) residential care service;

(e) respite care.

 In this instrument:

***Act*** means the *Aged Care Act 1997*.

Part 2—Prioritised home care recipients

5 Matters to be considered in deciding to make or vary a determination

Making a determination

 (1) If:

 (a) the approval of a person as a recipient of home care is limited under section 22‑2 of the Act to one or more levels of care; and

 (b) the first day (the ***relevant limitation day***) the approval was limited under that section to a level of care that is the same as or higher than the level of care proposed to be determined under paragraph 23B‑1(1)(b) of the Act is a later day than the day the person was approved as a recipient of home care;

the relevant limitation day is specified for the purposes of subparagraph 23B‑1(4)(a)(ii) of the Act.

Varying a determination

 (2) If:

 (a) the approval of a person as a recipient of home care is limited under section 22‑2 of the Act to one or more levels of care; and

 (b) the first day (the ***relevant limitation day***) the approval was limited under that section to a level of care that is the same as or higher than the level of care as proposed to be varied under subsection 23B‑2(1) of the Act is a later day than the day the person was approved as a recipient of home care;

the relevant limitation day is specified for the purposes of subparagraph 23B‑2(4)(a)(ii) of the Act.

6 Cessation of determinations—person is not provided with home care within specified period

 (1) For the purposes of paragraph 23B‑3(c) of the Act, the period is 56 days starting on the day after the day the determination that the person is a prioritised home care recipient is made.

 (2) If the determination is varied under subsection 23B‑2(1) of the Act during the period referred to in subsection (1) of this section, subsection (1) of this section applies to the person as if the reference to the day the determination that the person is a prioritised home care recipient is made were instead a reference to the day the determination that the person is a prioritised home care recipient was most recently varied.

 (3) If the person, or another person authorised to act on the person’s behalf, notifies the Secretary during the period referred to in subsection (1) that the person wishes a longer period to apply, subsection (1) applies to the person as if the reference to 56 days were instead a reference to 84 days.

7 Cessation of determinations—person ceases to be provided with home care in specified circumstances

 (1) For the purposes of paragraph 23B‑3(d) of the Act, the circumstances are:

 (a) the person ceases to be provided with home care, in respect of which home care subsidy is payable, for a continuous period of 56 days; or

 (b) the person enters a residential care service (other than as a recipient of respite care).

 (2) If the determination that the person is a prioritised home care recipient is varied under subsection 23B‑2(1) of the Act during the period referred to in paragraph (1)(a) of this section, each day before the variation is made is to be disregarded for the purposes of applying paragraph (1)(a) of this section to the person.

 (3) If the person, or another person authorised to act on the person’s behalf, notifies the Secretary during the period referred to in paragraph (1)(a) that the person wishes a longer period to apply, paragraph (1)(a) applies to the person as if the reference to a continuous period of 56 days were instead a reference to a continuous period of 84 days.

 (4) For the purposes of paragraph (1)(a), a person is taken to be provided with home care, in respect of which home care subsidy is payable, on a day if, on the day, the provision of that home care to the person is suspended under section 46‑2 of the Act.