

## PROPOSED REVISIONS TO HIGHER EVERYDAY LIVING FEE (HELF) PROVISIONS

**To:** Aged Care Rule Consultation Team  
**From:** St Louis Care  
**Date:** 24 February 2025  
**Re:** Proposed Revised Submission Regarding Higher Everyday Living Fee (HELF) Provisions

### Introduction

This submission outlines our concerns and recommendations regarding the Higher Everyday Living Fee (HELF) as set out in the Aged Care Act 2024 and the associated Rules Consultation Draft 2b (particularly sections 284, 284-5, 284-10, 284-15, 284-20, and 284-25). We aim to clarify how these provisions affect residential aged care providers and residents, and propose adjustments to address areas of confusion and ensure more equitable outcomes.

### Context

Under **section 284** of the Aged Care Act 2024, a registered provider may charge an additional amount (the HELF) for, or in connection with, a particular funded residential care service—provided the parties enter into a written agreement (a higher everyday living agreement) in accordance with the Rules and subject to indexation as per **section 284-15**.

### Key Observations from the Draft Rules

- 1. Pre-Admission Limitations:** Under the Aged Care Act 2024 (No. 104, 2024) – Sect 284, providers must not offer or require a HELF agreement before an individual's start day. However, prospective residents need clarity about the full range of available services—including HELF—before deciding on their care. Prohibiting formal agreements prior to admission complicates transparency and planning.
- 2. Scope of Higher Services: Section 284-5** specifies that a HELF agreement is permissible only if the service surpasses the Act's minimum requirements or represents a higher standard of a funded aged care service. More specificity is needed to guide providers on which service upgrades or enhancements qualify.
- 3. Indexation Approach: Section 284-10(3)** requires providers to index HELF amounts based on the All Groups Consumer Price Index (CPI), as further indicated in **section 284-15**. The CPI's general basket of goods and services may diverge from the actual costs of delivering premium services, potentially leading to fee misalignment.
- 4. Right to Terminate or Vary: Section 284-10(4)** allows residents up to 28 days after signing to terminate or vary the agreement without notice. Further termination rights in **sections 284-10(5)–(6)** apply if the provider cannot deliver the agreed services. While flexibility is beneficial, retrospective cancellation (after services have been consumed) poses cost-recovery and administrative difficulties.



5. **Exclusions and Bundling Concerns: Section 284-20** disallows charging a HELF for any service not explicitly in a valid agreement. Removing one item from a bundled arrangement might invalidate the entire HELF fee for remaining services, creating uncertainty for both parties.
6. **Transition from Extra Service Status: Section 295-15** requires transitioning all extra service status arrangements to HELF by 1 July 2026. Absent clear guidance, residents currently on extra service status can selectively withdraw from certain higher-level services, threatening the provider's economies of scale. There is also a risk that substitute decision-makers might end services that the resident values.

## Pros and Cons for Providers and Residents

### For Providers

#### Pros

- **Differentiation:** HELF enables providers to offer unique, enhanced services beyond standard funding.
- **Revenue Pathway:** When structured well, the fee supports a sustainable model for higher-tier amenities.

#### Cons

- **Pre-Admission Uncertainty:** Disallowing HELF agreements before the start day hinders transparent service discussions.
- **Administrative Complexity:** Multiple agreements or signature rounds post-admission can confuse residents.
- **Retrospective Cancellations:** Unfettered termination rights jeopardise cost recovery if residents have already used the services.
- **Indexation Gap:** CPI-based indexation alone may fail to reflect actual cost drivers for premium offerings.
- **Loss of Scale:** Because residents can exit the arrangement, providers risk losing the critical mass needed to fund higher-level services.

### For Residents

#### Pros

- **Choice and Flexibility:** Residents can freely opt into or out of HELF arrangements.
- **Autonomy:** The law allows individuals to negotiate higher-level services or discontinue them if unwanted.
- **Predictable Fee Increases:** Indexation rules create consistent guidelines for future HELF fee adjustments.

#### Cons

[REDACTED] finalise HELF terms before moving in may lead to dissatisfaction.

- **Potential Social Pressure:** In shared areas, if one resident opts out of HELF, embarrassment could arise when others receive more advanced services.
- **Influence of Substitute Decision-Makers:** Financial motives might lead to cancelling HELF to save on fees, to the possible detriment of the resident's quality of life.



- **Indexation Disconnect:** Relying on a broad CPI metric can inflate or depress fees in ways that fail to mirror actual usage or cost patterns.

### Recommendations and Proposed Changes

1. **Allow Limited Pre-Admission Negotiation:** Permit providers to inform prospective residents of the HELF structure and fees prior to their start day, ensuring open communication and better decision-making.
2. **Adopt a More Accurate Index:** Move beyond standard CPI or allow providers to justify increases tied to genuine input costs, such as labour, specialty goods, or healthcare services.
3. **Refine Termination Protocols:** Clarify the cost and notice implications if a resident terminates after utilising the service, mitigating the risk of uncompensated usage.
4. **Bundled Services Guidance:** Issue clear guidelines on how partial or disputed services affect the overarching HELF agreement, supporting partial modification over a complete voiding.
5. **Minimise Resident Embarrassment:** Consider a mechanism for providers to relocate residents who opt out of HELF to a different environment or allow providers offering exclusively higher-level amenities to require universal participation (subject to suitable resident safeguards).
6. **Ensure Smooth Extra Service Transition:** Grant continuity to current Extra Service residents unless they explicitly decline. This prevents inadvertent service cancellation and maintains a stable resident experience.

### Conclusion

The Higher Everyday Living Fee has the potential to foster greater innovation and comfort in residential aged care. Yet, confusion about pre-admission limits, the broad reliance on CPI, and permissive termination terms can cause pitfalls for both residents and providers.

These concerns can be resolved by refining Rules Consultation Draft 2b to promote clarity, fairness, and financial viability. With carefully considered changes, HELF can empower providers to deliver premium offerings and ensure that residents have consistent access to high-quality services.

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We trust that these proposals will aid in fine-tuning the Higher Everyday Living Fee provisions. Our overarching goal is to strike a practical balance between safeguarding residents' rights and giving providers the security needed to maintain enhanced service levels.

Signed,



**Maris Naish**

CEO

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