

Assisted Dying Section 88 Notice User Guide

For primary and private
(non-DHB-funded) services

2021

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Background

Purpose

- 1 This user guide provides information for practitioners on funding for assisted dying services as defined in the section 88 Assisted Dying Services Notice 2021 (the s88 notice). It includes:
 - 1.1 background and context for the s88 notice
 - 1.2 expectations for practitioners claiming funding for assisted dying services:
 - 1.2.1 services to be provided (modules) and associated funding
 - 1.2.2 additional funded components such as supervision and travel
 - 1.2.3 eligibility to claim
 - 1.2.4 process for claiming.
- 2 The s88 notice and user guide apply to primary and private services only. Private services are those not funded by a district health board (DHB).
- 3 This document should be read in conjunction with the following authoritative documents:
 - 3.1 **End of Life Choice Act 2019 (the Act)**
 - 3.2 **section 88 Assisted Dying Services Notice 2021.**
- 4 Any dispute or disagreement about funding for assisted dying services provided under the s88 notice will be resolved in accordance with the Act and s88 notice.
- 5 Care pathways, guidelines, standards and operating procedures on the **Ministry of Health** website outline the requirements for providing assisted dying services. The documents include:
 - 5.1 Assisted Dying Care Pathways for Practitioners
 - 5.1.1 Reporting requirements
 - 5.1.2 Payments process
 - 5.1.3 Training requirements
 - 5.2 Administering Medication for Assisted Dying Services Clinical Guideline and Standards of Care.

The End of Life Choice Act 2019

- 6 Assisted dying services are delivered under the Act.
- 7 The purpose of the Act is to give a person who has a terminal illness and who meets defined criteria the option of requesting medical assistance to end their life. The Act establishes a process for assisting eligible persons who choose this.
- 8 Eligibility for assisted dying services must be confirmed by two medical practitioners. This includes assessing whether a person is competent to make an informed decision – competence is not presumed under the Act. If either or both medical practitioners feel the person would be eligible but have questions about their competence to make an informed decision, a psychiatrist can be asked to provide an opinion of competence.
- 9 Read the **End of Life Choice Act 2019** [here](#).

Section 88 notice

- 10 The Ministry of Health (the Ministry) has issued a notice under section 88 of the New Zealand Public Health and Disability Act 2000. The s88 notice sets out the legal and authoritative terms and conditions for practitioners to claim funding for assisted dying services delivered in accordance with the Act.
- 11 The s88 notice does not cover assisted dying services provided by practitioners in their capacity as DHB employees, or pharmacists who dispense medications under the Act.
 - 11.1 Usual DHB funding covers provision of assisted dying services by a DHB employee.
 - 11.2 Pharmacist services are covered under a separate arrangement.
- 12 The terms and conditions in the s88 notice are legally binding.
- 13 Read the **section 88 Assisted Dying Services Notice 2021** [here](#).

General service definitions

Table 1: Definitions

Term	Definition
Administration of the medication	The act of providing the medication on the day of the assisted death by one of the four methods outlined in the Act
Assisted dying	The act of a medical practitioner or nurse practitioner giving a person medication to relieve their suffering by bringing on their death or the taking of medication by the person to relieve their suffering by bringing on their death
Assisted dying process	The steps outlined in the Act that must occur as part of a person accessing assisted dying
Attending medical practitioner (AMP)	The medical practitioner who provides the first eligibility assessment, delivers the opinion on eligibility, and prepares and administers the medications
Attending nurse practitioner (ANP)	The nurse practitioner who administers the medications
Independent medical practitioner (IMP)	The medical practitioner who provides the second eligibility assessment. The IMP is provided by the SCENZ Group
Psychiatrist	The psychiatrist who advises on whether the person requesting the option of receiving assisted dying is competent to make an informed decision
Replacement AMP	The medical practitioner who agrees to take over responsibility for the provision of the assisted dying service if the medical practitioner to whom the request is made is not willing or able to provide/complete the service. The replacement AMP is provided by the SCENZ Group. Once the replacement AMP has started providing assisted dying care they are known as the AMP
Request for assisted dying	The clear request that a person would like to start the assisted dying process, noting that some conversations related to assisted dying may have taken place ahead of this request
The Person	The person who has requested assisted dying

Statutory bodies

- 14 To support the assisted dying service, the Act requires the statutory bodies set out in Table 2. The Ministry provides service and secretariat support for the

statutory bodies. Go to **End of Life Choice Act Statutory Committees** for more information.

