

Chair
Cabinet Legislation Committee

ADJUSTMENT TO THE RESIDENTIAL CARE SUBSIDY SETTINGS AND STUDENT ALLOWANCES REGULATIONS AS PART OF THE ANNUAL GENERAL ADJUSTMENT 2019

Proposal

- 1 It is proposed that the Cabinet Legislation Committee authorise the submission of the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds, and Income-from-Assets Exemption, in Parts 1 and 3 of Schedule 2 of Act) Regulations 2019 (the Residential Care Amendment Regulations) and the Student Allowances Amendment Regulations (No 2) 1998 to the Executive Council.
- 2 The adjustments made by the Residential Care Amendment Regulations constitute a routine process that occurs on an annual basis with any changes taking effect from 1 July.
- 3 The Residential Care Amendment Regulations are required to:
 - increase the asset thresholds used to determine financial eligibility for a Residential Care Subsidy by 1.48 percent from 1 July 2019, in line with the increase in the All Groups Consumers Price Index for the year ending 31 March 2019
 - increase the yearly income-from-assets exemptions used to assess a person's contribution to their residential care by 1.29 percent from 1 July 2019, in line with the All Groups (excluding cigarettes and other tobacco products) Consumers Price Index for the year ending 31 March 2019.
- 4 There is also a remedial matter to be addressed in this process which is to make a technical amendment to regulation 5(1) of the Student Allowances Regulations 1998. This amendment was omitted in error from the 1 April 2019 Annual General Adjustment and will be corrected by amending regulation 5(1) as a part of the 1 July 2019 Annual General Adjustment.
- 5 Regulation 5(1) relates to the reassessment of parental income for student allowance. The dollar figure stated in regulation 5(1) will be removed and replaced with a reference to clause 3(3) of Schedule 2 of the Student Allowances Regulations 1998. This will mean that the income threshold will exist in only one place within the Student Allowances Regulations 1998 and will, therefore, only need to be adjusted in one place.

Background

- 6 The Residential Care Subsidy provides financial assistance towards the cost of long-term residential care in a hospital or rest home.
- 7 To be eligible, a person must first undergo a financial means assessment of their assets. If their assets are above the relevant threshold they pay the maximum contribution 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.
- 8 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.

Residential Care Subsidy asset thresholds

- 9 In 2012, the asset threshold increase was changed from a flat rate increase of \$10,000 each year, to one that uses the Consumers Price Index [Annex to CAB Min (12) 13/3(15) Initiative no: 7532 refers].
- 10 The asset threshold is now 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). This Act replaced the sections of the Social Security Act 1964 relating to long-term residential care.
- 11 The Residential Care Amendment Regulations are required to increase the asset thresholds in line with the 1.48 percent change in the All Groups Consumers Price Index for the year ending 31 March 2019.
- 12 The Residential Care Amendment Regulations will make the following changes to the asset thresholds:

Circumstance		Asset threshold from 1 July 2018	Asset threshold from 1 July 2019
Single person		\$227,125	\$230,495
When both partners in a married, civil union or de facto couple are in residential care		\$227,125	\$230,495
When one partner in a couple is in residential care	House and car not exempt	\$227,125	\$230,495
	House and car exempt	\$124,379	\$126,224

- 13 The adjustments in paragraph 12 are, in accordance with section 75(4)(b) of the Act, based on the previously unrounded amounts of the adjustments made in July 2018 and are rounded up to whole dollar amounts as required by section 75(4)(a) of the Act.

Income-from-assets exemptions

- 14 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".
- 15 Every year, the income-from-assets exemptions 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 required by section 75(2) of the Act. As set out in section 75(3)(b) of the Act, the Consumers Price Index adjustments for the income-from-assets exemptions exclude increases in the tobacco excise until 2021.
- 16 The Residential Care Amendment Regulations are required to increase the income-from-assets exemptions in line with the 1.29 percent change in the All Groups Consumers Price Index (excluding cigarettes and other tobacco products) for the year ending 31 March 2019.
- 17 The Residential Care Amendment Regulations make the following changes to the income-from-assets exemptions per year:

Circumstance	Income-from-assets exemption from 1 July 2018	Income-from-assets exemption from 1 July 2019
Single person	\$992	\$1,005
When both partners in a married, civil union or de facto couple are in residential care	\$1,983	\$2,009
When one partner in a couple is in residential care	\$2,975	\$3,013

- 18 The adjustments in paragraph 17 are, in accordance with section 75(4)(b) of the Act, based on the previously unrounded amounts of the adjustments made in July 2018 and are rounded up to whole dollar amounts as required by section 75(4)(a).

