



Aged Care Amendment (Extra Service) Bill 2005

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Aged Care Amendment (Extra Service) Bill 2005

Date Introduced: 26 May 2005

House: Representatives

Portfolio: Ageing

Commencement: 1 July 2005

Purpose

This Bill proposes to amend the *Aged Care Act 1997* to remove the requirement for providers of aged care ‘extra services’ (that is, hotel-type services) to re-apply for extra service status every five years. The amendment is designed to enable expansion of the extra service segment of the aged care sector by:

- removing the ‘red tape’ associated with the extra service reapplication process, and
- providing greater certainty to extra service providers, particularly in relation to their capital-raising requirements.

The Bill gives legislative effect to a measure announced in the 2005-06 Budget.

Background

Residential care in Australia

Residential care services can be broadly defined as ‘accommodation and support for people who can no longer live at home’.¹

Residential aged care is the second most commonly used aged care service after home and community-based services (provided under the Home and Community Care program).² According to the Australian Institute of Health and Welfare, in 2002, 52 out of every 1000 people aged 65 and over (or 5 per cent of this age group) were permanent aged care residents.³

There are two main levels of residential care provided in Australia: low level (hostel) services and high level (nursing home) services. Providers of high level care are expected to provide ongoing 24 hour nursing care, as well as meals, laundry, cleaning and personal care. Residents in low level care services are essentially independent, though are able to access help with meals and laundry, and personal care like dressing and bathing.⁴

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Over time, the care needs of permanent residents have gradually shifted towards higher levels of care.⁵

Extra service status

The *Aged Care Act 1997* (the Act) allows the Department of Health and Ageing to approve 'extra service' status for a residential aged care home, or a distinct part of a home.

Under extra service care, for an additional fee, residents are provided with what can be described as 'hotel type' services—that is, a significantly higher standard of accommodation, food and services than is provided in non-extra service facilities. According to the Department of Health and Ageing, 'extra service homes enable residents in aged care services to enjoy a superior level of comfort and choice', through:

- a physical environment that offers high quality personal accommodation and furnishings, and enhanced choices of recreational and communal spaces,
- food and meal services that offer a wide range of choice and enhanced enjoyment of the dining experience,
- variety and choice in lifestyle, recreational and personal services that are responsive to the changing interests and needs of residents,
- a culture of service.⁶

The Minister for Ageing, Julie Bishop, further explains that these additional services may include 'an a-la-carte menu at every meal, cable or satellite television connection in recreational areas or residents' rooms, hair dressing salons and beauty treatments'.⁷

In order for a home to be approved for extra service status by the Department of Health and Ageing, a provider must meet a set of benchmarks which set out the 'significantly higher' standards of accommodation, food and services expected of eligible extra service providers. Details of these benchmarks can be accessed from the Department of Health and Ageing [website](#). Under existing arrangements, these benchmarks apply both to new applications and applications for the renewal of extra service status.

According to the Department of Health and Ageing, residents who pay for extra service do not receive a higher level of *care* than other aged care residents, since under the Act 'providers are required to meet designated care standards for all residents'.⁸ Rather, they are provided with an extra level of *service* of the kind described above. Further, according to the Minister, the ability of those who cannot afford extra services or choose not to purchase them to access aged care places will not be affected by this Bill.⁹ This is because the government intends to retain the current arrangements under which no more than 15 per cent of total aged care places in each state or territory may be extra service status.

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Funding of aged care services

Residential aged care is funded mainly through a combination of federal government subsidies and user charges.

The amount a resident has to pay will differ depending upon two key factors:

- whether they are in low level or high level care, and
- the income and assets of the resident.

There are also several different types of fees charged to users.

Daily care fees are charged as a contribution to the daily living costs of a resident. These include a basic daily care fee for all residents plus an additional income-tested amount for residents who have private income over a certain amount. Residents of aged care facilities may also be charged an accommodation payment (either an accommodation bond or an accommodation charge depending upon whether they are high care or low care residents) depending on the extent of their assets.

