

From: [REDACTED]
Sent: Thursday, 7 March 2024 4:18 PM
To: Aged Care Legislative Reform
Subject: The new Aged Care Act - Without Prejudice
Attachments: RE: The new Aged Care Act - Without Prejudice [SEC=OFFICIAL]

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Dear Sir/Madam

In summary, it is unclear how the new Aged Care Act will interact with the new SAHP. Many of the sections in the Act are incomplete and the details to be contained in the accompanying rules are not released yet.

Areas of particular interest and concern for Community Transport Service Providers (CTSPs) within NSW include registration, funding model and service list/category. The webinar mentioned registration will be forthcoming. Based on the webinar, subcontractors will need to be registered – this is a particular issue for Providers in NSW. Subcontractors that continue to operate under the SAHP must ensure they meet the same obligations as the registered providers. This also includes worker screening requirements which then raises the question of what requirements and who pays for the screening.

Please find following key points we noted.

Chapter 1 – Introduction – Key concepts

- The new Aged Care Services Act is not yet complete and the supporting rules are not yet available. It would be difficult to provide holistic feedback without reviewing all the information on the proposed changes.
- In addition, there will be further legislative changes that will accompany the introduction of the new Support at Home Program (SAHP) in 2025. This may have further impacts on providers.
- The go live date for the new SAHP is 1 July 2025. The Department says legislative changes may be delayed by parliament sitting dates. Future consultations with the sector may also be limited if the timeframe is too short.
- Registration timeframes and processes have not been released to sector. Providers who do not have a direct contract risk not having a funding contract. This will significantly impact NSW subcontractors that cannot be deemed into the system.
- Introduction of supporter and representative roles may extend to CHSP and may also impact the interaction between providers and customers. This adds a layer of complexity if there are there are multiple supporters or multiple representatives appointed.
- “One size fits all” Aged Care Services Act may not be “fit for purpose” for smaller components/services/programs – like CHSP. Fee for service model will not be sufficient for providers if the unit price remains at the current rate.
- Definition of aged care services. Is current CHSP an “aged care service” within the scope of the Act? It has recently been broadly captured within the scope of “aged care in the community”.

Chapter 2 – System entry: Common eligibility criteria across all programs

- Specific criteria for SAHP will mirror existing CHSP and other programmes and to be outlined in rules that are currently not available. It is unclear what the criteria is and whether the criteria will result in all customers transitioning to SAHP or will there be some customers disadvantaged and falling through the gap, similar to NDIS transition.
- Alternative entry arrangements are not included in the act. How will persons continue to receive services whilst waiting for assessment outcome or during an emergency?
- Will the priority category also be extended to CHSP?

- Are changes in eligibility criteria retroactive or forward-looking? If retroactive, might this impact on existing customers?

Chapter 3 - Registered providers, aged care workers

- Providers may be registered in one or more registration categories generally for 3 years. Once registered, a provider can deliver all the service types associated within the relevant registration category. This will be of great interest and concern to providers with direct contracts trying to expand existing services, and providers without direct contracts trying to become registered.
- If all providers can enter the market, how will the market be regulated and prevent larger organisations from creating a monopoly?
- It seems the Commissioner has discretion to reduce or extend length of registration in certain circumstances. New providers may be granted 1-year registrations instead of 3 year registrations. This will impact provider's ability to plan due to uncertainty of funding.
- Previous discussions with the Department of Health and Aged Care suggests that existing CHSP Providers with Direct Contracts (PwDC) may be "deemed" (presumably meaning automatically registered). As of 8 March 2024, over 75% of TfNSW's CTSPs are PwDC.
- Many NSW CTSPs do not have a direct contracts with the Commonwealth. Many providers have been delivering CT under sub-contract to TfNSW for 10 years (or more). If they are not "deemed" then presumably they would be categorised as "new providers" and treated just the same as organisation just now seeking to enter the market. There is a risk they may not meet the registration requirements.
- Requirements for registration are currently unknown: simple, easy, complex, difficult, etc.
- All registered providers must comply with workers screening requirements prescribed by the rules. What is required for workers screening and who bears the cost? Depending on requirements, this may further deter volunteers which are critical to the current model.
- CHSP funding, even though it is kept separate from SAHP funding, will be brought into the Act. There is a risk that the Act (a huge, one-size-fits-all piece of Aged Care legislation) and its contents might adversely affect CHSP (a small piece of the puzzle, and one that is slowly on its way out).

