



Regulatory Bulletin

Changes to Administration and Management Charges in the Home Care Packages (HCP) Program

RB 2022-16

In this regulatory bulletin the Aged Care Quality and Safety Commission (Commission) outlines some key changes to aged care legislation from 1 January 2023, as well as existing responsibilities that approved providers of home care need to comply with, and how the Commission will regulate these responsibilities.

This bulletin refers to the *Aged Care Amendment (Implementing Care Reform) Act 2022* and the *Aged Care Legislation Amendment (Capping Home Care Charges) Principles 2022*.



Key points

- The Commission is committed to protecting older Australians receiving Home Care Packages (HCPs) including through the effective regulation of approved providers charging excessive administration and management costs.
- Approved providers must adhere to legislative requirements in how they charge as part of the delivery of HCPs, including not charging above the cap for care management and package management services, not charging exit amounts, not charging separately for third-party charges, and ensuring charges are reasonable.
- The Commission is actively monitoring how the sector is responding to their responsibilities in relation to charging and HCPs.
- The Commission expects approved providers to make changes to their pricing and actively consult with consumers on any changes made to comply with their approved provider responsibilities.
- The Commission is working with the Department of Health and Aged Care (Department) to reduce excessive administration costs for HCPs by:
 - providing explanatory resources for consumers and approved providers on the Commission and [Department](#) websites to promote understanding of provider responsibilities
 - monitoring how approved providers are charging for their services
 - communicating clearly with the sector about the Commission's expectations and how it will act if providers do not comply with their legislative requirements
 - responding to enquiries and complaints about how HCPs are administered and delivered
 - applying escalating regulatory responses where there is evidence of non-compliance.
- The Commission's response to non-compliance with the legislative requirements will be informed by the risk posed to the safety, health, well-being, and quality of life of consumers. The Commission will assess all available information to determine any potential risk of harm to consumers and take appropriate, proportionate regulatory action.
- The Government may consider the need for additional or lower caps based on the monitoring activity of the Commission and Department.



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- Approved providers of Home Care Packages
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Notes: This Regulatory Bulletin outlines changes to the aged care legislation that approved providers of home care will need to comply with from 1 January 2023.

The further resources section was updated June 2023.

To be reviewed: 31 January 2024



Changes to Administration and Management Charges in the Home Care Packages (HCP) Program

Introduction

These changes form part of the Australian Government's commitment to reducing excessive administration and management charges in the HCP Program. Reducing excessive HCP charges will mean more funds are available to meet the essential care and service needs of consumers which will enable them to remain living at home for as long as they choose.

From 1 January 2023, the following measures apply:

- caps on the prices of care management and package management services
- approved providers cannot charge for package management in a calendar month where no services (other than care management) are delivered, except for the first month of care
- approved providers cannot charge separately for third-party charges
- approved providers cannot charge exit amounts
- approved providers must ensure charges for all care and services are reasonable.

Refer to the [Commission's glossary](#) for definitions of key terms.

Requirements

The changes to the aged care legislation require approved providers to:

- undertake a review of their current pricing arrangements and adjust their pricing to ensure that they comply with the new requirements
- update prices on the My Aged Care website
- update prices advertised on the HCP providers' website, to ensure that those prices are consistent with the prices on the My Aged Care website
- communicate to all consumers that care management is a mandatory service as well as review, and update care and services plans to reflect this
- undertake adequate consultation with consumers regarding price changes and follow the correct process for amending a home care agreement, including obtaining mutual consent
- stop charging exit amounts for any consumer receiving a HCP
- stop charging a separate amount for third-party arrangements (including subcontracting)
- stop charging for package management in a calendar month where no services other than care management have been provided



- ensure that all documentation reflects any changes to pricing, including:
 - pricing schedule
 - full price list
 - home care agreements
 - care and services plans
 - individualised budgets
 - monthly statements

What has changed in the aged care legislation

From 1 January 2023, two new approved provider responsibilities have been added to section 56-2 of the [Aged Care Act 1997](#)¹: providers of HCPs (1) may charge no more than a capped limit for care management and package management services²; and (2) may not charge exit amounts³.

