



Overcharged accommodation payments

Protecting residents' financial interest



Overcharged accommodation payments

The Prudential Standards contained in the *Aged Care Act 1997* (Act) and the *Fees and Payments Principles 2014* (No. 2) detail your responsibilities for the use and management of your residents' refundable accommodation deposits (RADs).

Section 52G-3 of the Act states that the Minister for Aged Care may set a maximum amount of accommodation deposit. Currently, this maximum amount is \$550,000 as a RAD (or the equivalent Daily Accommodation Payment (DAP)).

Charging over the maximum accommodation deposit

If you are seeking to charge more than \$550,000 for a room, you must apply for approval from the Independent Health and Aged Care Pricing Authority (IHACPA) in line with s52G-4 of the Act.

Approval by IHACPA and the former Aged Care Pricing Commissioner (ACPC) to charge a higher maximum accommodation amount is granted for a period of 4 years.

You must reapply if:

- ✓ you want to increase the rate during this period above the allowable annual indexation
- ✓ this period is about to expire or has expired.

You can only charge a higher rate if your approval is current.

You cannot backdate a charge. You can only charge a rate from the day it has been approved.

Governance

You must have robust policies and procedures in place to ensure you do not overcharge. You are not permitted to charge a price above \$550,000 unless you:

- ✔ have a current approval from IHACPA or the former ACPC
- ✔ document and date each room price approval
- ✔ set out the amount that applies to each room, or part room
- ✔ document the expiry date of each approval
- ✔ reapply for approval at least 60 days before expiry date if you want to keep charging the same price or a higher price
- ✔ publish the approved price on:
 - your website
 - My Aged Care, and
 - any written information for prospective residents.

If you have charged more than \$550,000 as an accommodation payment but have not met the above requirements, you have overcharged.

What to do if you have overcharged

You have an obligation under the *User Rights Principles 2014* to protect residents' interests and notify them if you become aware of an overpayment.

You must support residents to understand why they have been overcharged and repay them the difference plus any interest. You can refer to the refund amount calculations and interest calculations in this fact sheet and s75 of the *Fees and Payments Principles 2014 (No.2)*.

If you have overcharged, you must report the error immediately to the Aged Care Quality and Safety Commission: prudential@agedcarequality.gov.au. The Department of Health and Aged Care and the Aged Care Quality and Safety Commission will work with you to rectify the issue.

You must also:

- ✔ promptly advise the resident and/or their representative that you have overcharged their accommodation payment, detailing the amount you owe, including interest payable
- ✔ provide the resident with a written proposal for the refund amount, including how and when the refund will be completed
- ✔ give the resident the *Overcharged accommodation payments – your rights* fact sheet
- ✔ advise the resident that they may wish to seek advice from a senior rights service and seek legal or financial advice from Services Australia's [Financial Information Service \(FIS\)](#), and make the resident aware of and support them to access external complaints or support services such as the Commission or the Older Persons Advocacy Network (OPAN)



- ✔ refund the resident the amount you owe, including any interest
- ✔ hold and give records to keep the resident informed
- ✔ if there is a DAP component, you must immediately stop overcharging the DAP and charge the resident no more than the maximum \$550,000 RAD (or equivalent DAP) until they depart
- ✔ keep records to demonstrate your compliance, including the resident's acceptance of the refund proposal
- ✔ review and update your governance procedures to prevent overcharging from reoccurring
- ✔ remove the higher price from your provider profile on My Aged Care, and from your provider website and all promotional materials
- ✔ report the breach to the Commission through the Annual Prudential Compliance Statement.

The Commission may take enforcement action if you do not meet your obligations. This could impact your Star Rating.

Working out accommodation payment refund amounts

The refund amount payable is the difference between the price your resident paid and the maximum that can be charged without approval – a \$550,000 RAD or the equivalent DAP (s75, *Fees and Payments Principles 2014 (No.2)*).