Chapter 4 - Fees, payments and subsidies

- Means testing, subsidies, payments and fees arrangements are not included in the bill. Will there be an upper limit on how much customer fees can be charged?
- Affordability of service delivery may become the deciding factor unless there is some supplementary funding. Trips costing more than the Unit Price may not be delivered.
- If the support funding is going to be in the form of individual support packages, then the customer's needs must be accurately assessed and properly resourced/funded. This didn't happen with the NDIS causing customers to be disadvantaged i.e. Transport is available only at full-cost recovery rates, and even then, only if there is a transport provider available and accessible.

Chapter 5 – Governance of the aged care system

- The Complaints Commissioner is a member of staff at the Commission. This includes resolving and investigating complaints made to the Commission. How will the staff member remain impartial?
- How will providers be unharmed from customers abusing the complaints system?

Chapter 6 – Regulating the aged care system

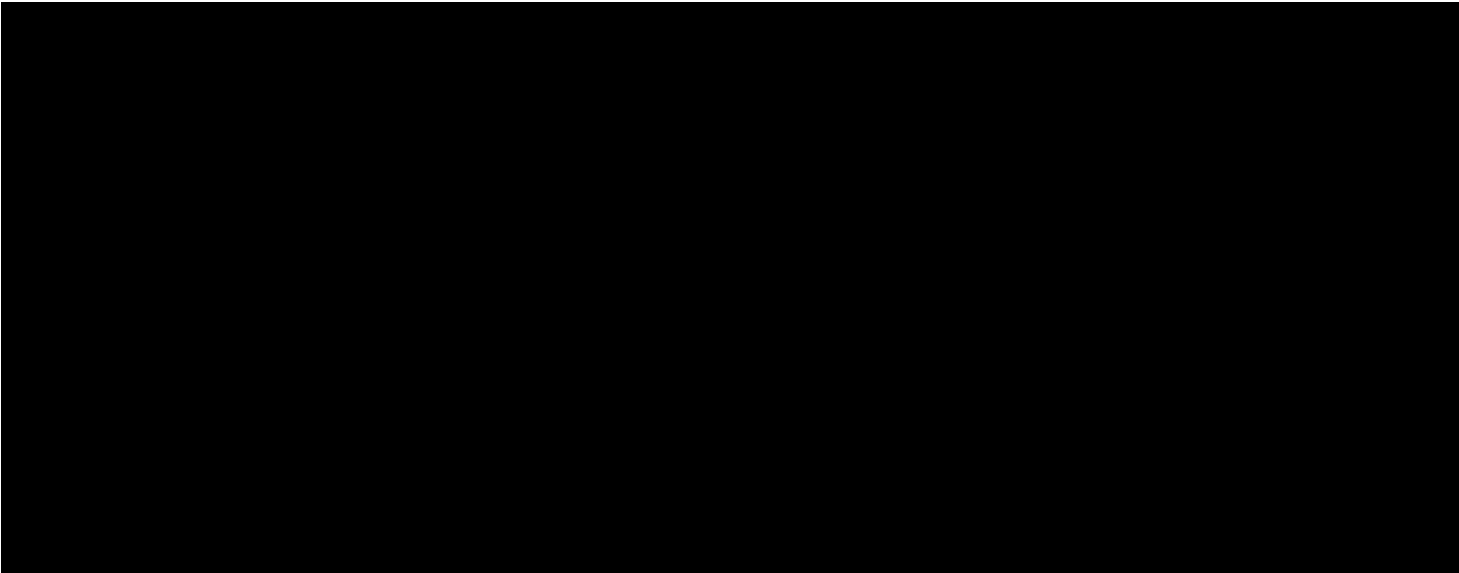
- How much of the commissioner powers to do certain things such as entering a residential care home without consent or a warrant be extended to the CHSP program?

Chapter 9 – Timeline of new Act

- Contributions framework, new aged care service list and aged care worker training requirements are yet to be released. These legislative changes and rules are likely to have a significant impact on providers.

Thank you





I recognise and acknowledge that modern New South Wales is an overlay on Aboriginal land and that many of the transport routes of today follow songlines Aboriginal people have followed for tens of thousands of years. I pay my respects to the Aboriginal people of NSW and Elders past and present.



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