In addition to the changes to the *Aged Care Act*, the Government has also made changes to the⁴:

- [User Rights Principles 2014](#)
- [Quality of Care Principles 2014](#)
- [Records Principles 2014](#)
- [Subsidy Principles 2014](#)
- [Information Principles 2014](#)

It is important that approved providers consider these changes to the aged care legislation and ensure that they understand their ongoing legislative obligations. Each of the major changes is discussed in detail below.

Care management definition

The definition of care management⁵ in the Quality of Care Principles has been amended to make clear that care management is a mandatory service that must be provided to each consumer of a HCP. This applies to all consumers, including consumers who choose to self-manage their HCP.

The definition now expressly incorporates the requirements for the approved provider's own ongoing assessment and planning of care needs, goals, and preferences, as well as partnering with consumers about their care and services. While the definition has been updated, these requirements are not new; they already exist in Standard 2 of the Aged Care Quality Standards (Quality Standards).

¹ See *Aged Care Amendment (Implementing Care Reform) Act 2022*

² *Aged Care Act 1997* (Cth) s 56-2(ab)

³ *Aged Care Act 1997* (Cth) s 56-2(aa)

⁴ See *Aged Care Legislation Amendment (Capping Home care Charges) Principles 2022*

⁵ *Quality of Care Principles 2014* (Cth) sch 3



Capping prices for care management

Care management prices are capped at 20 percent of the package level.⁶

Any charge, including the advertised maximum limit, must be reasonable⁷ in the context of the services delivered.

The Department has provided guidance on the [maximum price for each package level](#) that approved providers can charge for care management.

To date, some approved providers may have chosen not to advertise or charge an amount for care management. However, now that it has been made clear that care management is a mandatory service that must be delivered by all approved providers of home care to all consumers, it is expected that care management is a service charged for and delivered every payment period.

Requirements relating to the safe and effective delivery of care management are included in the Quality Standards. In particular, approved providers should consider the requirements under:

- [Standard 1](#) – supporting consumers to make informed choices.
- [Standard 2](#) – initial and ongoing assessment and planning with consumers.
- [Standard 3](#) – delivering safe and effective personal and clinical care.
- [Standard 4](#) – providing safe and effective services and supports to support daily living and allow independence.
- [Standard 8](#) – engaging and supporting consumers in the development, delivery and evaluation of care and services.

Capping prices for package management

Package management prices are capped at 15 percent of the package level.⁸

Approved providers are no longer able to charge consumers for package management where no direct care and services are delivered in the claim month, except for the first month. Please note, this is different from when a consumer takes leave from their package. When a consumer takes leave from their package, approved providers cannot charge for any services.

The Department has provided guidance on the [maximum price for each package level](#) that approved providers can charge for package management.

⁶ *User Rights Principles 2014 (Cth) s 21KA*

⁷ *User Rights Principles 2014 (Cth) s 21L*

⁸ *User Rights Principles 2014 (Cth) s 21KA*



Stopping exit charges

Approved providers are no longer able to charge an exit amount when a consumer exits a service or transfers to a new provider, regardless of whether the consumer had previously agreed to exit charges.

Stopping separate charges for third-party services

Approved providers must not charge a separate amount for the costs of providing care or services through a subcontracting arrangement.⁹ The term “third-party service” covers all care and services, including the purchase of goods, equipment, and assistive technology, that have been provided through another organisation or person.

Approved providers are no longer able to charge a separate amount regardless of whether the choice to engage a third-party was at the request of the provider or the consumer.

Approved providers need to consider how to include any third-party costs in the permissible pricing categories: care management, package management or direct service charges.

The Department has provided further information on how to cover [third-party services costs](#) from 1 January 2023.

All charges must be reasonable

Approved providers must charge reasonable amounts for the provision of care and services, certain travel, and package management costs.¹¹ As part of the price for the provision of care and services, approved providers must only charge reasonable amounts for business costs and the costs of providing care or services through a subcontracting arrangement.

The requirement to keep costs for the **provision of care and services to reasonable amounts** is a new requirement under the User Rights Principles.

