



Aged Care Legislation Amendment (Comparability of Home Care Pricing Information) Principles 2019

I, Ken Wyatt AM, Minister for Senior Australians and Aged Care, make the following principles.

Dated 6 March 2019

Ken Wyatt AM
Minister for Senior Australians and Aged Care

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1 Name

This instrument is the *Aged Care Legislation Amendment (Comparability of Home Care Pricing Information) Principles 2019*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1	The day after this instrument is registered.	
3. Schedule 2	1 July 2019.	1 July 2019
4. Schedule 3	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Home care pricing—amendments commencing day after registration

Information Principles 2014

1 At the end of the instrument

Add:

Part 3—Information about an aged care service

7 Purpose of this Part

For the purposes of paragraph 86-9(1)(m) of the Act, this Part specifies information about an aged care service that the Secretary may make publicly available.

8 Information about an aged care service

The information is the following:

- (a) information given to the Secretary under Division 2A of Part 3 of the *User Rights Principles 2014* (home care pricing information);
- (b) information given to the Secretary under section 21J of the *User Rights Principles 2014* (home care exit amounts).

Quality of Care Principles 2014

2 Clause 2 of Schedule 3 (at the end of the table)

Add:

- | | | |
|---|-----------------|---|
| 3 | Care management | Includes reviewing the care recipient’s home care agreement and care plan, coordinating and scheduling care and services, ensuring care and services are aligned with other supports, liaising with the care recipient and the care recipient’s representatives, ensuring that care and services are culturally appropriate, and identifying and addressing risks to the care recipient’s safety. |
|---|-----------------|---|

User Rights Principles 2014

3 Section 4

Insert:

business costs, for an approved provider of home care:

- (a) means the costs of running a business that are not directly related to the provision of home care (for example, office rent, insurance and marketing); and
- (b) does not include the costs of the matters mentioned in paragraphs 19B(1)(b), (c) and (d) (certain travel, subcontracting arrangements and package management).

package management:

- (a) means the activities that an approved provider of home care is required to undertake, by or under the Act:
 - (i) in managing the provision of a package of care and services to a care recipient to whom the approved provider provides, or is to provide, home care; and
 - (ii) in managing the quality of the care and services included in the package; and
- (b) does not include care management as described in item 3 of the table in clause 2 of Schedule 3 to the *Quality of Care Principles 2014*.

Note: Package management includes, for example, activities required to comply with responsibilities under section 63-1 of the Act (accountability), activities required to comply with standards set out in the *Quality of Care Principles 2014*, making claims for home care subsidy under section 47-4 of the Act and the preparation of individualised budgets and monthly statements under sections 21A and 21B of these principles.

4 Paragraph 16(1)(ca)

Omit “the cost of”, substitute “prices and fees for”.

5 At the end of subsection 16(1)

Add:

- ; (e) the prices and fees that the approved provider may charge care recipients for providing care and services (see paragraph 56-2(1) of the Act).

6 Subsection 19A(1)

Omit “, for publication by the Secretary,”.

7 At the end of Division 2A of Part 3

Add:

Note: The Secretary may make the information in a notice under subsection (1) publicly available—see section 86-9 of the Act and the *Information Principles 2014*.

19B Notice of common care and services and prices and fees

- (1) An approved provider of home care must give to the Secretary a written notice of the following information:
 - (a) the price that the approved provider charges care recipients to whom the approved provider provides, or is to provide, home care, for providing each of the following kinds of care and services:
 - (i) personal care;
 - (ii) nursing by a registered nurse;
 - (iii) cleaning and household tasks;
 - (iv) light gardening;
 - (v) in-home respite care;
 - (vi) care management;
 - (b) the price per kilometre (if any) that the approved provider charges care recipients to whom the approved provider provides, or is to provide, home care, for travel to a care recipient for the purpose of providing care or services;

- (c) the price (if any) that the approved provider charges care recipients to whom the approved provider provides, or is to provide, home care, for providing care or services through a subcontracting arrangement that is necessary to give effect to a request by a care recipient;
 - (d) the price that the approved provider charges care recipients to whom the approved provider provides, or is to provide, home care, for package management;
 - (e) the amount (if any) of the basic daily care fee under section 52D-3 of the Act that the approved provider charges care recipients (other than continuing home care recipients) to whom the approved provider provides, or is to provide, home care;
 - (f) the amount (if any) of the daily amount of home care fees that the approved provider charges continuing home care recipients to whom the approved provider provides, or is to provide, home care in accordance with Division 60 of the *Aged Care (Transitional Provisions) Act 1997*; and
 - (g) contact details for further information about the approved provider's prices and fees.
- (2) The notice must be given to the Secretary:
- (a) for a person or body who is an approved provider of home care on the day before this section commences—before 1 July 2019; and
 - (b) for a person or body who becomes an approved provider of home care on or after the day this section commences but before 1 July 2019—before the later of the following:
 - (i) 1 July 2019;
 - (ii) offering to enter into a home care agreement with a care recipient; and
 - (c) for a person or body who becomes an approved provider of home care on or after 1 July 2019—before offering to enter into a home care agreement with a care recipient.
- (3) If there is a change to the information in a notice given to the Secretary under subsection (1), the approved provider must give the Secretary an updated notice.
- (4) A notice under subsection (1) or (3) must be given in a form approved, in writing, by the Secretary.

