



Health Insurance (FTB(A) Family) Determination 2017

Health Insurance Act 1973

I, GREG HUNT, Minister for Health, make this Determination under subsection 8A(1) of the *Health Insurance Act 1973*.

Dated 15 August 2017

Greg Hunt

Minister for Health

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1 Name of Determination

This Determination is the *Health Insurance (FTB(A) Family Determination 2017*.

2 Commencement

This Determination commences on the date after it is registered on the Federal Register of Legislation.

3 Definitions

In this Determination:

Act means the *Health Insurance Act 1973*.

adjusted taxable income has the meaning given by subsection 3(1) of the Family Assistance Act.

entitled to be paid family tax benefit by instalment has the meaning given by subsection 3 (1) of the Family Assistance Administration Act.

Family Assistance Act means the *A New Tax System (Family Assistance) Act 1999*.

Family Assistance Administration Act means the *A New Tax System (Family Assistance) (Administration) Act 1999*.

family tax benefit has the meaning given by subsection 3(1) of the Family Assistance Act.

FTB(A) family means an FTB(A) family for the purposes of paragraph (c) of the definition of *FTB(A) family* in subsection 8(1A) of the Act.

income year has the meaning given by subsection 3(1) of the Family Assistance Act.

instalment amount has the meaning given by subsection 3(1) of the Family Assistance Administration Act.

maintenance income has the meaning given by subsection 3(1) of the Family Assistance Act.

registered family has the meaning given by subsection 8(1A) of the Act.

regular care child has the meaning given by subsection 3(1) of the Family Assistance Act.

Secretary has the meaning given by subsection 3(1) of the Family Assistance Administration Act.

year means a calendar year.

4 Purpose

This Determination sets out the conditions that must be satisfied for a registered family to be an FTB(A) family for the purposes of paragraph (c) of the definition of *FTB(A) family* in subsection 8(1A) of the Act.

5 Instalments of family tax benefit deferred

- (1) A registered family is an FTB(A) family in relation to a year (the *safety-net year*) if:
 - (a) a member of the family makes a claim for payment of family tax benefit by instalment under paragraph 7(1)(a) of the Family Assistance Administration Act; and
 - (b) the Secretary determines, under section 16 of the Family Assistance Administration Act, that the member is entitled to be paid family tax benefit by instalment that has a Part A rate that is greater than nil; and
 - (c) before the first time in the safety-net year that the member is to receive an instalment amount under section 23 of the Family Assistance Administration Act, the member notifies the Secretary that the member wishes to defer receiving all instalments, or the Part A rate of each instalment, of family tax benefit until after the end of the income year ending after the whole, or the Part A rate, of the first instalment amount would otherwise have been paid.
- (2) The time after which the registered family is an FTB(A) family is the first time in the safety-net year when, but for the deferral mentioned in paragraph (1)(c), the member would have received a payment of an instalment of family tax benefit under section 23 of the Family Assistance Administration Act that has a Part A rate that is greater than nil.

6 Notional overpayment due to revised income estimate

- (1) A registered family is an FTB(A) family in relation to a year (the *safety-net year*) if:
 - (a) a member of the family makes a claim for payment of family tax benefit by instalment under paragraph 7(1)(a) of the Family Assistance Administration Act; and
 - (b) the Secretary determines, under section 16 of the Family Assistance Administration Act, that the member is entitled to be paid family tax benefit by instalment that has a Part A rate that is greater than nil; and
 - (c) before the first time in the safety-net year that the member is to receive an instalment amount under section 23 of the Family Assistance Administration Act, the Secretary varies the determination mentioned in paragraph (b) under section 31E of the Family Assistance Administration Act, because there is a daily overpayment rate within the meaning of that section, so that the member's daily rate of family tax benefit is reduced to nil.
- (2) The time after which the registered family is an FTB(A) family is the first time in the safety-net year when, but for the variation mentioned in paragraph (1)(c), the member would have received a payment of an instalment of family tax benefit under section 23 of the Family Assistance Administration Act that has a Part A rate that is greater than nil.