Whilst the requirement to keep costs reasonable has been expanded to include the provision of care and services, prices set by approved providers should always be set with consideration to the requirements under aged care legislation and consumer law. See in particular, section 19AA of the User Rights Principles and the Australian Competition and [Consumer Commission’s setting prices guidance](#).¹²

Where concerns are raised around the reasonableness of charges, the Commission may require providers to explain the pricing methodology and evidentiary basis used to inform the prices that are charged.

⁹ User Rights Principles 2014 (Cth) s 21K

¹⁰ User Rights Principles 2014 (Cth) s 21L

¹¹ <https://www.accc.gov.au/business/pricing/setting-prices-whats-allowed>

¹² See <https://www.health.gov.au/our-work/home-care-packages-program/about/program-assurance>



The Department has provided guidance on what are considered reasonable amounts in setting prices for HCPs. More information on pricing transparency requirements can be accessed via the Department's Program Assurance [resource webpage](#).^{13 14} Providers can also engage with the HCP [Program Assurance Community of Practice](#).¹⁵

Existing provider responsibilities on communicating changes to consumers

Approved providers must ensure that they continue to comply with their existing obligations. That means that any information given to a consumer about their HCP, including information about pricing or care and services, is current, accurate, timely and communicated in a way that is clear, easy to understand and enables them to exercise choice.

These requirements currently exist under the Quality Standards, namely, Standard 1 consumer dignity and choice, requirement (3)(e). These requirements must be complied with, regardless of whether prices are increasing or decreasing.

Additionally, Standard 1 requirement (3)(c) requires approved providers to ensure that consumers are supported to exercise choice and independence about their own care. This extends to supporting consumers to exercise choice about changing approved providers if they do not agree to any changes to your pricing or services.

If you increase a price, regardless of whether the net charge to consumers stays the same (i.e., increasing care management charges but eliminating third party charges), you must continue to meet your responsibilities under the User Rights Principles by:

- explaining what the charges are for and why prices are changing
- explaining what the new prices include, and when they will start
- ensuring that each consumer understands all charges, price increases/changes and the impact that the changes will have on the consumer's package funds and the provision of care and services
- giving reasonable notice in writing to vary the home care agreement.

You can notify the consumer, rather than seeking mutual consent, where you are just seeking to inform them of:

- decreases to prices for care and package management
- removal of separate third-party services and exit charges.

Regulating HCP approved provider responsibilities

The Commission's role as the aged care regulator is to monitor, identify and respond to areas of identified risk and non-compliance with HCP approved provider responsibilities under the aged care legislation, in line with the Commission's functions and community expectations.

¹³ <https://www.health.gov.au/our-work/home-care-packages-program/about/program-assurance>

¹⁴ <https://www.health.gov.au/resources/publications/responses-to-questions-from-the-home-care-packages-program-indirect-and-care-management-charges-webinar>

¹⁵ <https://www.hcpcommunity.com.au/login>



In regulating the sector, the action we may take if an approved provider demonstrates they are willing and able to comply and to take all reasonable steps to do so, will be different from the action taken for an approved provider that deliberately avoids compliance obligations and may be placing consumers at risk of harm.

The Commission is actively monitoring how the sector is responding to their responsibilities in relation to charging and HCPs. Where approved providers are required to make changes to their pricing, the Commission expects them to actively consult with consumers on any changes made in order to comply with their approved provider responsibilities.

While the Department will be making changes to the My Aged Care service provider portal in late February 2023, it is expected that providers will take the initiative to maintain pricing transparency by updating pricing information as required. This will be monitored.

Where approved providers are not complying with their legislative responsibilities, the Commission will take risk-based and proportionate compliance and enforcement actions (see Compliance and Enforcement below).

Enquiries and Complaint resolution

The Commission is continuously alert to consumer and representative enquiries, feedback or complaints relating to issues about charging for HCPs. This particularly includes concerns where providers:

- fail to adequately consult or engage with consumers but seek their mutual consent to any changes to pricing and charges
- charge package management or care management amounts over the caps
- charge separate amounts for third-party arrangements
- apply exit charges
- increase prices without consultation
- charge exorbitant or unreasonable amounts for package charges.

