



# Consultation on Aged Care Act Rules

## Release 2b: Consolidated draft rules relating to funding

### Brotherhood of St. Laurence

28 February 2025

BSL welcomes the opportunity to submit feedback on the Aged Care Act Rules – Release 2b: consolidated draft rules relating to funding (the Rules) – as part of the Legislative Reform of Aged Care.

## The Brotherhood of St. Laurence and Aged Care

The Brotherhood of St. Laurence (BSL) is a social justice organisation working alongside people experiencing disadvantage to address the fundamental causes of poverty in Australia. We believe no one should live in poverty. Our purpose is to advance a fair Australia through our leadership on policy reform, our partnerships with communities and the quality of our services.

BSL welcomes the passage of the Aged Care Act into law, and the redressing of some of the critical issues raised by the Aged Care Royal Commission into Quality and Safety in Aged Care. We remain concerned, however, for the most vulnerable older people who may still unmet needs. This is because older people experiencing disadvantage have specific and complex needs requiring assistance to navigate services, help to connect with service providers, and hands-on support to resolve crises and other presenting issues. Further, many clients experience the overlap of multiple forms of disadvantage and the compound effects of older age. The foundation to working with these cohorts is building trusted relationships and prioritising access to much-needed services and supports.

As a service provider working primarily with older people experiencing multiple forms of disadvantage, we have the following feedback to provide on the proposed funding arrangements for aged care under the 2024 Aged Care Act.

## Hardship provisions, fee reductions and non-payment

### Assessment and calculation of fee reductions

BSL has previously advocated for the inclusion of hardship provisions to avoid unnecessary penalties for older people having difficulty paying their consumer contributions and we are pleased to see these have been included in the Rules. However, we remain concerned that the Rules, as released, do not provide clear direction on the process for the calculation of fee reductions, and provide limited transparency on how decisions will be made. This poses risk for recipients who, without this clarity, may be deterred from seeking a fee reduction resulting in ongoing hardship. In addition, in the event that a recipient applies for a fee reduction, providers will be required to bear potentially unfunded costs while awaiting a hardship application outcome.

BSL supports Services Australia continuing to conduct assessment of financial hardship applications and the financial hardship fee reduction calculations. BSL supports a clearer process and simplified tools to assist participants and providers to understand the requirements, which could include such measures as a hardship calculator included in the My Aged Care resources.

## Protections in cases of non-payment

The Rules do not provide clarity or protection to providers in cases of non-payment of fees. As a provider of services to cohorts of people experiencing multiple forms of disadvantage, we are aware of the significant risks, and impacts, of non-payment. These include compounding disadvantage for clients as well as financial sustainability risks for providers. It can also create unintended incentives for service providers to ‘cherry-pick’ clients with less complex needs as a risk mitigation strategy. With the introduction of additional co-contributions under the new Rules, there is increased financial risk to both providers and participants.

### Case study

‘Marissa’ lives in a private rental. She has impaired mobility and no social support. She receives a pension. Her unit is cluttered and squalid, and she is at risk of eviction. She needs support for personal hygiene and meals as she is poorly nourished. She also needs help with transport to attend medical appointments and do her shopping. In this instance, Marissa may be viewed as an unattractive potential client due to her low income and high support needs and may find it difficult to find a provider able to provide the support she needs.

Without clear procedures guiding non-payment and protections for providers, the Rules rely heavily on hardship provisions. However, these provisions are inadequate to cover the circumstances many clients living with disadvantage experience. Additionally, these clients may not have the capacity or resources to navigate the hardship application process without significant support. They may also be experiencing circumstances that make accessing such support more challenging, including experiencing homelessness.

In such cases, unpaid fees have historically been absorbed by providers. This is not sustainable – particularly for purpose-driven not-for-profit providers who are not protected by large margins. The Rules need to clarify how the hardship provisions will operate and that providers and people using care services will not be adversely impacted.

**Recommendation 1: Financial hardship assessment and fee reduction calculations should continue to be made by Services Australia using a transparent, simplified and consistent process and framework across care service types.**

**Recommendation 2: The Rules should provide protections for providers in case of non-payment of fees, alongside protections for clients experiencing hardship who are unable to provide payment.**

## Co-contributions for support at home and residential care

### Calculation model

The calculation models for means testing and co-contributions as written in the Rules are extremely complex. This complexity will present challenges – for some service providers as well as people accessing

care services – for understanding the potential and real obligations and costs under the co-contribution system. Greater simplicity is needed both in the calculation models and in the guidance developed for providers and the public. Guidance materials should also use diverse examples to demonstrate calculations that are relevant to a broad range of clients in different circumstances.

We welcome the inclusion of a zero co-contribution for clinical care, facilitating accessibility of these essential services. We are concerned, however, that some care types (e.g. independence and everyday living services) will attract co-contributions. These services provide essential care and additional costs may impact the ability of individuals to remain living at home, putting further pressure on the Residential Aged Care system or alternatively, participants essential needs continuing to be unmet. The requirement for a minimum co-contribution may result in individuals experiencing severe disadvantage forgoing essential personal care, particularly if they do not have suitable informal support systems.

## **Roles and responsibilities**

Greater clarity on the roles and responsibilities of providers and government agencies in fee calculation is essential. The Rules state that providers will be required to complete monthly fee calculations using a complex formula. This introduces the risk that fees may be calculated incorrectly or inconsistently across different providers and creates greater confusion and lack of transparency for people using care services.

In addition, undertaking frequent and complex payment calculations will impose additional workload and create challenges to the financial sustainability of some providers. Further, if providers are required to estimate payments and accept the risk associated with calculation error, this would act as a further challenge to financial viability and sustainability of the broader Support at Home sector.

BSL considers that the Department of Health and Aging should provide clear and simple calculation tools for both providers and people using care services to use to ensure consistent and transparent service.

**Recommendation 3: Minimum co-contribution percentages should be reduced or abolished for essential care that falls outside of the clinical care category.**

**Recommendation 4: The model for calculation of co-contributions should be made simpler, with plain-language explanatory materials using practical examples.**

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