7 Non-payment of family tax benefit payments due to non-lodgement of tax return

- (1) A registered family is an FTB(A) family in relation to a year (the *safety-net year*) if:
 - (a) a member of the family makes a claim for payment of family tax benefit by instalment under paragraph 7(1)(a) of the Family Assistance Administration Act; and
 - (b) the Secretary determines, under section 16 of the Family Assistance Administration Act, that the member is entitled to be paid family tax benefit by instalment that has a Part A rate that is greater than nil; and
 - (c) before the first time in the safety-net year that the member is to receive an instalment amount under section 23 of the Family Assistance Administration Act, the Secretary, under section 32AA or 32AD of the Family Assistance Administration Act, does not make a payment of family tax benefit to the member.
- (2) The time after which the registered family is an FTB(A) family is the first time in the safety-net year when, but for the non-payment mentioned in paragraph (1)(c), the member would have received a payment of an instalment of family tax benefit under section 23 of the Family Assistance Administration Act that has a Part A rate that is greater than nil.

8 Single payment of family tax benefit following review

- (1) A registered family is an FTB(A) family in relation to a year (the *safety-net year*) if:
 - (a) a member of the family makes a claim for payment of family tax benefit by instalment under paragraph 7(1)(a) of the Family Assistance Administration Act in respect of the last income year (the *last income year*) ending before the start of the safety-net year; and
 - (b) the member does not receive, at any time in the year ending immediately before the start of the safety-net year, a payment of family tax benefit by instalment that has a Part A rate that is greater than nil and that is in respect of the last income year; and
 - (c) the Secretary:
 - (i) makes a review decision under Part 5 of the Family Assistance Administration Act in relation to the member's entitlement to be paid family tax benefit that has a Part A rate that is greater than nil and that is in respect of the last income year; and
 - (ii) decides that the member is entitled to be paid family tax benefit by a single payment that has a Part A rate that is greater than nil and that is in respect of the last income year.
- (2) However, subsection (1) does not apply if the member does not receive a payment of family tax benefit by instalment with a Part A rate greater than nil in respect of the last income year because of section 31E, 32AA or 32AD of the Family Assistance Administration Act.
- (3) The time after which the registered family is an FTB(A) family is the date when the member receives the single payment of family tax benefit mentioned in subparagraph (1)(c)(ii) that has a Part A rate that is greater than nil and that is in respect of the last income year ending before the start of the safety-net year.

9 Family tax benefit not payable because of debt or liability

- (1) A registered family is an FTB(A) family in relation to a year (the *safety-net year*) if:
 - (a) a member of the family:
 - (i) is entitled to be paid family tax benefit that has a Part A rate that is greater than nil by instalment in the safety-net year, under section 23 of the Family Assistance Administration Act; or
 - (ii) is entitled to be paid family tax benefit that has a Part A rate that is greater than nil and that is in respect of the last income year ending before the start of the safety-net year, under section 24 of the Family Assistance Administration Act; and
 - (b) for the purpose of recovering a debt owed by the member or another person, or reducing a liability the member has for an amount of primary tax, the Secretary:
 - (i) acting under section 84, 84A, 92, 92A, 225, 226, 227 or 228 of the Family Assistance Administration Act, makes a deduction of,

or sets off against the liability or debt, the whole of the first instalment of family tax benefit that the member is entitled to be paid in the safety-net year under section 23 of that Act that has a Part A rate that is greater than nil; or

- (ii) acting under section 84A, 92A, 225, 226, 227 or 228 of the Family Assistance Administration Act, makes a deduction of, or sets off against the liability or debt, the whole amount of family tax benefit that the member is entitled to be paid under section 24 of that Act.

(2) The time after which the registered family is an FTB(A) family is:

- (a) for a registered family to which subparagraph (1)(a)(i) applies — the first time in the safety-net year when the member would have received a payment of an instalment of family tax benefit under section 23 of the Family Assistance Administration Act that has a Part A rate that is greater than nil, if the deduction or set-off mentioned in subparagraph (1)(b)(i) had not occurred; and
- (b) for a registered family to which subparagraph (1)(a)(ii) applies — the date when the member would have received the payment of family tax benefit mentioned in subparagraph (1)(b)(ii) that has a Part A rate that is greater than nil and that is in respect of the last income year ending before the start of the safety-net year, if the deduction or set-off mentioned in that subparagraph had not occurred.