If, while resolving a complaint, a Complaints Officer finds that an approved provider is not meeting its responsibilities, the Commission will take action proportionate to the identified risks to consumers.

Early Intervention

Prior to these changes taking effect, the Commission will alert selected approved providers via a letter where we have identified that their current published pricing does not comply with the new legislation. This letter gives approved providers an early opportunity, where they are exceeding the caps for care management and/or package management, to bring their pricing into alignment with the caps.



The Commission will then monitor approved providers' responses and published pricing information to inform risk-based targeting of further regulatory actions. These could include a targeted review, or an assessment of the service's performance against the Aged Care Quality Standards (Quality Standards).

Targeted Reviews

The Commission will be undertaking targeted reviews of approved providers' compliance with their legislated responsibilities.¹⁶ The reviews will consider the published pricing information on the My Aged Care website and information from other sources. As part of this process, Regulatory Officers will be seeking to understand how providers have implemented and understood their legislative responsibilities; this may include issuing requests for information to providers.¹⁷ Where reviews identify non-compliance, the Commission will escalate its regulatory response, including compliance and enforcement actions (see Compliance and Enforcement below).

Performance Assessments and Monitoring

In addition to the targeted review activities, the Commission will assess and monitor approved providers' performance against the Quality Standards holding them to account for resolving non-compliance where they are not meeting the Quality Standards.

The Commission's Quality Assessors will be interested in approved providers demonstrating compliance with:

- **Quality Standard 1, requirements (3)(c) and (e)** - consumers are receiving current, accurate and timely information that is easy to understand so that they can exercise choice
- **Quality Standard 2** – the ongoing assessment and planning for the provision of care and services is in partnership with consumers. The care and services plan is aligned with each consumer's needs, goals, and preferences
- **Quality Standard 3, requirement (3)(a)** - consumers get safe and effective personal and/or clinical care that is tailored to their needs and optimises their health and well-being
- **Quality Standard 4, requirement (3)(a)** - consumers get safe and effective services and supports that meet their needs, goals, and preferences
- **Quality Standard 8, requirement (3)(c)(v)** - approved providers can demonstrate they have effective regulatory compliance systems and processes in place to make sure they are complying with all relevant legislation, regulatory requirements, professional standards, and guidelines

¹⁶ See in particular ss 56-2(aa) and 56-2(ab) of the *Aged Care Act*

¹⁷ See section 74GA of the *Commission Act*, the Commission can issue a notice to give information or produce documents.



Where non-compliance with the Quality Standards is identified, the Commission's response will be proportionate to the level of assessed risk and the potential consequences of that risk for consumers. The Commission may take administrative or enforceable compliance actions including issuing a direction or non-compliance notice.

Compliance and enforcement

Where the Commission identifies approved providers to be non-compliant with their legislative responsibilities, the Commission will consider the steps the provider has taken to implement the new changes in a timely way.

The Commission expects approved providers to co-operate and show a willingness to comply with these changes. Where approved providers demonstrate that they are actively working to comply with their obligations, the Commission will consider these actions as part of its proportionate response to any identified non-compliance.

Where providers have been afforded sufficient opportunity to understand and implement the new changes and have not done so, the Commission's approach to dealing with non-compliance will be to select a response in proportion to the issues identified and risks posed to consumers. For clarity, if significant or repeated non-compliance is found, the Commission will escalate its regulatory response, including compliance and enforcement actions. This can include issuing:

- **directions to a provider to take specified action to meet their responsibilities** or revise a plan for continuous improvement

- **non-compliance notice (NCN)** advising the approved provider of the non-compliance and setting out the actions required to remedy
- **infringement notice** which requires an approved provider to either pay the specified amount or seek a court order to have the notice set aside
- **requirement to agree to certain matters (notice to agree)** sets out actions a provider is required to take. In certain circumstances this may be issued prior to imposing a sanction to revoke approval to deliver aged care
- **sanctions imposed** where the Commissioner is satisfied that the approved provider has not complied or is not complying with its aged care responsibilities. Sanctions could include restricting the payment of subsidies and revoking or suspending the approval of a provider.

As a last resort, revocation actions may be taken to revoke a provider's approved provider status.

