

# Compensation claims for future care costs: aged care subsidies



In assessing compensation for personal injury involving residents of aged care facilities, it is important to take into account both past and future aged care subsidies. The Department of Health and Ageing can provide information to assist you in this matter.

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**R**esidential care is expensive to provide. Providing care can cost about \$153 per day rising to over \$56,000 per year for each resident. Depending on the life expectancy of the resident, future residential care costs can add up to a substantial amount of money.

The provisions of the *Health and Other Services (Compensation) Act* 1995, and amended 2001, allow the Health Insurance Commission (HIC) to recover the past Commonwealth subsidy paid on behalf of a person who has received residential care as a result of a compensable injury once the claim is settled. Any apportionment of liability due to contributory negligence is taken into account where this is substantiated.

Under Section 44-20 of the *Aged Care Act* 1997, the Department of Health and Ageing will apply at this point a compensation payment reduction. In effect, Commonwealth payments will cease until such time as the amount provided in the judgment/settlement for future care has been expended.

In circumstances where:

- the judgment/settlement does not take into account the future residential care costs; or
- the amount provided in a settlement for the future care costs of the resident is not adequate;

the Secretary of the Department of Health and Ageing may determine, in accordance with the *Residential Care Subsidy Principles* 1997, the amount to be treated as relating to the future cost of providing residential care.

The resident's life expectancy is also taken into account. The Australian Bureau of Statistics Life Expectancy Tables are used unless medical evidence of a reduced life expectancy is provided. An indexation factor may be applied to the future residential care cost.

Where the compensable residents received nursing home care from 1 October 1997, when calculating the past Commonwealth amount recoverable and/or applying the compensation payment reduction for future residential care cost, the following components are used:

1. **Basic Subsidy** Based on the resident's category under the Resident Classification Scale that classifies residents into eight categories subject to their relative care needs. The highest subsidy is payable for Category 1 and for Category 7 the lowest. No subsidy is payable for Category 8.

2. **Primary Supplements** These include:

- *Transitional Supplement* - payable for existing residents at 30 September 1997 once reclassified under the Resident Classification Scale and for new residents in uncertified facilities.
- *Oxygen Supplement* - payable where the residential care provided includes administering oxygen to the care recipient.
- *Enteral Feeding Supplement* - payable where the care recipient is enterally fed.
- *Concessional Resident Supplement* - payable for residents assessed as having concessional resident status, in certified facilities that meet the concessional resident ratio.
- *Payroll Tax Supplement* - payable for residents categories one to seven where the provider is liable for state-based payroll tax.



“... future residential care costs can add up to a substantial amount of money.”

The pictured nursing home is just a graphic, unconnected with the story.

3. **Residential Care Fees** These include:

- Resident contribution depending on a resident's pensioner status.
- Accommodation charge.

Prior to settlement, information on the past and future subsidy amounts may be obtained from the Department of Health and Ageing. Past amounts will be added to the HIC's Notice of Past Benefits when they calculate the Notice of Charge.

For further information visit the Department of Health and Ageing's website at

[www.health.gov.au/acc/finance/fininfo.htm](http://www.health.gov.au/acc/finance/fininfo.htm).

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