

28/02/2025

Department of Health and Aged Care
GPO Box 9484
Canberra ACT 2601
Australia

New Aged Care Act Rules Consultation-Release 2b -Funding for other aged care programs

National Seniors Australia (NSA) welcomes the opportunity to provide feedback to *Release 2b Funding for other aged care programs* draft rules (Release 2b). NSA is the leading advocacy organisation for older Australians. Through our research and advocacy activities, NSA works to improve the well-being of all older Australians.

While we appreciate the efforts to engage stakeholders during this stage, we remain concerned about the lack of significant information, such as the explanatory material, and the staged nature of the release of the Rules. This makes it difficult to assess the impact of the regulations and may undermine implementation given the impending start date is only months away.

By rectifying inconsistencies and supplying explicit information regarding the proposed regulations, stakeholders will be more advantageous position to offer thoughtful feedback. In this context, NSA has not been able to review Release 2b in its entirety and has focused on select topics within Release 2b.

In this regard, we question why reference to funding for incontinence products has been removed from Release 2b given there is no explanation of this provided. Similarly, we query the inclusion of a "HM [Home Modification] Transitional" tier amount, which has been included without any context or explanation.

Regardless of these shortcomings, **we want to commend the Department for including strong consumer protections regarding providers' ability to offer *higher everyday living fees* for higher quality or additional services.** It is critical that consumers fully understand the difference between standard and higher quality service offerings and that protections exist to ensure older people only pay for things they need and want.

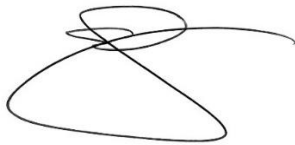
We welcome the inclusion of further information about the No Worse Off principal but raise concerns about whether the shift from an income test under the Home Care Package (HCP) program to an income

and assets test under Support at Home program makes it difficult to determine if someone is *no worse off* given their assets have not been previously assessed.

Further information to support each of these points is provided on subsequent pages.

We urge the Department of Health and Aged Care (DoHAC) to ensure key stakeholders are actively engaged moving forward. This approach will enable proper consideration of the various consumer inputs to a successful transition for residents, recipients, and providers and ensure the entire sector is fully prepared for the 1 July commencement.

Yours sincerely,



Chris Grice
Chief Executive Officer

Further information required to Enhance the Consultation Process

We acknowledge that modifications to the 2a regulations consultations in early December 2024 have occurred, yet the purpose of these changes remains uncertain. It is challenging to provide meaningful feedback on draft regulations in this context.

While we recognise the desire to consult on the draft Rules as they are made ready, such incremental consultation doesn't allow for complete consideration of interactions between different aspects of the new Rules, such as interim budgets and how people will be allocated as we raised in our 2a submission.

This is worsened by the [increasing division of the Rules consultations](#), with Release 2b split into 2c (expected to be released late February) and release 4 into 4A (early March 2025) and 4B (early April 2025).

In our earlier submission, we noted that sections of the regulations are yet to be drafted. It is disappointing that the *Simplified outline of this instrument* is missing and subject to change before 1 July 2025. These factors, again, constrain the consultation process and put implementation at risk.

Items removed from the regulation without explanation.

In our 2a submission we questioned the amount provided for continence products (\$1,000) was adequate. Subsequently, reference to funding for continence products has been removed from the 2b draft and we question why this has occurred. We also note that this change does not appear to be listed in Appendix A of the [Aged Care Rules – Consolidated Draft Rules Relating to Funding](#).

Consumer Protection - Requirements for Entering into Higher Everyday Living Agreements

S284-5, Subdivision G - Fees for higher everyday living relates to the consumer protections for a resident who is offered a *higher everyday living agreement* for services offered at either a higher standard than the Act requires the service to be delivered at or for services that are additional to those that a provider is required to supply to a resident.

The [higher everyday living fee](#) is an optional fee charged for additional goods and services not otherwise required to be provided under the Aged Care Rules (the Rules) and in line with the Aged Care Quality Standards. This enables the resident to tailor additional goods and services to suit them. Under the Higher Everyday Living Fee, consumers and providers agree on the additional goods and services to be provided, and the fees to be paid.

