

In confidence

Office of the Minister for Social Development and Employment
Office of the Associate Minister of Health

Chair
Cabinet Legislation Committee

ADJUSTMENT TO THE RESIDENTIAL CARE SUBSIDY AS PART OF THE ANNUAL GENERAL ADJUSTMENT 2023

Proposal

- 1 Every year, changes are made to the Residential Care and Disability Support Services regulations to reflect changes in Consumer Price Index (CPI).
- 2 It is proposed that the Cabinet Legislation Committee authorise the submission of the following two amendment instruments (collectively 'the Amendment Regulations') to the Executive Council:
 - 2.1 The Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds and Income-from-assets Exemption) Regulations 2023 and
 - 2.2 The Residential Care and Disability Support Services Amendment Regulations (No 2) 2023.
- 3 The adjustments made under 1.1 constitute a routine process that occurs on an annual basis with any changes taking effect from 1 July 2023.
- 4 The adjustments made by 1.2 occur when the cumulative change in the Consumers Price Index triggers a \$500 increase in gifting levels.
- 5 The Amendment Regulations are required to:
 - increase the asset thresholds used to determine financial eligibility for a Residential Care Subsidy by 6.7 percent from 1 July 2023, in line with the increase in the All Groups Consumers Price Index for the year ending 31 March 2023
 - increase the yearly income-from-assets exemptions used to assess a person's contribution to their residential care by 6.7 percent from 1 July 2023, in line with the All Groups Consumers Price Index for the year ending 31 March 2023¹
 - adjust the allowable gifting amount over five years – the gifting period - from \$7,000 a year to \$7,500 a year. As a consequence of adjusting the allowable gifting amount the maximum a person can gift in recognition of care will increase from \$35,000 to \$37,500.

Background

- 6 The Residential Care Subsidy (RCS) provides financial assistance towards the cost of long-term residential care in a hospital or rest home.

¹ The unrounded CPI actually used is 6.6549912%, applied against the unrounded threshold amounts before rounding up to the next whole dollar.

- 7 A person must first undergo an asset and income test, known as the Financial Means Assessment, to determine if a person is financially eligible to receive RCS. This determines the contribution they are required to make towards the cost of their contracted care.
- 8 If their assets are above the applicable threshold, they pay the maximum contribution rate which is set equal to the contracted cost of rest home level care. If their assets are at, or below, the relevant threshold, they are financially eligible for the subsidy.
- 9 A person's income is then assessed to determine the contribution they must make towards the cost of their care. The amount of subsidy is the difference between the cost of contracted care services and the amount a person is required to contribute.
- 10 A person can gift up to a specific maximum gifting amount within the five-year period leading up to their application for the RCS without it affecting their asset assessment. The maximum gifting amount is not always increased annually, instead it is increased in \$500 increments (on 1 July) when triggered by cumulative changes in the Consumers Price Index, as is the case this year.
- 11 Currently there are around 20,000 people receiving RCS.

Residential Care Subsidy asset thresholds

- 12 Prior to 2012 asset thresholds were increased yearly at a flat rate of \$10,000. In 2012 the flat increases of \$10,000 were changed to a yearly increase of asset thresholds based on increases to the Consumers Price Index [Annex to CAB Min (12) 13/3(15) Initiative no: 7532 refers].
- 13 The asset thresholds are required by law to be adjusted annually on 1 July by the percentage increase in the Consumers Price Index for the year ending 31 March as set out in section 75(1) of the Residential Care and Disability Support Services Act 2018 (the Act).
- 14 The Amendment Regulations are required to increase the asset thresholds in line with the 6.7 percent increase in the All Groups Consumers Price Index for the year ending 31 March 2023.
- 15 We are proposing that the Amendment Regulations will make the following changes to asset thresholds:

Circumstance		Asset threshold from	
		1 July 2022	1 July 2023
Single person		\$256,554	\$273,628
Both partners in a couple are in residential care		\$256,554	\$273,628
One partner in a couple is in residential care	House and car not exempt	\$256,554	\$273,628
	House and car exempt	\$140,495	\$149,845

Income-from-assets exemptions

- 16 When a person's income is assessed, a portion of any income they receive from their assets is exempt from their income assessment. This amount is referred to as the "income-from-assets exemption".
- 17 Every year, the income-from-assets exemptions are required by law to be adjusted annually on 1 July by the percentage increase in the All Groups Consumers Price Index for the year ending 31 March as required by section 75(2) of the Act.
- 18 The Amendment Regulations are required to increase the income-from-assets exemptions in line with the 6.7 percent increase in the All Groups Consumers Price Index for the year ending 31 March 2023.
- 19 We are proposing that the Amendment Regulations make the following changes to the income-from-assets exemptions per year:

Circumstance	Income-from-assets exemption from...	
	1 July 2022	1 July 2023
Single person	\$1,114	\$1,188
Both partners in a couple are in residential care	\$2,228	\$2,376
One partner in a couple is in residential care	\$3,341	\$3,564

The allowable gifting amount

- 20 A person can currently gift up to \$7,000 a year within the five-year period leading up to their application for the RCS without it affecting their asset assessment. This is referred to as "allowable gifting". Allowable gifting includes a maximum amount of \$35,000 to be gifted, within the five-year period, to a person who has provided the applicant with a high level of care. The level of care must be determined to meet certain criteria.
- 21 In 2004, Cabinet directed that the allowable gifting amount be adjusted by \$500 increments when the cumulative change in the Consumers Price Index over several years results in an increase of \$500 or more [CAB Min (04) 30/08 refers].
- 22 Increasing the allowable gifting levels by the cumulative percentage change in the Consumers Price Index since 2022 would result in an \$831 increase, triggering the \$500 adjustment for 1 July 2023.
- 23 Accordingly, we are proposing the Amendment Regulations adjust the allowable gifting amount contained in the Residential and Disability Support Services Regulations 2018. This year the maximum amount needs to be increased from \$7,000 a year to \$7,500 a year within the five-year period before a person's application for the Residential Care Subsidy. The maximum gifting levels in recognition of care consequently need to be increased from \$35,000 to \$37,500.