Service providers are required to keep a number of places for people who cannot afford to pay an accommodation payment.¹⁰

As noted above, residents are required to pay an additional fee if they wish to have access to extra services. They may also be required to pay a bond for either high care or low care accommodation, depending on the extent of their assets.

Federal government funding for residential aged care is mainly in the form of care subsidies and supplements. The Residential Care Subsidy (RCS) is paid directly to aged care providers and varies according to the care needs of the resident.

Extra service market

Currently, extra service places account for only about four per cent of all residential aged care places.¹¹ However, in recent years there has been an increasing move towards the extra service sector among private operators seeking a greater return on investment. For example, according to one recent report, around 20 per cent of aged care beds provided by emerging corporate aged care providers such as DCA and Regis are classed as extra service.¹² Further, the managing director of private healthcare provider Ramsay Health has stated that his company's interest in the aged care sector is limited to the more profitable extra services market:

If you're in the part of the market where you rely on government funds, it is a very small margin business. That is not where we want to go. The area we want is where the user pays.¹³

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As such, the extra services area is likely to feature prominently in what some observers suggest is the inevitable move towards increased corporate involvement in the aged care sector in coming years.¹⁴

Basis of policy commitment

The Minister for Ageing, Julie Bishop, has argued that this Bill will remove ‘a significant impediment to expansion of the Extra Service program in aged care by removing some of the red tape involved’.¹⁵ According to the Minister:

Aged care providers have long felt that the high level of Government regulation of the Extra Service Program has stymied its expansion. In particular, they have singled out the requirement that they have to reapply for Extra Service status every five years— notwithstanding that during those five years they may have had no complaints and no problems with compliance. The process of reapplying for Extra Service status is not only time-consuming and expensive, because it involves looking at each and every “extra” service which is offered by the particular home, but prevents long term planning in relation to the capital needs of the home and may act as a deterrent to financiers and other investors.¹⁶

The government therefore views the measure as a way of facilitating the expansion of the extra service sector by removing barriers to future investment by current and potential providers of extra service care.

The government has further argued that the expansion of the extra service sector will be beneficial for two reasons.

First, the government suggests that the measure is part of its ‘strong commitment to ensuring a robust and viable aged care sector for the future’.¹⁷ As such, the government makes a specific link between the continuing need for capital funding within the residential aged care sector and what it argues is the potential for capital-raising as a result of this Bill:

Considerable investment in infrastructure is needed over the next decade to ensure the supply and quality of aged care homes grows in line with the increase in the number of older Australians who need care. The Australian Government recognises that over the next decade there will be a continuing need for capital funding so that existing homes can be well maintained, new homes built and existing facilities refurbished ... Aged care providers have argued that a lack of access to capital has been an impediment to the expansion of the Extra Service program. As well as building new homes, capital can be used to upgrade existing aged care homes to better provide quality buildings, furniture, fittings and equipment that enhance the comfort and amenity of residents ...¹⁸

Second, the government argues that the measure will ‘increase the opportunity for consumer choice in residential aged care’.¹⁹

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Position of significant interest groups and non-Government parties

The Bill has not attracted a significant degree of commentary from interest groups in the aged care sector. It appears that the only interest group to declare a position on the Bill is the body representing aged care providers, the Aged Care Association Australia (ACAA). The ACAA has been calling for the removal of the requirement to re-apply for extra service status for some time and so was supportive of the measure when it was announced in the budget.²⁰ However, it is noteworthy that both the ACAA and Catholic Health Australia (CHA) (representing a large number of providers of aged care services) were both critical of what they regard as the ‘missed opportunity’ of this budget in delivering more fundamental structural reforms and directly investing in capital.²¹

The Labor Party has indicated that it regards the Bill as non-controversial, particularly as they believe that it will ‘not affect disadvantaged older Australians, because the current maximum of 15 per cent of extra service places in each state and territory will remain’.²²

The Australian Democrats, the Australian Greens, and independent Members and Senators do not appear to have announced positions on the measure proposed by the Bill.