Table 2: Statutory bodies

Body	Membership	Functions
Support and Consultation for End of Life in New Zealand (SCENZ) Group	<p>Appointed by the Director-General of Health</p> <p>The membership is:</p> <ul style="list-style-type: none"> • three members with an awareness of te ao Māori and an understanding of tikanga Māori • three members who are practising medical practitioners • one member who is a practising psychiatrist • one member who is a practising pharmacist • one member who is a practising nurse practitioner • one member with knowledge of ethics and law • one member with a disability perspective • one member who represents the views of patients, whānau and community 	<p>Make and maintain a list of:</p> <ul style="list-style-type: none"> • medical practitioners who are willing to act as replacement medical practitioners or independent medical practitioners • qualified practitioners willing to act as psychiatrists • pharmacists willing to dispense end-of-life medication <p>Provide a name and contact details from the lists when required under the Act</p> <p>In relation to the administration of medication under the Act:</p> <ul style="list-style-type: none"> • prepare standards of care • advise on the required medical and legal procedures • provide practical assistance if requested
Review Committee	<p>Appointed by the Minister of Health</p> <p>Membership is:</p> <ul style="list-style-type: none"> • a medical ethicist • two health practitioners, one being a medical practitioner in the end-of-life care field 	<p>Consider the assisted death reports it receives and report back to the Registrar.</p> <p>Direct the Registrar to follow up on any aspects of an assisted death report that do not show satisfactory compliance with the legislation/ standards of care</p>
Registrar	<p>Employed by the Ministry of Health, nominated by the Director-General of Health</p>	<p>Check that the processes required by the Act have been followed and notify the AMP of whether the process can continue</p> <p>Establish and maintain a register of:</p> <ul style="list-style-type: none"> • approved forms held by the Registrar • the Review Committee's reports to the Registrar • the Registrar's reports to the Minister <p>Receive and action complaints about the provision of assisted dying services, including the conduct of health practitioners, and, if necessary, refer the complaint to the Health and Disability Commissioner, the practitioner's responsible authority or the Police</p> <p>Report assisted death statistics to the Minister annually</p>

Assisted dying services

Initial request

- 15 Assisted dying services allow people to exercise their right to request assisted dying, as outlined in the Act.
- 16 A person who is considering assisted dying may raise this with a health practitioner. A health practitioner must never initiate a conversation about assisted dying.
- 17 The initial conversation about assisted dying may occur during a routine care appointment. This conversation is not part of the assisted dying funded modules.
- 18 If, following the initial conversation, the person wants to start the assisted dying process an appointment for the application and first opinion is made.
- 19 The process and requirements for receiving and actioning an assisted dying request are explained in the **Assisted Dying Care Pathways for Practitioners**.
- 20 Health practitioners do not have to be involved in assisted dying services. If the person's usual health practitioner has not received the required training or has a conscientious objection to being involved, they must advise the person of their position and that they can contact the SCENZ Group for the name and contact details of an attending medical practitioner.

The assisted dying service modules

- 21 Five service modules can be funded as part of the service, as shown in Table 3.
- 22 The s88 notice pricing schedule, which stipulates the amounts that can be claimed for the services, may be updated periodically.

Table 3: Funding modules

Module 1 – Application and first opinion of eligibility	
Who can claim	AMP
Components (and Act references)	<p>Providing the person with the required information and other preliminary services – section 11(2)</p> <p>Supporting the person to apply – sections 12(2) and (5)</p> <p>Completing the first eligibility assessment and associated forms to provide the first opinion – sections 13(2) and (3)</p> <p>Requesting an opinion from an IMP – section 14(2)</p> <p>If necessary, together with the IMP, requesting an opinion on the person’s competence from a psychiatrist – section 15(2)</p>
Standard payment	\$724.80 for up to 3 hours
Additional payment for complex case	\$483.20 may be claimed as an additional payment when the AMP spends more than 3 hours completing Module 1 services due to complexity caused by clinical, social or cultural considerations
Additional payment for obtaining clinical notes	<p>\$231.25 may be claimed as an additional payment for obtaining clinical notes from the person’s usual health practitioner</p> <ul style="list-style-type: none"> • The AMP makes the claim and pays it to the health practitioner if they require payment for providing the notes • If notes are required for Modules 2 and 3 the AMP will obtain the notes and send them to the IMP and/or psychiatrist • If the AMP is the person’s usual health practitioner or has access to the person’s clinical records, they cannot claim this payment
Travel allowance	Travel allowance (see Table 4)
Module 2 – Independent assessment of eligibility	
Who can claim	IMP
Components (and Act references)	<p>Reviewing clinical notes and examining the person to assess eligibility and provide a second opinion – sections 14(3) and (4)</p> <p>If necessary, and together with AMP, requesting an opinion on the person’s competence from a psychiatrist – section 15(2)</p> <p>Advising the person that, according to their assessment, they are not eligible as appropriate – section 16(4)</p>
Standard payment	\$604.00 for 2.5 hours
Travel allowance	Travel allowance (see Table 4)
Module 3 – Competency assessment by a psychiatrist	
Who can claim	Psychiatrist
Components	<p>Reviewing clinical notes and examining the person to assess competency – sections 15(3) and (4)</p> <p>Advising the person that they are not eligible as appropriate – section 16(4)</p>
Standard payment	\$1,544.16 for 4 hours
Travel allowance	Travel allowance (see Table 4)