Consultation

- 24 Te Whatu Ora will provide and fund the RCS. The Ministry of Social Development administers the financial means assessment. This paper was developed jointly by Te Whatu Ora and the Ministry of Social Development. The Treasury was consulted. The Department of Prime Minister and Cabinet has been informed.

Financial implications

- 25 Increasing the asset thresholds and income-from-assets exemptions will increase the cost of the RCS by around \$8 million a year out of forecast Te Whatu Ora expenditure of \$1,300 million on aged residential care. This cost will be met by Te Whatu Ora from funding for health and disability support services in 2023/24 and no annual specific changes to appropriations will be made for the increase in the thresholds.
- 26 Te Whatu Ora budgets for the yearly increases to the cost of aged residential care including the cost of the Residential Care Subsidy as a result of the Annual General Adjustment. Also, because Te Whatu Ora will pay the difference between what the resident has to pay and the contracted cost of care, the 1 April 2023 increase in New Zealand Superannuation reduces Te Whatu Ora expenditure on aged residential care by more than \$30 million. Therefore, Te Whatu Ora can accommodate the increases that this paper covers.

Timing and the 28-day rule

- 27 The Executive Council date will be on 22 May. This means the Amendment Regulations will be able to be gazetted with enough time to comply with the 28-day rule before they come into force on 1 July 2023

Compliance

- 28 The Amendment Regulations comply, where relevant, with:
- the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
 - the principles and guidelines set out in the Privacy Act 2020
 - the principles of the Treaty of Waitangi
 - relevant international standards and obligations; and
 - *Legislation Guidelines: 2021 Edition*, published by the Legislation Advisory Committee.

Regulations Review Committee

- 29 There are no grounds for the Regulations Review Committee to draw the Amendment Regulations to the attention of the House under Standing Orders 315.

Certification by Parliamentary Counsel Office

- 30 The Parliamentary Counsel Office has certified that the Amendment Regulations are in order for submission to the Executive Council.

Regulatory impact analysis

- 31 A regulatory impact analysis is not required as the Amendment Regulations are of a minor nature and do not substantially alter existing arrangements. The Amendment Regulations do not entail compliance costs for the aged residential care sector.

Publicity

- 32 The new income-from-assets exemptions will be published in the *New Zealand Gazette*. Te Whatu Ora are required to notify residents of any changes to the asset thresholds and allowable gifting amounts. The changes to the asset thresholds and income-from-assets exemptions will be set out in public brochures updated on 1 July 2023. Copies of the Amendment Regulations will be able to be accessed through the website www.legislation.govt.nz

Proactive Release

- 33 This paper will be proactively released in full (as required by CO (18) 4).

Recommendations

- 34 It is recommended that the Committee:
- 1 **note** that sections 75(1) and 75(2) of the Residential Care and Disability Support Services Act 2018 require the asset thresholds and the income-from-assets exemptions to be increased on 1 July every year in line with “upwards movement (if any) in the index number of the Consumers Price Index (All Groups) for the year ending on the previous 31 March.”
 - 2 **note** that the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds and Income-from-assets Exemption) Regulations 2023 increase:
 - 2.1 the asset thresholds used to determine financial eligibility in line with the 6.7 percent increase in the All Groups Consumers Price Index for the year ending 31 March 2023
 - 2.2 the maximum income-from-assets exemptions per year in line with the 6.7 percent increase in the All Groups Consumers Price Index for the year ending 31 March 2023
 - 3 **note** that in 2004 Cabinet agreed that the allowable gifting amounts prescribed in the Residential Care and Disability Support Services Regulations 2018 should be reviewed annually for adjustment in line with the Consumers Price Index and that such adjustments should be in \$500 increments [CAB Min (04) 30/08 refers]
 - 4 **note** that the Residential Care and Disability Support Services Amendment (No 2) Regulations 2023 will increase the allowable gifting amount by \$500, from \$7,000 to \$7,500, because the accumulated change based on movement in the All Groups Consumers Price Index from 1 April 2022 to 31 March 2023 has reached \$831
 - 5 **note** that the Residential Care and Disability Support Services Amendment (No 2) Regulations 2023 will increase the maximum gifting levels for recognition of care from \$35,000 to \$37,500 for the five years prior to a person's application for the Residential Care Subsidy, as a consequence of adjusting the allowable gifting amount

- 6 **note** that the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds, and Income-from-assets Exemption) Regulations 2023 will increase the cost of the Residential Care Subsidy by around \$8 million a year
- 7 **note** that the fiscal cost of increasing the asset thresholds and income-from-assets exemptions will be met by Te Whatu Ora from funding for health and disability support services in 2023/24 and no annual specific changes to appropriations will be made for the increase in the thresholds
- 8 **authorise** the submission to the Executive Council of the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds, and Income-from-assets Exemption) Regulations 2023 and Residential Care and Disability Support Services Amendment (No 2) Regulations 2023
- 9 **note** that the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds, and Income-from-assets Exemption) Regulations 2023 and Residential Care and Disability Support Services Amendment (No 2) Regulations 2023 will come into force on 1 July 2023.

Hon Carmel Sepuloni
Minister for Social Development and Employment

Hon Barbara Edmonds
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Authorised for lodgement