Department of Health and Aged Care

28 February 2025

Uniting NSW.ACT Response to Release 2b of the Rules for the Aged Care Bill 2024

Uniting NSW.ACT contributes to the work of the Uniting Church in NSW and the ACT, through social justice, advocacy, community services and spiritual care. We provide services for people through all ages and stages of life, and drive solutions to systemic issues so people experiencing disadvantage can live their best lives.

The Bill will assist in creating a world-class, sustainable system that enables all older Australians to live safe, healthy and connected for longer. This is a unique opportunity to enact transformative change that will have a lasting impact on the lives of older Australians.

Australia's population is ageing rapidly, with the number of people aged 80 and over expected to double by 2050. Currently, nearly 50% of aged care providers in Australia are operating at a loss, placing the future of the sector in jeopardy. New avenues of revenue are urgently needed to ensure the viability and sustainability of aged care services across the country to create a sustainably funded and viable aged care system that can deliver the services that older people require

We have provided comment on specific reforms within this release, building off previous submissions, which we believe the Department should review and consider ensuring that the Bill delivers on its intended purpose for both older Australians and the sector which exists to serve them.

We look forward to working with you to build a stronger, more resilient aged care sector. If Uniting can assist you with any further information, or you would like to meet to discuss the Bill, please contact [redacted]

Yours sincerely,

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Key Recommendations Overview

Uniting welcomes the opportunity to provide recommendations on Release 2b of the Rules, which offer the most comprehensive view of the aged care funding system to date, including Residential Aged Care (RAC) and grandparenting arrangements.

This submission focuses on key provisions that promote simplicity for older people and providers while ensuring appropriate funding for services and needs. It builds on Uniting's previous submissions, including feedback on Release 2a.

In reviewing the new draft legislation, Uniting has identified five key recommendations based on the new material, summarised below and detailed further in our submission:

1. **Extend Dementia and Cognition Supplement Eligibility** – Ensure availability for both new entrants and transitioned participants.
2. **Adjust Grandparenting Date** – Replace the 12 September 2024 cutoff for contributions with 30 June 2025, ensuring all participants before the transition date are grandparented.
3. **Allow HELF Services Without Aged Care Service Linkage** – Include a provision permitting eligible HELF services to be delivered independently of a funded aged care service.
4. **Clarify HELF Contract Wording** – Replace "without giving notice" with "without a notice period" for greater clarity.
5. **Introduce a Time Limit for Grandparenting Provisions** – Establish a defined timeframe for care contributions when home care recipients transition into Residential Aged Care (RAC).

These recommendations aim to enhance clarity, fairness, and accessibility within the aged care system.

Uniting also wishes to draw attention to some issues that have been identified in previous consultations and across the sector. This includes:

- Ensuring the value of the accommodation supplement does not disincentivise providers to take on supported residents and further entrench disadvantage
- Allowing prospective residents to sign a HELF agreement prior to entry to improve simplicity of entry and allow the provider to effectively plan offerings.
- Ongoing concerns that some of the HELF changes will create a two-tier system for disadvantaged and vulnerable older Australians.

Given that these are not new, we make no in-depth analysis of them in this submission but remain concerned about their potential impact on the system.

Submission in response to Release 2b of the Aged Care Bill 2024 Rules

Continuation of Dementia and Cognition Supplement

In our previous submission for Release 2a of the Rules, Uniting advocated for the consideration of additional supplements, such as dementia, mental health, and other needs that may benefit from additional funding.

The 2b Rules indicate that the dementia and cognition supplement will be continued, but only for the transitioned HCP recipients; it will not be available for new entrants.

Uniting remains concerned that the proposed changes will negatively impact on new clients entering the system. We believe it is more reasonable to continue providing the dementia supplement in *Support at Home (SaH)* for all recipients. Maintaining this supplement is essential to ensuring the delivery of critical services, particularly the advanced care management needed for individuals living with dementia in the community and under our care. Currently, a recipient on a transitional HCP 4 with the dementia supplement receives an additional $7,000 in funding for dementia support. However, this level of funding does not align with any SaH classification. It would be expected that an intermediate level between SaH Level 7 and Level 8 would account for this funding, but its absence highlights a critical gap. As a result, new clients entering the system may be approved for a package level that does not adequately match their care needs.

Classification	Annual Funding
HCP 4	$62k
HCP 4 + Dementia Supp.	$69k
SaH 7	$58k
SaH 8	$78k

Recommendation: Expand eligibility for the Dementia and Cognition Supplement to ensure it is available to both new entrants and those transitioning from existing programs.

Adjustment of the Grandparenting Date from 12 Sept. 2024 to 1 July 2025.

The use of **12 September 2024** as the cutoff date for grandparented contribution rates creates unnecessary complexity for both older people and providers at a time when aged care transitions should be made simpler, not more complicated. Older people need reassurance during this significant period of change, and arbitrary dates only add confusion.

While Uniting acknowledges that this date was selected due to the announcement of aged care reforms, feedback from older people and workers indicates that it lacks clear meaning and is difficult to explain, making it harder for clients to understand how their contributions will be impacted.

For providers, determining a client's circumstances specifically on 12 September adds an additional layer of complexity when explaining changes and transitioning systems and processes. Unlike a clear financial year cutoff, this date does not allow for a straightforward categorisation of clients.