Example 1 – Resident paid a full RAD

Your resident paid a full RAD of \$750,000, but you were not approved to charge more than \$550,000 on the date you agreed to this room price. You must refund the resident the difference between these amounts.

$$\begin{aligned}\text{Refund amount} &= \$750,000 - \$550,000 \\ &= \$200,000\end{aligned}$$

Example 2 – Resident paid a DAP

You and your resident agreed on a room price of \$600,000 on 22 February 2023. Upon entering care on 1 March 2023, your resident chose to pay this amount as a DAP.

$$\begin{aligned}\text{DAP} &= \text{RAD} \times \text{MPIR}^* / 365 \\ &= \$600,000 \times 7.06\% / 365 \\ &= \$116.05 \text{ per day}\end{aligned}$$

You were not approved to charge more than \$550,000 on 22 February 2023 when you agreed on the room price. You must refund the DAP equivalent of the difference between \$600,000 and \$550,000 for each day the resident paid the DAP of \$116.05.

$$\begin{aligned}\text{Refund amount} &= (\$600,000 - \$550,000) \times \text{MPIR}^* / 365 \\ &= \$50,000 \times 7.06\% / 365 \\ &= \$9.67 \text{ per day}\end{aligned}$$

If your resident paid the \$116.05 DAP from 1 March to 30 June 2023, the total refund amount you must pay would be:

$$\begin{aligned}\text{Refund amount} &= \$9.67 \text{ per day} \times 122 \text{ days} \\ &= \$1,179.74\end{aligned}$$

* This is the maximum permissible interest rate (MPIR) current on the resident's price agreement date. Find current and past MPIRs on the [Department of Health and Aged Care website](#).

Example 3 – Resident paid a combination of RAD and DAP

You and your resident agreed to a room price of \$800,000 on 10 January 2023. Upon entering care on 12 January 2023, your resident chose to pay this amount as a combination of \$200,000 as a RAD and \$600,000 as a DAP.

$$\begin{aligned} \text{DAP} &= \text{RAD} \times \text{MPIR}^* / 365 \\ &= \$600,000 \times 7.06\% / 365 \\ &= \$116.05 \text{ per day} \end{aligned}$$

You were not approved to charge more than \$550,000 on 10 January 2023 when you agreed on the room price. The resident paid \$200,000 as a RAD, so you can only charge them a DAP amount equivalent to the remaining \$350,000 to meet the approved accommodation price.

You must refund the DAP equivalent of the difference between \$600,000 and \$350,000 for each day the resident paid the DAP of \$116.05.

$$\begin{aligned} \text{Refund amount} &= (\$600,000 - \$350,000) \times \text{MPIR}^* / 365 \\ &= \$250,000 \times 7.06\% / 365 \\ &= \$48.36 \text{ per day} \end{aligned}$$

If your resident paid the DAP of \$116.05 from 12 January to 30 June 2023, your total refund amount would be:

$$\begin{aligned} \text{Refund amount} &= \$48.36 \text{ per day} \times 170 \text{ days} \\ &= \$8,221.20 \end{aligned}$$

For an agreed room price of \$800,000, if your resident paid a RAD over \$550,000 and a DAP equivalent to the remaining amount, you would need to refund:

- all of the DAP the resident paid, and
- any amount of RAD the resident paid over \$550,000.

* This is the maximum permissible interest rate (MPIR) current on the resident's price agreement date. Find current and past MPIRs on the [Department of Health and Aged Care website](https://agedcarequality.gov.au).

Calculation of interest payable

If you do not refund overpaid accommodation payments within 28 days of becoming aware of the overpayment, you will also need to pay interest on the refund amount.

There is a set formula to calculate the interest you owe in s75 of the *Fees and Payments Principles 2014 (No.2)*. You need to know the:

- number of days in the period (ND(PP)) beginning 28 days after you:
 - become aware of the overpaid amount, or
 - receive the resident's written request to refund the overpayment
- overpaid amount (OA) is the difference between the amount that was meant to be paid and the amount that was paid
- maximum permissible interest rate (MPIR) for the day that is 28 days after you either:
 - became aware of the overpaid amount or
 - received the resident's written request to refund the overpayment.

The [Department of Health and Aged Care website](https://agedcarequality.gov.au) lists the MPIRs, which are updated quarterly.

Leap year interest calculations:

To calculate your ND(PP) include the extra day, 29 February.

To calculate the interest payable in a leap year, continue to divide by 365.

$$\text{Interest payable} = \frac{\text{MPIR} \times \text{OA} \times \text{ND(PP)}}{365}$$



Further Information

[Prudential Standards webpage](#)

[Independent Health and Aged Care Pricing Authority \(IHACPA\)](#)

Department of Health and Aged Care –
[Managing accommodation payments and contributions for residential aged care](#)

Contact Us

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December 2023



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Write

Aged Care Quality and Safety Commission
GPO Box 9819, in your capital city