We commend the Department for ensuring that a resident's ability to purchase higher or additional services comes with strong consumer protections in **S284-5** of the draft regulations and support the

inclusion of these protections. This includes the initial and annual disclosure to residents and the ability for individuals to terminate these services without incurring a fee.

Where additional care and services are made available through a higher everyday living agreement with a provider, the agreed amount for a funded aged care service must be included in the agreement. The Department must also provide the living fee fact sheet to the resident and list the aged care services to be provided, including information about the bundles to be charged.

We welcome the requirements to ensure that residents are informed about their options around fees for higher everyday living services as this will be vital in ensuring that they are only charged for services that they want and are able to access. Furthermore, consumers have the right to cancel their agreement within 28 days of entering it without needing to notify the provider and the provider cannot impose a termination fee.

These are important protections that should be enforced.

Additionally, while the draft Rules provide for situations where a provider can no longer deliver a service at all or at the specified standard, we believe the regulations should also set out that a resident is not charged for a service if the service is not provided for a temporary period of time, for example, if there is an outage that means the services is not deliverable.

We are, however, concerned that residents and their families may struggle to understand which services are standard and which fall within the higher everyday living services. There is an inherent risk that individuals may be asked to pay for higher quality or additional services, when these should have been included as standard. It is important that any guidance to consumers on what is and isn't standard can be easily understood in comparison to those offered via a higher everyday living agreement.

No Worse Off principle: Home Modifications and Assistive Technology

Unlike Release 2a, Release 2b includes an amount for an "AT [Assistive Technology] Transitional" and "HM [Home Modification] Transitional" tier amounts, both at \$0. It is unclear either from the draft Rules, or the Support at Home handbook, or the Aged Care Bill 2024 – Overview of Aged Care Funding (Chapter 4) document what the purpose of these tiers are or who will be allocated to them.

The [Support at Home Program Provider Transition Guide](#) says that the Support at Home Program Manual will be available from March 2025, though this will be after the closing date for this consultation. The Guide also says that from April 2025 providers should "identify existing HCP recipients needing assistive technology and/or home modifications and inform the department to assist with transition of these clients."

We are hopeful that the Department will soon clarify what is intended for people transitioning from HCP to Support at Home in regards to AT/HM so that recipients can be informed of the pending changes involving their care received.

No Worse Off principle: Percentages for individual contribution rates

We welcome the recent publication of an estimated contribution calculator for Support at Home on the [MyAgedCare website](#). Given the substantial changes in the transition from Home Care Packages (HCP), such a tool is an important aspect of recipient education.

The complications of moving from an income test under HCP to an income and assets test under Support at Home is exacerbated by the fact that the Commonwealth Seniors Health Card (CHSC) is only subject to an income test. This makes it particularly difficult to determine if someone is *no worse off* where their assets have not been previously assessed.

We note that the new example calculations in the [Aged Care Rules – Consolidated Draft Rules Relating to Funding Public Release – Supporting Document](#) illustrating the no worse off principle only relate to those receiving either a full or part pension and then only in relation to income.

Currently, the part pension and CHSC contribution calculations are combined in a single section, 314-55. Given the complexity of the calculation already, and the importance of the rules operating such that the contributions do not exceed the stated limits of 50% or 80% (or 25% under the no worse off principle), it may be necessary to split these calculations.

According to the [Department of Social Services](#) almost 524,000 people had a CHSC as of September 2024. We are hopeful that these people impacted by the transition to Support at Home will soon be able to access resources informing them of how their assets will be assessed.

Conclusion

People receiving or soon to receive, aged care services deserve certainty regarding the level and types of care they will receive as well as the expected contribution amount towards their care cost. The 1 July start date is fast approaching, necessitating a comprehensive education and information campaign focused on these changes. This campaign will be most effective if it is anchored in clear and consistent rules.

NSA remains committed to collaborating with the Department of Health and Aged Care to ensure the program's success and welcomes continued engagement throughout this consultation process.