



December 2015

## **SWEP Communique to Legal Practitioners and Prescribing Therapists**

This communique is to provide information, and expectations of the State-wide Equipment Program (SWEP) with regard to the eligibility, notification and management of compensable clients.

The SWEP is a sub-division of Ballarat Health Services. SWEP administers a number of different 'assistive technology' programs and schemes. This communique is specifically for programs and schemes administered under the Victorian Aids and Equipment Program (A&EP).

The Victorian A&EP assists eligible Victorians who have a permanent or long-term disability, or are frail aged with subsidised aids, equipment and home and vehicle modifications to enhance their independence and facilitate community participation.

The State Government through the Department of Health and Human Services (DHHS) funds these programs and schemes. As such, the overarching DHHS Guidelines of the Victorian A&EP apply. Item 2.4 of the 'February 2010, Guidelines' states the following with regard to eligibility.

**'The person is not eligible if:** They are either already eligible to receive assistance from other government funded aids and equipment programs, or entitled to any form of compensation relating to their disability.'

The Victorian A&EP's eligibility form requires the applicant or their authorised representative to sign a declaration that includes the following statement:-

'(Please note: The Victorian A&EP is not available to people who have received compensation or damages in respect of their Disability. If the prospective recipient has made, or is intending to make such a claim, the Victorian A&EP shall serve on the recipient notice of liability on the part of the recipient to pay the Victorian A&EP a sum equal to the cost of the equipment, and the Victorian A&EP will seek to arrange for those liabilities to be included in recipient's claim for damages.)'

In December 2000, DHHS published a Compensable Clients Policy. A copy of the policy together with other relevant excerpts referred to above, are attached.

### **SWEP'S EXPECTATIONS WITH REGARD TO COMPENSABLE CLIENTS**

In view of the above information it is SWEP's expectation that legal practitioners representing claimants seeking compensation for their disability and/or associated injuries contact SWEP to request relevant information regarding the cost of aids and equipment provided to the claimant. SWEP will then provide the information requested and process for re-imbursalment of costs upon successful settlement of the compensation claim.

Prescribing therapists are reminded that people who have been awarded compensation for their disability and or associated injuries, and have funds remaining, are ineligible to apply for assistance through the programs and schemes that SWEP administers under the Victorian A&EP.

SWEP'S prescription forms will be updated to include a section for prescribing therapists to confirm that the applicant has not been awarded compensation for their disability and or associated injuries.

#### **IN SUMMARY**

SWEP has recently not been informed of all ensuing legal actions. SWEP's expectations for reimbursement of expenses for compensable clients, is similar to that of Medicare.

SWEP will work with legal practitioners to ensure that detailed reimbursement schedules are provided in a timely fashion, upon written request. These schedules will assist legal practitioners in confirming a person's claim for past expenses and will also assist in quantifying likely future expenses.

SWEP currently supports approximately 25,000 clients with subsidised funding under the Victorian A&EP. Your continued support in ensuring SWEP receives appropriate notification of legal action and reimbursement for clients with a compensable disability would be greatly appreciated. This will allow SWEP to support more new clients to our programs, many of whom have non-compensable disabilities or are frail aged.

If you have any queries or wish to seek further clarification, please do not hesitate to contact Dianne Kearney, SWEP PA on 5333 8126.

Kind Regards

Director, State-wide Equipment Program

### 2.3 Objectives

The objectives of the Victorian A&EP are to provide:

1. Subsidised aids and equipment that support goals and plans of an individual at key life stages.
2. Streamlined, single point of access for individuals irrespective of their place of residence.
3. Efficiently administered aids and equipment program that is targeted to individuals most in need and ensures equal access throughout Victoria for people with permanent or long-term disability.
4. A cost-effective aids and equipment program which maximises assistance to as many individuals as possible.
5. High quality aids and equipment that comply with relevant Australian standards (where applicable).

### 2.4 Target Population and Eligibility Criteria

Aids, equipment, vehicle and home modifications through the Victorian A&EP are provided for people who meet the following criteria:

- Must be a permanent resident of Victoria

or hold a:

- Permanent Protection Visa - Resolution of Status (RoS) (subclass 851)
- Asylum seekers (may also be Protection Visa applicants)

**Note:** refugees are initially asylum seekers.

#### **And**

- Have a permanent or long term disability and/or are frail aged, and
- Require aids and equipment or vehicle modifications from the aids availability list on a permanent or long-term basis.

#### **The person is not eligible if:**

They are either already eligible to receive assistance from other government-funded aids and equipment programs, or entitled to any form of compensation relating to their disability. For example:

- The Supported Accommodation Equipment Assistance Scheme (SAEAS).
- The Department of Veterans Affairs (DVA) Gold Card holders (except scooters and powered wheelchairs for those without a DVA 'approved disability').
- Residents of government funded Residential Aged Care Facility\*.
- The Transport Accident Commission (TAC).
- Victorian Workcover Authority.
- An in-patient of a public or private hospital.
- Can claim the cost of the aid/equipment through a private health insurance policy.
- Within the 30 days post discharge period from a public hospital or extended care centre where the provision of aids, equipment or home modification required is related to the hospital admission.