To enhance clarity for older people and ease the administrative burden on providers, Uniting recommends adjusting the grandparenting date to 30 June 2025, aligning it with the transition of Home Care Package (HCP) budgets. This change would provide a clear and intuitive transition point, ensuring that from 1 July 2025, both clients and providers can navigate the new system with greater certainty and ease.

Recommendation: Adjust the grandparenting date by replacing 12 September 2024 with 30 June 2025, ensuring that all participants receiving services before the transition are covered under the grandparenting provisions.

Flexible Linkage of HELF Services to Funded Aged Care Services

The new release provides details on the Higher Everyday Living Fee, and as one of the largest RAC providers in Australia, Uniting is pleased to finally receive this information. HELF services are important in raising the standard of service delivery and allowing for unique competitive offerings in the aged care market.

The new legislation requires HELF services to be directly linked to a funded aged care service to help residents compare additional or higher-quality services against minimum expectations. While this comparison is reasonable, strictly tying HELF services to funded aged care services risks limiting innovation and restricting access to services not included on the approved service list.

If older people wish to access services outside the standard list and providers are willing to deliver them, the HELF program should be the appropriate avenue to facilitate this. However, under the current drafting, this flexibility is not possible. As a result, providers may either avoid offering services beyond the funded list or resort to unregulated private arrangements, both of which undermine the principles of consumer choice and protection.

Uniting recommends removing the requirement for HELF services to be strictly linked to a funded aged care service, allowing greater flexibility while maintaining appropriate safeguards for older people.

The linkage of a HELF service to a funded aged care service should still be in place where possible, so older people can understand how HELF services compare to the minimum standard. However, the requirement should not be so strict that it excludes services that are not directly linked to a funded aged care service. Providers should have the flexibility to offer unlinked HELF services, recognising that these services may not have a direct counterpart on the approved service list.

Allowing this flexibility would enhance service innovation, maintain consumer protections across all services, and provide valuable insights to both providers and the government on emerging needs and demand within the aged care sector.

Recommendation: Ensure flexibility in HELF service delivery by not restricting services to those currently listed and allowing eligible HELF services to be provided independently of a funded aged care service. This will enable greater responsiveness to emerging needs, foster innovation, and expand consumer choice while maintaining appropriate safeguards.

Clarity on HELF Provisions of Notification and Variation Without Notice

Under the HELF variation and termination clauses, individuals can vary and terminate agreements "without giving notice" within 28 days of agreement or when providers cannot deliver the higher standard or additional service. It seems that the intended wording of this is that it is without a notice period; this current phrasing however makes it sound like individuals are not required to inform providers about their decision to vary and terminate their agreements. This would have a significantly greater impact and carry much broader implications.

Clear and precise wording in legislation is essential to avoid confusion regarding responsibilities for both providers and older people. Vague language can lead to misinterpretation and uncertainty. In this case, the phrase "without giving notice" could be misunderstood, creating ambiguity around its intent.

Clarifying that "notice" refers specifically to a notice period will ensure all parties clearly understand their obligations, reducing confusion and promoting consistency in implementation.

Recommendation: Amend the HELF contract wording by replacing "without giving notice" with "without a notice period" to ensure clarity and prevent misinterpretation.

Limited Time for Grandparenting of RAC Care Contributions from SaH

Under the "no worse off" principle, those in home care may be grandparented when they enter residential care and pay contributions according to the old arrangements (i.e. the means tested care fee), rather than move to the new non-clinical care contributions. Although Uniting agrees that the "no worse off" principle should protect existing contributions arrangements and provide assurance to consumers, this element could cause confusion and complexity to consumers and the sector in the long term.

It is important to recognise that grandparented home care clients transitioning into RAC differ from existing RAC residents. While the "no worse off" principle safeguards their understanding of RAC contributions, there are no established payment arrangements in place that require similar protection. It is understandable that initially, older people may need some time to get used to the new RAC contributions, and so entering under the old arrangements gives that time for adjustment and helps older people remain confident in their understanding of the aged care system. It also provides some extra leeway for providers to transition systems, as it reduces the volume of residents entering under the new contributions that then need to be managed.

Over time, fewer older people will remember the previous system, becoming more familiar with the new contribution arrangements. Continuing to explain and implement outdated payment structures may cause confusion for consumers while also requiring providers and the government to manage dual systems, creating unnecessary administrative burden.

Additionally, maintaining these legacy arrangements contradicts the principle that older people should not contribute toward the cost of clinical care.

Introducing a time limit for grandparenting home care clients transitioning into RAC would provide a balanced solution. It would:

- Allow sufficient time for older people to adjust to the new system without needing to navigate outdated processes.
- Reduce administrative complexity for providers and government by phasing out

dual systems.

- Improve transparency, making it easier for consumers to understand how their contributions are applied and how aged care services are funded.

Implementing a clear timeframe for phasing out grandparented arrangements will create a smoother transition while upholding the integrity of the new aged care funding model.

Recommendation: Introduce a time limit for grandparenting care contribution provisions for home care recipients transitioning into RAC to ensure a smooth transition to the new funding model and reduce administrative complexity.