10 Family tax benefit paid to payment nominee

(1) A registered family is an FTB(A) family in relation to a year (the *safety-net year*) if:

- (a) a member of the family:
 - (i) is entitled to be paid family tax benefit that has a Part A rate that is greater than nil by instalment in the safety-net year, under section 23 of the Family Assistance Administration Act; or
 - (ii) is entitled to be paid family tax benefit that has a Part A rate that is greater than nil and that is in respect of the last income year ending before the start of the safety-net year, under section 24 of the Family Assistance Administration Act; and
- (b) a person has been appointed to be the payment nominee for the member under paragraph 219TB(a) of the Family Assistance Administration Act; and
- (c) either:
 - (i) the whole of the first instalment of family tax benefit that the member is entitled to be paid in the safety-net year under section 23 of the Family Assistance Administration Act that has a Part A rate that is greater than nil is paid to the payment nominee on behalf of the member in accordance with a direction given by the Secretary under paragraph 219TB(b) of that Act; or
 - (ii) the whole amount of family tax benefit that the member is entitled to be paid under section 24 of the Family Assistance Administration Act is paid to the payment nominee on behalf of

the member in accordance with a direction given by the Secretary under paragraph 219TB(b) of that Act.

- (2) The time after which the registered family is an FTB(A) family is:
- (a) for a registered family to which subparagraph (1)(a)(i) applies — the first time in the safety-net year when the member would have received a payment of an instalment of family tax benefit under section 23 of the Family Assistance Administration Act that has a Part A rate that is greater than nil, if the payment to the payment nominee on behalf of the member mentioned in subparagraph (1)(c)(i) had not been made; and
 - (b) for a registered family to which subparagraph (1)(a)(ii) applies — the date when the member would have received the payment of family tax benefit under section 24 of the Family Assistance Administration Act that has a Part A rate that is greater than nil and that is in respect of the last income year ending before the start of the safety-net year, if the payment to the payment nominee on behalf of the member mentioned in subparagraph (1)(c)(ii) had not been made.

11 Regular care children

- (1) A registered family is an FTB(A) family for a year (the **safety-net year**) if:
- (a) a member of the family (the **individual**):
 - (i) makes a claim for payment of family tax benefit by instalment under paragraph 7(1)(a) of the Family Assistance Administration Act; or
 - (ii) requests that the individual's notional rate of family tax benefit (within the meaning of paragraph (2)(c)) be worked out for a day in the safety-net year; and
 - (b) the family and the individual satisfy the conditions mentioned in subsection (2) on the day the claim or request is made.
- (2) The conditions are:
- (a) another member of the family is a regular care child of the individual; and
 - (b) the individual would be eligible for family tax benefit for the child under the Family Assistance Act but for the operation of section 25 of that Act (the child is in the care of the individual for less than 35% of a period as determined by the Secretary under subsection 22(6A) of the Family Assistance Act); and
 - (c) the family tax benefit for which the individual would have been eligible if section 25 of the Family Assistance Act had not applied to the individual (the **notional rate of family tax benefit**), worked out under Division 1 of Part 4 of the Family Assistance Act and subsection (3), has a Part A rate that is greater than nil.
- (3) For working out the notional rate of family tax benefit:
- (a) the individual is taken to have a shared care percentage (within the meaning of section 59 of the Family Assistance Act) for the regular care child of 24%; and

- (b) references to FTB child in that Act, for working out the notional rate of family tax benefit for the individual, are taken to include references to the regular care child; and
- (c) the following provisions are disregarded for the individual:
 - (i) paragraph (ca) of step 1 of the method statement in clause 3 of Schedule 1 to the Family Assistance Act;
 - (ii) paragraph (d) of step 1 of the method statement in clause 25 of Schedule 1 to the Family Assistance Act;
 - (iii) subclause 38A(1) of Schedule 1 to the Family Assistance Act; and
- (d) if information about the amount of adjusted taxable income needed for working out the notional rate of family tax benefit for the individual is not available (for example, because the taxable income of the individual or another individual cannot be known until after the relevant income year) — subsection (4) applies to the individual; and
- (e) if information about the amount of maintenance income needed for working out the notional rate of family tax benefit for the individual is not available — the Chief Executive Centrelink may estimate the amount needed.

Note The provisions mentioned in subparagraphs (c)(i), (ii) and (iii) relate to the FTB Part A supplement.

- (4) For paragraph (3)(d):
 - (a) the individual may give an estimate of adjusted taxable income needed for working out the individual's notional rate of family tax benefit; and
 - (b) the estimate may be used to work out the notional rate of family tax benefit if the Chief Executive Centrelink considers the estimate to be reasonable.
- (5) Subsection (6) applies if the notional rate of family tax benefit for the individual has a Part A rate that is greater than nil on the day a claim or request mentioned in paragraph (1)(a) is made.
- (6) The registered family is an FTB(A) family from the time, in the safety-net year, the Chief Executive Centrelink notifies the Chief Executive Medicare, in writing, of the results of the individual's assessment.