The allowable gifting amount

- 19 A person can gift up to \$6,500 a year within the five year period prior to their application for the Residential Care Subsidy, without it affecting their asset assessment. This is referred to as "allowable gifting" and includes a maximum of \$32,500 to a person who has provided them with a high level of care that meets certain criteria.
- 20 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].
- 21 The allowable gifting levels were last changed in 2018. Since 2018, the cumulative change in the Consumers Price Index would result in an increase of \$96.71. This means that no adjustment is recommended to the allowable gifting amount from 1 July 2019.

Student Allowance reassessment of parental Income

- 22 On 1 April 2019, the Student Allowance parental income threshold increased by inflation for the first time in five years. We have identified a technical error in the Student

Allowances Regulations 1998 following the amendments that were made to reflect the threshold increase.

- 23 The error was partly due to the threshold having been frozen for the past 5 years. This freeze was first decided in Budget 2012, and implemented from 1 April 2012 [ref CBC Min (12) 1 /2]. It was then confirmed as part of the 2012 Budget process that this freeze would apply until 31 March 2016 [ref CAB Min (12) 13/6]. In 2015 the freeze was extended until 31 March 2019 [ref CAB Min (15)12/2(30)].
- 24 Regulation 5(1) of the Student Allowances Regulations 1998 allows the Chief Executive to reassess the annual parental income of students if it exceeds the amount specified and if that income decreases by not less than 25 percent in any year of study. Clause 3(3) in Schedule 2 of the regulations sets the maximum weekly parental income of a student's parent(s) above which the amount of student allowance payable is abated (the abatement threshold).
- 25 Regulation 5(1) is only relevant to a student who is currently receiving a student allowance. That student has already been assessed based on parental income under regulation 4 and has been found to be eligible. Studylink holds a record of the parental income at the time of assessment.
- 26 The error of not adjusting regulation 5(1) has had no practical effect, because reassessment is done by Studylink only when notified that the parental income amount has decreased by not less than 25 percent in any year. This is based on the figure for parental income already held by Studylink, and the assessment is based on the figure in clause 3(3) of Schedule 2 of the Student Allowances Regulations 1998.
- 27 The annual parental income figure in regulation 5(1) should have been adjusted from \$55,027.96 to \$55,958.24 as part of the 1 April 2019 Annual General Adjustment. However, this was omitted in error.
- 28 The correct adjustment was made to the weekly parental income threshold in clause 3(3) of Schedule 2 which increased from \$1,058.23 to \$1,076.12. The annual income figure in regulation 5(1) should be 52 times the weekly income figure in clause 3(3).
- 29 Since the figure stated in regulation 5(1) is directly linked to the figure in clause 3(3), the Student Allowances Amendment Regulations (No 2) 2019 amend regulation 5(1) to remove the annual income dollar amount stated there and replace it with a reference to the weekly income amount stated in clause 3(3) of Schedule 2. This will mean that the income threshold will exist in only one place within the Student Allowances Regulations 1998 and will, therefore, need to be adjusted in only one place.

Consultation

- 30 District Health Boards provide and fund the Residential Care Subsidy and the Ministry of Social Development administers the financial means assessment. This paper was developed jointly by the Ministries of Health and Social Development. The Ministry of Education, the Treasury and the Office for Seniors have been consulted and support the paper. The Department of Prime Minister and Cabinet has been informed.

Financial implications

- 31 Increasing the asset thresholds and income-from-assets exemptions will increase the cost of the Residential Care Subsidy by around \$2.87 million a year out of DHB forecast expenditure of \$1,200 million on aged residential care. This cost will be met by District Health Boards from funding for health and disability support services in Budget 2019 and no annual specific changes to appropriations will be made for the increase in the thresholds.
- 32 There are no financial implications associated with amending regulation 5(1) of the Student Allowances Regulations 1998.

Timing and the 28-day rule

- 33 The Residential Care Amendment Regulations and the Student Allowances Amendment Regulations (No 2) 2019 will come into force on 1 July 2019, in compliance with the 28-day rule.

Compliance

- 34 The Residential Care Amendment Regulations and the Student Allowances Amendment Regulations (No 2) 2019 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 1993
 - the principles of the Treaty of Waitangi
 - relevant international standards and obligations; and
 - *LAC Guidelines: Guidelines on Process and Content of Legislation*, a publication by the Legislation Advisory Committee.