**1 - Client Details**

Are you a current client of the Victorian Equipment Program?

Yes

No

*(If yes, please update Sections 1 and 2 only, if no please complete all sections of this form)*

Title  Mr  Mst  Mrs  Ms  Miss  Other

Surname  Given Name/s

Male  Female  Intersex DOB

**Accommodation Type**

Private Residence  Nursing Home (High Care Facility)  Hostel (Low Care Facility)

Supported Residential Service (SRS)  Supported Accommodation Services (CRU or group home)

Unit Number  Number  Street Name

Suburb  Postcode

**Postal Address** (if different from the above)

Contact Home  Mobile  Email

Preferred method of communication  Home  Mobile  Email  Other Please specify

**2 – Next of Kin/Contact Person Details**

Title  Mr  Mst  Mrs  Ms  Miss  Other

Surname  Given Name/s

Relationship to Applicant

**Postal Address**

Contact Home  Mobile  Email

Primary contact should be made with  Client  Next of Kin

**3 - Client Demographics**

Are you of Aboriginal or Torres Strait Islander origin?

Yes  No

Are you in receipt of a pension / allowance / Health Care Card?

Yes  No

Type  Number

What is your preferred language?

**4 –Eligibility Criteria (please note all questions must be answered to determine your eligibility)**

Do you have a disability of a permanent nature or are frail aged?  Yes  No

*(If yes, please ask your Doctor to complete Section 8 and submit with this form)*

Are you a permanent resident of Victoria?  Yes  No

Are you on an Australian Government Visa?  Yes  No Type

Are you an Asylum Seeker (please provide letter of support)?  Yes  No

Are you on a Temporary Protection Visa?  Yes  No

Have you been treated as a public hospital in-patient within the past 30 days?  Yes  No Discharge Date

If yes, what is the name of the Hospital?

Reason for admission

Have you received/are you eligible to receive/are you currently receiving assistance through  
*(Please Note: The Victorian A&EP is not available to people who have received compensation or damages in respect of their Disability. If the prospective recipient has made, or is intending to make such a claim, the Victorian A&EP shall serve on the recipient notice of liability on the part of the recipient to pay the Victorian A&EP a sum equal to the cost of the equipment, and the Victorian A&EP will seek to arrange for those liabilities to be included in recipient's claim for damages).*

Department of Veteran's Affairs  Yes  No Card Colour

Victorian WorkCover Authority  Yes  No

Transport Accident Commission  Yes  No

Legal Claim  Yes  No

Additional Information  
*(Please specify date and cover/assistance received if you respond Yes to any of the items above)*

Do you have a State or Commonwealth Government Support Package/s  Yes  No

Please specify name of package received if you respond Yes

Australian Government Home Care Package  Yes  No

Please specify package level received if you respond Yes  Level 1  Level 2  Level 3  Level 4

Name of Case Manager/Coordinator

Organisation

Contact Details

Do you have private health cover with extras?

Yes  No

Are you able to claim financial assistance for this equipment through your health fund?

Yes  No

## 5 –Applicant Declaration

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I or my authorised delegate<sup>1</sup> confirm that the signature below represents:

- My agreement to enquiries being made by the Department of Human Services or its agent, to other individuals and organisations, for the purpose of obtaining information about eligibility, assessment and supply for the requested aids and equipment and/or modification.
- My understanding that all the information I have supplied on this application is true and correct to the best of my knowledge.
- My understanding that this is not a formal approval or guarantee of Victorian A&EP services.

Name

Signature

Date

## 6 –Additional Consent

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In order to improve the services it delivers, the Department of Human Services may need to use information about you. I consent to information about me possibly being used for service monitoring, evaluation, planning and to improve the quality of services provided to me.

Name

Signature

Date

Your assistance in providing consent for this is appreciated.

## 7 –Privacy Statement

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The Department of Human Services is committed to protecting the confidentiality of your personal information. There are provisions in the Disability legislation that protect the confidentiality of your information. The *Health Records Act 2001* provides additional safeguards and protections for your information. Information that you have provided will only be used to provide services that you request and will not be used for any other purposes without your express consent. You have the right to request access to your information and to have it corrected where it is inaccurate, out of date, incomplete or misleading. For more information about your privacy rights, you can visit the Department of Human Services website at [www.dhs.vic.gov.au/privacy](http://www.dhs.vic.gov.au/privacy) or the Office of the Disability Services Commissioner at <http://www.odsc.vic.gov.au/>

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<sup>1</sup> a legal guardian or power of attorney

**8 –Doctors Confirmation**

To be completed by doctor providing confirmation of frail age, long term or permanent disability

I  confirm that

Title  Given Name/s  Surname

DOB  of Address

has a

Diagnosis of

or is

Frail Aged

Doctor Name  Doctor Signature

Area of Speciality

Provider Number  Date

Contact Details

**Please return this completed form to:**

If you are applying for other items of aids and equipment including continence aids, home oxygen, and home and vehicle modifications please send you completed eligibility form to:

State-wide Equipment Program  
PO Box 1993  
Bakery Hill Vic 3354  
Ph: 1300 747 937 (1300 PH SWEP) Fax: 03 5333 8111  
Email: [swepcentralintake@bhs.org.au](mailto:swepcentralintake@bhs.org.au)



# Compensable Clients

Guidelines relating to payment for provision of disability services to compensable clients

Disability Services Division  
December 2000

# Compensable Clients

## Guidelines relating to payment for provision of disability services to compensable clients

### Background

Individuals who sustain injuries which reduce their ability to care for themselves in the same manner as prior to the injury often require professional services because their families or support networks are no longer able to care for them. This may involve services funded by the Department of Human Services.

Individuals in this situation can include existing clients of Disability Services - for example, a client with an intellectual disability may have a car accident on the way to work.

Depending on the circumstances of the injury, the individuals are able to seek compensation through one of a variety of sources (for example WorkCover, Transport Accident Commission, or through the court system). Payments are commonly awarded to compensate the individual for loss of earnings and pain and suffering, or to cover costs associated with rehabilitation and/or on-going care or support services. In many cases, however, the payout does not specify what has been awarded or the amount awarded may not seem sufficient to support the person. In addition, the individual may be in need of urgent services even though it may be some years before their compensation claim can be resolved.

These Guidelines have been produced to provide staff with guidance in dealing with these situations and to foster a consistent approach across services.

**The nature and complexity of the issues, however, mean that each case must be considered on its merits.**

### Definition

For the purposes of this policy, the term 'compensable client' is used to describe an individual who has received, expects to receive or is actively seeking, compensation to cover the cost of care or support as a result of an accident, injury or illness.

### Applicability

These Guidelines may be referred to by either government or non-government service providers when compensable clients are seeking services.

### Issues to consider

- Compensable clients are eligible to receive disability services provided that they meet the criteria applicable to the service.
- Compensable clients do not have priority for services over those who have greater need.
- Individuals in receipt of compensation payments intended to cover the cost of care or support services should be charged for the provision of such care on a full cost recovery basis, where those services have originally been provided through DisAbility Services funding.

- No claim can be made on an individual's compensation where the individual has received that compensation for loss of earnings or pain and suffering or there is no settlement stating that the funds are to be used for care or support.
- Where an individual is waiting on the outcome of a claim or court proceedings, they may receive services but this should be subject to the authorised insurer or solicitor on behalf of the individual signing an agreement that, once settlement is reached or a judgment made, they will:
  - Reimburse costs of services previously provided.
  - Meet the full cost of any on-going care or support services required.

*See Figure 1 for a sample pro-forma letter for this purpose.*

- Where possible, tribunals or courts should be advised of any agreement so that it can be taken into account when considering the terms of the settlement or judgement.
- On-going care and support is to be funded by the authorised insurer (or solicitor) on the basis of either:
  - Meeting the actual cost of service provided under programs (such as In-Home Accommodation Support, Aids and Equipment Program, Making a difference Program) as invoiced from time to time.
  - Providing additional care and support and meeting all associated costs (independent of the actual service provider).
  - 'Purchasing' additional care and support from the service provider at a rate to be negotiated in accordance with funding and service agreement framework as invoiced from time to time.
- Contact should be made with WorkCover, TAC or solicitor as soon as possible to make necessary arrangements for the payment to be processed.
- Individuals already in receipt of services at the time they receive compensation will continue to receive services provided that they continue to meet the criteria for those services. In this situation, the compensation and/or reimbursement would only relate to any additional support required as a result of the injury sustained which led to the compensation being awarded.
- If the authorised insurer or solicitor indicates that the compensation is going to cease for any reason negotiation should be commenced as soon as possible with a view to re-establishing the insurer or court's obligation to continue payment on the basis of the individual's on-going need for support.

**Figure 1—Sample pro-forma letter of agreement to meet costs of service when in receipt of compensation**

Secretary  
Department of Human Services  
555 Collins Street  
MELBOURNE VIC 3000

Dear Sir/Madam

Re: Agreement to meet costs for compensable individual

I/we hereby agree that as a result of accident/injury/illness,

..... (name of individual),

for whom I/we are Authorised Insurer / Solicitor, has been assessed as being eligible to receive services as specified in [name of document] at Attachment 1 from the Department of Human Services (Disability Services).

We agree that, once the settlement of [insert name] compensation claim is finalised, the provision of services by the Department will be paid for out of the proceeds of the settlement.

It is agreed that the Department of Human Services will provide the services, as specified in the [name of document] at no cost to [insert name], as from ...../...../..... and until such time as is deemed necessary/appropriate, on the condition that, the Department of Human Services may seek to recover its costs out of the proceeds of settlement once compensation has been finalised

Yours sincerely

(Authorised Insurer / Solicitor)