12 Regular care children — past periods

- (1) A registered family is an FTB(A) family for a year (the *safety-net year*) if:
 - (a) a member of the family (the *individual*):
 - (i) makes a claim for payment of family tax benefit for a past period under paragraph 7(1)(b) of the Family Assistance Administration Act, and the past period falls within the last income year ending before the start of the safety-net year; or
 - (ii) requests that the individual's notional rate of family tax benefit (within the meaning of paragraph (2)(c)) be worked out for a day in the last income year ending before the start of the safety-net year; and

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- (b) the family and the individual satisfy the conditions mentioned in subsection (2) for at least one day in the last income year ending before the start of the safety-net year.
- (2) The conditions are:
- (a) another member of the family was a regular care child of the individual; and
 - (b) the individual would have been eligible for family tax benefit for the child under the Family Assistance Act but for the operation of section 25 of that Act (the child is in the care of the individual for less than 35% of a period as determined by the Secretary under subsection 22(6A) of the Family Assistance Act); and
 - (c) the family tax benefit for which the individual would have been eligible if section 25 of the Family Assistance Act had not applied to the individual (the ***notional rate of family tax benefit***), worked out under Division 1 of Part 4 of the Family Assistance Act and subsection (3), has a Part A rate that is greater than nil.
- (3) For working out the notional rate of family tax benefit:
- (a) the individual is taken to have a shared care percentage (within the meaning of section 59 of the Family Assistance Act) for the regular care child of 24%; and
 - (b) references to FTB child in that Act, for working out the notional rate of family tax benefit for the individual, are taken to include references to the regular care child; and
 - (c) the following provisions are disregarded for the individual, unless subsection (4) applies, or begins to apply, to the individual:
 - (i) paragraph (ca) of step 1 of the method statement in clause 3 of Schedule 1 to the Family Assistance Act;
 - (ii) paragraph (d) of step 1 of the method statement in clause 25 of Schedule 1 to the Family Assistance Act;
 - (iii) subclause 38A(1) of Schedule 1 to the Family Assistance Act; and
 - (d) if information about the amount of adjusted taxable income needed for working out the notional rate of family tax benefit for the individual is not available (for example, because the taxable income of the individual or another individual cannot be known until after the relevant income year) — subsection (6) applies to the individual; and
 - (e) if information about the amount of maintenance income needed for working out the notional rate of family tax benefit for the individual is not available — the Chief Executive Centrelink may estimate the amount needed.

Note The provisions mentioned in subparagraphs (c)(i), (ii) and (iii) relate to the FTB Part A supplement.

- (4) The provisions mentioned in subparagraphs (3)(c)(i), (ii) and (iii) cease to be disregarded:
 - (a) if the individual satisfies the FTB reconciliation conditions (within the meaning of section 32A of the Family Assistance Administration Act); and
 - (b) at the relevant reconciliation time (within the meaning of section 32B of that Act).
- (5) Subdivision D of Division 1 of Part 3 of the Family Assistance Administration Act has effect, for working out the notional rate of family tax benefit for an individual affected by paragraph (3)(c) and subsection (4), as if the individual had been the subject of a section 17 determination mentioned in subsection 32A(1) of that Act.
- (6) For paragraph (3)(d):
 - (a) the individual may give an estimate of adjusted taxable income needed for working out the individual's notional rate of family tax benefit; and
 - (b) the estimate may be used to work out the notional rate of family tax benefit if the Chief Executive Centrelink considers the estimate to be reasonable.
- (7) Subsection (8) applies if:
 - (a) an individual's notional rate of family tax benefit for a day in the last income year ending before the start of the safety-net year has a Part A rate that is greater than nil; and
 - (b) the Chief Executive Centrelink notifies the Chief Executive Medicare, in writing, of the results of the individual's assessment before the end of the safety-net year.
- (8) The time after which the registered family is an FTB(A) family is the later of the following times:
 - (a) the start of the safety-net year;
 - (b) when the Chief Executive Medicare is notified of the individual's assessment under paragraph (7)(b).

13 Repeal

This Determination repeals the *Health Insurance (FTB(A) Family) Determination 2004*.