In cases where it has been determined that a provider's non-compliance poses an immediate and severe risk to consumers, the Commission's first response may be issuing a sanction.

The Commission's compliance decisions and actions will be published on the Commission's Non-compliance register and/or My Aged Care Non-Compliance Checker.

Refer to the Commission's [Compliance and Enforcement Policy](#) for further information.



Department role

The Department plays a key role in implementing these legislative changes.

In response to these legislative changes, the Department is committed to:

- actively monitoring and analysing sector pricing behaviour
- identifying any unintended consequences for consumers and the sector and advising on how to rectify these issues in future policy adjustments
- continuing to engage with providers and consumers through My Aged Care resources and contact portals
- undertaking Program Assurance activities with approved providers.

To assist approved providers with the legislative changes, the Department has published information on the changes and [how approved providers can prepare](#).

Further Resources

The Commission has a range of resource materials available to support approved providers. These resources are published on our website, and include guidance documents, fact sheets, videos, educational workshops, and regular communication through the Quality Bulletin.

In addition, the Commission has a range of education modules available within the Aged Care Learning Information Solution (ALIS).

The following resources can be found on our website:

- [What can I do if my provider changes my home services arrangement? Consumer Guidance Fact Sheet](#)

- [Provider Guidance - Home Services Pricing and Agreements](#)
- [Quality and Safety in Home Services – 5 Key Areas of Risk](#)
- [Compliance and Enforcement Policy](#)
- [Regulatory Strategy](#)
- [Guidance and resources for providers to support the Aged Care Quality Standards](#)
- [Commission Website - Home Services](#)
- [Regulatory Bulletin: RB 2019-04 responding to non-compliance with the Aged Care Quality Standards](#)
- Stay up to date with Regulatory Bulletin releases by [subscribing to the Commission's newsletter](#).

The Department has released a range of guidance material to help home care providers to understand their responsibilities under new provisions relating to administration and management charges and pricing measures.

Information on HCPs and the specific areas of change can be found on the Department website:

- [Managing HCPs](#)
- [Pricing for HCPs](#)
- [Publishing prices for HCPs](#)
- [Care management and care plans for HCPs](#)
- [Package management services for HCPs](#)
- [Third-party services for HCPs](#)
- [Exiting people from your home care service](#)
- [Capping HCP Administration and Management Charges Webinar – 1 December 2022](#)

Future resources will be made available through the [Commission](#) and [Department](#) websites.



Need to know more?

If you have any questions about the quality and safety of aged care services, contact the Commission [Customer Contact Team](#) or email info@agedcarequality.gov.au

For any questions about the updates to HCPs Program, contact the [My Aged Care Contact Centre](#).

Frequently Asked Questions

What happens if our systems are not updated by 1 January 2023?

Approved providers are required to comply with all new changes by 1 January 2023. Before taking any compliance action, the Commission will take into account the steps taken by the provider to comply, not just in respect of their system update, but also to communicate and consult with consumers around any changes that may impact the provision of care and services.

Why do I need to charge for care management services?

The actions required under the definition of care management were a mandatory requirement prior to these new changes. As this service is required to be provided, pricing transparency provisions under the User Rights Principles require you to publish your pricing to allow consumers to easily compare prices between providers.

Do I need to charge for care management services where consumers “self-manage” their packages?

Some consumers are more proactive in the management of their own HCP, such as those people who “self-manage” their HCP. Approved providers of home care must provide care management to ensure that they deliver safe and quality care and services based on the consumer’s needs, goals and preferences. Care management remains mandatory, but there can be discretion to charge less for care management for consumers choosing to receive care and services under these agreed terms.

Can I increase what I charge for care management or package management?

Yes. Any increases to prices must be reasonable and remain under the caps introduced from 1 January 2023. You must undertake adequate consultation with consumers about pricing changes and gain mutual consent. As part of this process, ensure that all documentation reflects any changes to pricing, including:

- pricing schedules
- full price list
- home care agreements
- care and services plans, including discussion that may impact accessibility to care and services following the changes
- individualised budgets
- monthly statements

The Aged Care Quality and Safety Commission acknowledges the Traditional Owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to Elders both past and present.



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