Note: The Secretary may make the information in a notice under subsection (1) or (3) publicly available—see section 86-9 of the Act and the *Information Principles 2014*.

19C Notice of all care and services and prices and fees

- (1) An approved provider of home care must give to the Secretary a written notice of the following information:
- (a) the information mentioned in subsection 19B(1);
 - (b) each kind of care, and each service:
 - (i) that the approved provider provides, or is to provide, to care recipients to whom the approved provider provides, or is to provide, home care; and
 - (ii) that is not mentioned in paragraph 19B(1)(a);
 - (c) the price that the approved provider charges care recipients to whom the approved provider provides, or is to provide, home care, for providing each kind of care and service mentioned in paragraph (b).

- (2) The notice must be given to the Secretary:
 - (a) for a person or body who is an approved provider of home care on the day before this section commences—before 1 July 2019; and
 - (b) for a person or body who becomes an approved provider of home care on or after the day this section commences but before 1 July 2019—before the later of the following:
 - (i) 1 July 2019;
 - (ii) offering to enter into a home care agreement with a care recipient; and
 - (c) for a person or body who becomes an approved provider of home care on or after 1 July 2019—before offering to enter into a home care agreement with a care recipient.
- (3) If there is a change to the information in a notice given to the Secretary under subsection (1), the approved provider must give the Secretary an updated notice.
- (4) A notice under subsection (1) or (3) must be given in a form approved, in writing, by the Secretary.

Note: The Secretary may make the information in a notice under subsection (1) or (3) publicly available—see section 86-9 of the Act and the *Information Principles 2014*.

19D Annual review of notices of care and services and prices and fees

- (1) An approved provider of home care must, at least once every 12 months:
 - (a) review the information in the notices mentioned in subsections 19B(1) and 19C(1); and
 - (b) after reviewing the information:
 - (i) if there is a change to the information—give the Secretary an updated notice under subsection 19B(3) or 19C(3) (or both); or
 - (ii) if there is no change to the information—give the Secretary a written notice that the approved provider has reviewed the information.
- (2) A notice under subparagraph (1)(b)(ii) must be given in a form approved, in writing, by the Secretary.

Note: The Secretary may make the information in a notice under subparagraph (1)(b)(ii) publicly available—see section 86-9 of the Act and the *Information Principles 2014*.

8 Subsection 21J(1)

Omit “, for publication by the Secretary,”.

9 At the end of section 21J

Add:

Note: The Secretary may make the information in a notice under subsection (1) publicly available—see section 86-9 of the Act and the *Information Principles 2014*.

Schedule 2—Home care pricing—amendments commencing 1 July 2019

Sanctions Principles 2014

1 At the end of Part 2A

Add:

6C Sanction for approved provider of home care overcharging care recipient

If an approved provider charges a care recipient to whom the approved provider provides home care an amount for care or a service that is greater than the amount that the approved provider is required to charge under section 21M of the *User Rights Principles 2014* for the care or service, the Secretary may, by notice under section 67-5 of the Act, require the provider to repay the overcharged amount to the care recipient's home care package budget within the period specified in the notice.

User Rights Principles 2014

2 Section 19A

Repeal the section.

3 After Division 3A of Part 3

Insert:

Division 3B—Responsibilities of approved providers of home care— pricing

21K Business costs not to be charged for separately

An approved provider of home care must not charge a care recipient to whom the approved provider provides home care for costs (however described) that are business costs as a separate charge.

21L Prices and business costs to be kept to reasonable amounts

- (1) An approved provider of home care must not charge a care recipient to whom the approved provider provides home care a price that is more than a reasonable amount for a matter mentioned in paragraph 19B(1)(b), (c) or (d) (certain travel, subcontracting arrangements and package management).
- (2) An approved provider of home care must not charge a care recipient to whom the approved provider provides home care more than a reasonable amount for business costs that are part of the price that the approved provider charges the care recipient for providing care or services.