Regulations Review Committee

- 35 There are no grounds for the Regulations Review Committee to draw the Residential Care Amendment Regulations or the Student Allowances Amendment Regulations (No 2) 2019 to the attention of the House under Standing Orders 315.

Certification by Parliamentary Counsel Office

- 36 The Parliamentary Counsel Office has certified that the Residential Care Amendment Regulations and the Student Allowances Amendment Regulations (No 2) 2019 are in order for submission to the Executive Council.

Regulatory impact analysis

- 37 A regulatory impact analysis is not required as the Residential Care Amendment Regulations and the Student Allowances Amendment Regulations (No 2) 2019 are of a minor nature and do not substantially alter existing arrangements. The Residential Care Amendment Regulations do not entail compliance costs for the aged residential care sector.

Publicity

- 38 The new income-from-assets exemptions will be published in the *New Zealand Gazette*. The District Health Boards 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 2019. Copies of the Residential Care Amendment Regulations and the Student Allowances Amendment Regulations (No 2) 2019 can be accessed through the website www.legislation.govt.nz.

Proactive Release

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

Recommendations

- 40 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) published by Statistics New Zealand for the year ending on the previous 31 March.”
- 2 **note** that the Consumers Price Index adjustments for the income-from-assets exemptions exclude increases in the tobacco excise until 2021, as set out in section 75(3) of the Residential Care and Disability Support Services Act 2018
- 3 **note** that the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds, and Income-from-Assets Exemption, in Parts 1 and 3 of Schedule 2 of Act) Regulations 2019 will increase the asset thresholds used to determine financial eligibility in line with the 1.48 percent increase in the All Groups Consumers Price Index for the year ending 31 March 2019, resulting in an increase:
 - 3.1 for a single person from \$227,125 to \$230,495
 - 3.2 for a couple where both partners are in residential care from \$227,125 to \$230,495
 - 3.3 for a couple where one partner is in residential care and the house and car are not exempt from \$227,125 to \$230,495
 - 3.4 for a couple where one partner is in residential care and the house and car are exempt from \$124,379 to \$126,224
- 4 **note** that the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds, and Income-from-Assets Exemption, in Parts 1 and 3 of Schedule 2 of Act) Regulations 2019 will increase the maximum income-from-assets exemptions per year in line with the 1.29 percent increase in the All Groups (excluding cigarettes and other tobacco products) Consumers Price Index for the year ending 31 March 2019, resulting in an increase:
 - 4.1 for a single person from \$992 to \$1,005

- 4.2 for a couple where both are in residential care from \$1,983 to \$2,009
- 4.3 for a couple where one partner is in residential care from \$2,975 to \$3,013
- 5 **note** that in 2004 Cabinet agreed that the allowable gifting amounts prescribed in the Social Security (Long-term Residential Care) Regulations 2005 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]
- 6 **note** that the allowable gifting amount was adjusted in 2018 and no adjustment is recommended to the allowable gifting amount from 1 July 2019
- 7 **note** that increasing the asset thresholds and income-from-assets exemptions will increase the cost of the Residential Care Subsidy to government by around \$2.87 million a year
- 8 **note:**
- 8.1 that Regulation 5(1) of the Student Allowances Regulations 1998 was not amended as part of the 1 April 2019 Annual General Adjustment and is being amended in the 1 July 2019 General Adjustment in order to rectify that error
- 8.2 that this error has had no practical effects
- 9 **agree** that Regulation 5(1) of the Student Allowances Regulations 1998 be amended, by the Student Allowances Amendment Regulations (No 2) 2019, to replace the annual income dollar amount stated there with a reference to the weekly income dollar amount stated in clause 3(3) of Schedule 2
- 10 **authorise** the submission to the Executive Council of the:
- 10.1 Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds, and Income-from-Assets Exemption, in Parts 1 and 3 of Schedule 2 of Act) Regulations 2019
- 10.2 Student Allowances Amendment Regulations (No 2) 2019
- 11 **note** that the Residential Care and Disability Support Services (Annual Adjustment of Applicable Asset Thresholds, and Income-from-Assets Exemption, in Parts 1 and 3 of Schedule 2 of Act) Regulations 2019 and the Student Allowances Amendment Regulations (No 2) 2019 will come into force on 1 July 2019.

Hon Chris Hipkins
Minister of Education

Hon Carmel Sepuloni
Minister for Social Development

Hon Dr David Clark
Minister of Health

Authorised for lodgement