Main Provisions

Schedule 1—Extra Service

Item 4 proposes to repeal the section providing for extra service status to expire on the expiry date (section 33-2). This means that, following initial approval of a provider, extra service will continue unless it lapses under section 33-3, is revoked or suspended under section 33-4 or Part 4.4, or if an event specified in the extra service principles occurs.

Items 2, 3 and 5 propose to repeal parts of the Act providing for the continuation of extra service status in limited circumstances after it has expired (section 31-2), the reference to extra service expiring under section 33-2 (paragraph 33-1(a)) and the renewal of extra service status (Division 34), respectively. Each of these is to be made redundant by **Item 4**.

Items 1, 6, and 7 propose consequential amendments to remove references to Division 34 (made redundant by **Item 5**).

Item 8 proposes to replace paragraph 63-1(1)(i) with a paragraph that does not refer to the renewal of extra service status.

Item 9 proposes a consequential amendment that repeals an item related to the review of a decision to extend extra service status under subsection 31-2(1) (Item 32 of the table in Section 85-1). Section 31-2 is to be repealed under **Item 2**.

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Item 10 removes the references to the expiry date in the Dictionary in Schedule 1 of the Act (made redundant by **Item 4**).

Item 11 proposes to protect the rights of certain aged care residents through transitional arrangements to ensure that if extra service had been continued under section 31-2, it will not cease due to the repeal of section 31-2 under **Item 2**.

Concluding Comments

As discussed above, this Bill can be considered relatively non-controversial in the sense that it has attracted support from the peak aged care provider body, the ACAA, and does not appear to have attracted criticism from other stakeholder groups or non-government parties. The only notable criticism has come from the ACAA and CHA, which have argued that the government has not taken its reforms of the aged care sector far enough.

Endnotes

- 1 Australian Institute of Health and Welfare (AIHW), *Australia's Welfare 2003*, AIHW, Canberra, p. 307.
- 2 *ibid.*, p. 325.
- 3 *ibid.*
- 4 Department of Health and Ageing website:
<http://www.health.gov.au/internet/wcms/publishing.nsf/Content/ageing-help-glossar2.htm#h>,
accessed 1 June 2005.
- 5 AIHW, *op. cit.*, p. 325.
- 6 Department of Health and Ageing website;
<http://www.health.gov.au/internet/wcms/publishing.nsf/Content/ageing-rescare-ess-index.htm>,
accessed 1 June 2005.
- 7 The Hon. Julie Bishop, *Ageing Fact Sheet 4—Enhancing quality care for older Australians*, Ageing Budget 2005-06, Department of Health and Ageing, 2005.
- 8 Department of Health and Ageing website;
<http://www.health.gov.au/internet/wcms/publishing.nsf/Content/ageing-rescare-ess-index.htm>,
accessed 1 June 2005.
- 9 Hon. Julie Bishop, 'Aged Care Amendment (Extra Service) Bill 2005': *Second Reading Speech*, House of Representatives, Debates, 26 May 2005.

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- 10 Department of Health and Ageing website;
<http://www.health.gov.au/internet/wcms/publishing.nsf/Content/ageing-rescare-costs.htm>,
accessed 1 June 2005.
- 11 The Hon. Julie Bishop, *op. cit.*
- 12 Beth Quinlivan, 'Grey expectations', *Business Review Weekly*, 1 April, 2005, p. 45–6.
- 13 *ibid.*, p. 46.
- 14 See for example, David Vaux of DCA Group, cited in *ibid.*, p. 47.
- 15 The Hon. Julie Bishop, 'Aged Care Amendment (Extra Service) Bill 2005': *Second Reading Speech*, *op. cit.*
- 16 *ibid.*
- 17 *ibid.*
- 18 *ibid.*
- 19 *ibid.*
- 20 Aged Care Association Australia, 'Aged care budget—opportunity lost', *media release*, 10 May 2005.
- 21 Catholic Health Australia, 'Missed opportunities for aged care', *media release*, 10 May 2005.
- 22 Julia Gillard, 'Aged Care Amendment (Extra Service) Bill 2005': *Second Reading Speech*, House of Representatives, Debates, 2 June 2005.

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