21M Prices charged for common care and services, and fees, to be those in home care agreement

- (1) This section applies if a home care agreement is in force between a care recipient and an approved provider on a day.
- (2) Subject to this section:
 - (a) if the approved provider provides care or a service mentioned in paragraph 19B(1)(a) to the care recipient on the day, the price charged for the care or service must be the price mentioned for the care or service in the notice that is included in the home care agreement under paragraph 23(2)(ba) (the *applicable notice*); and
 - (b) if the approved provider charges the care recipient for a matter mentioned in paragraph 19B(1)(b), (c) or (d) in relation to care or services provided to the care recipient on the day, the price charged for the matter must be the price mentioned for the matter in the applicable notice; and
 - (c) if the approved provider charges the care recipient an amount of the basic daily care fee under section 52D-3 of the Act in relation to care or services provided to the care recipient on the day, the amount charged for the fee must be the amount of the fee mentioned in the applicable notice; and
 - (d) if the approved provider charges the care recipient an amount of the daily amount of home care fees under Division 60 of the *Aged Care (Transitional Provisions) Act 1997* in relation to care or services provided to the care recipient on the day, the amount charged for the fees must be the amount of the fees mentioned in the applicable notice.
- (3) Paragraph (2)(a) does not apply if the home care agreement specifies a different price for the care or service and the reason for the different price.
- (4) Paragraph (2)(b) does not apply if the home care agreement specifies a different price for the matter and the reason for the different price.
- (5) Paragraph (2)(c) does not apply if the home care agreement specifies a different amount of the fee and the reason for the different amount.
- (6) Paragraph (2)(d) does not apply if the home care agreement specifies a different amount of the fees and the reason for the different amount.

4 Paragraph 23(2)(c)

Repeal the paragraph, substitute:

- (ba) a copy of the current notice given to the Secretary by the approved provider under section 19B (the *current notice*);
- (bb) if the care recipient is to be charged a price for care or a service that is different from the price mentioned for the care or service in the current notice—the different price and the reason for the different price;
- (bc) if the care recipient is to be charged a price for a matter that is different from the price mentioned for the matter in the current notice—the different price and the reason for the different price;
- (c) for a care recipient other than a continuing home care recipient—a statement setting out:
 - (i) which fees (if any), referred to in Division 52D of the Act, the provider will charge the care recipient; and

- (ii) if the care recipient is to be charged an amount of the basic daily care fee under section 52D-3 of the Act that is different from the amount of the fee mentioned in the current notice—the different amount and the reason for the different amount;

5 At the end of paragraph 23(2)(ca)

Add:

- and (iii) if the care recipient is to be charged a daily amount of home care fees in accordance with Division 60 of the *Aged Care (Transitional Provisions) Act 1997* that is different from the daily amount of home care fees mentioned in the current notice—setting out the different amount and the reason for the different amount;

6 In the appropriate position in Part 5

Insert:

Division 5—Transitional provisions relating to the Aged Care Legislation Amendment (Comparability of Home Care Pricing Information) Principles 2019

34 Transitional provision in relation to home care agreements and pricing

- (1) This section applies to an approved provider of home care and a care recipient if the approved provider is providing home care to the care recipient on 30 June 2019.
- (2) Division 3B of Part 3 of these principles, as inserted by Schedule 2 to the *Aged Care Legislation Amendment (Comparability of Home Care Pricing Information) Principles 2019*, applies on and after 1 July 2020 in relation to the approved provider and the care recipient.
- (3) Section 23 of these principles, as amended by Schedule 2 to the *Aged Care Legislation Amendment (Comparability of Home Care Pricing Information) Principles 2019*, applies on and after 1 July 2020 in relation to the home care agreement entered into between the approved provider and the care recipient.

Schedule 3—Technical amendments

User Rights Principles 2014

1 Subsection 16(1)

Omit “approved provider of a home care service in relation to care recipients to whom the approved provider provides, or is to provide, home care,”, substitute “approved provider in relation to care recipients to whom the approved provider provides, or is to provide, home care through a home care service”.

2 Paragraph 16(2)(a)

Omit “a home care service”, substitute “home care”.

3 Subsection 17(1)

Omit “approved provider of a home care service must provide to a care recipient”, substitute “approved provider of home care must provide to a care recipient to whom the approved provider provides, or is to provide, home care”.

4 Section 18

Omit “a home care service”, substitute “home care”.

5 Section 18

Omit “the provider’s home care service”, substitute “each home care service through which the approved provider provides home care”.

6 Subsection 19A(1)

Omit “a home care service”, substitute “home care”.

7 Paragraphs 19A(3)(a), (b) and (c)

Omit “a home care service”, substitute “home care”.

8 Subsection 20(1)

Omit “a home care service”, substitute “home care”.

9 Subsection 21(1)

Omit “the approved provider for the new service”, substitute “the approved provider that is to provide home care to the care recipient through the new service”.

10 Subsection 21A(1)

Omit “a home care service must give a written individualised budget to each care recipient”, substitute “home care must give a written individualised budget to each care recipient to whom the approved provider provides, or is to provide, home care through a home care service”.

11 Subsection 21B(1)

Omit “a home care service”, substitute “home care”.

12 Subsection 22(2)

Omit “of a home care service must offer a home care agreement to a prospective care recipient”, substitute “must offer a home care agreement to the prospective care recipient”.

13 Subparagraph 23(2)(d)(ii)

Omit “approved provider’s”.

14 Subsections 25(1) and (4)

Omit “a home care service”, substitute “home care”.