Module 4 – Decision about eligibility or ineligibility and follow up

Who can claim	AMP
Components	<p>Explaining the eligibility or ineligibility decision to the person – sections 16(2) and (5)</p> <p>For an ineligible person:</p> <ul style="list-style-type: none">• If the AMP is the person’s usual health practitioner, arranging for any required clinical care and other relevant support services where appropriate• If the AMP is not the person’s usual health practitioner, providing a handover to the person’s usual health practitioner who can provide or arrange for any required clinical care and other relevant support services where appropriate <p>For an eligible person:</p> <ul style="list-style-type: none">• Explaining assisted dying and discussing a date and time for this to happen• Making provisional arrangements for administering the medication <p>Completing the relevant form/s</p>
Standard payment	\$362.40 for up to 1.5 hours
Additional payment for complex case	<p>\$483.20 may be claimed as an additional payment if the AMP spends more than 1.5 hours completing Module 4 services due to complexity caused by social or cultural situations in:</p> <ul style="list-style-type: none">• planning for administration of medication with the person and their whānau, if the person is eligible• providing support and handing over to the person’s usual health practitioner, if the person is not eligible
Travel allowance	Travel allowance (refer Table 4)

Module 5 – Prescribing and administration of medicines (complete)

Who can claim	AMP, ANP ¹
Components	Confirming arrangements for administering medication, advising the Registrar, and writing the prescription ² – section 19(3) Administering the medication – sections 20(2) to (5) Reporting the death to the Registrar and completing documents certifying death – section 21(1)
Standard payment	\$1,087.20 for 4.5 hours
Supervisor fee	\$543.60 which may be claimed by an AMP if an ANP completes Module 5
Supporting practitioner fee ³	\$543.60 which is a single payment for a colleague to be with an AMP the first time they provide Module 5 assisted dying services, for emotional support: <ul style="list-style-type: none">• May be claimed by the supporting health practitioner or an AMP on their behalf• Cannot be claimed alongside a supervisory payment, as the supervising AMP would be providing any required support
Travel allowance	Travel allowance (see Table 4)

Module 5 – Prescribing and administration of medicines (partial)

Who can claim	AMP, ANP
Components	Confirming arrangements for administering medication, advising the Registrar, and writing the prescription – section 19(3) Advising the outcome and completing the relevant forms
Standard payment	\$217.44 which is 20% of the usual fee if the assisted dying is cancelled within three working days before the chosen date \$543.60 which is 50% of the usual fee if the assisted dying is cancelled on the chosen date
Supervisor fee	\$108.72 which is 20% of the usual fee if the assisted dying is cancelled within three working days before the chosen date \$271.80 which is 50% of the usual fee if the assisted dying is cancelled on the chosen date
Supporting practitioner fee	\$108.72 which is 20% of the usual fee if the assisted dying is cancelled within three working days before the chosen date \$271.80 which is 50% of the usual fee if the assisted dying is cancelled on the chosen date
Travel allowance	Travel allowance (see Table 4)

¹ ANPs must act under the instruction of an AMP.

² If an ANP is to administer the medication, the prescription must be written by the AMP

³ A supporting practitioner is a medical practitioner or nurse who is present to support the AMP the first time they administer end-of-life medication. If the supporting practitioner holds a s88 notice they may claim payment. If they do not hold a s88 notice the AMP will claim on their behalf.

Delivering only part of Modules 1 to 4

- 23 Modules 1 to 4 will be funded in full even if:
 - 23.1 an opinion is reached in accordance with the Act that the person is not eligible for assisted dying
 - 23.2 the person decides not to receive any further assisted dying services
 - 23.3 the person dies before the medication is administered
 - 23.4 any of the practitioners involved suspect on reasonable grounds that the person may have been subject to pressure or coercion from someone else
 - 23.5 the practitioner is no longer able to deliver assisted dying services due to incapacity, illness or injury.

Delivering only part of Module 5

- 24 Module 5 may be partially funded if the medication is not administered.
- 25 A practitioner can claim partial funding for Module 5.
 - 25.1 If the assisted dying is cancelled within three working days before the chosen date, 20 percent of the standard fee can be claimed.
 - 25.2 If the assisted dying is cancelled on the chosen date, 50 percent of the standard fee can be claimed.

Repeating a module

- 26 Modules may be repeated and funded more than once for a person, in some circumstances, as defined in the **section 88 Assisted Dying Services Notice 2021**.
 - 26.1 If an AMP is unable to continue providing the service and another AMP takes over, the replacement AMP must repeat Module 1 to provide their opinion.
 - 26.1.1 In this circumstance Modules 2 and 3 would not normally need to be repeated. However, if the replacement AMP considers the original decisions from Modules 2 and 3 may have changed due to time elapsed or a change in clinical status, the replacement AMP may request that these modules are also repeated.
 - 26.2 If a person had previously applied and been found ineligible but wished to reapply because of a change in their circumstances, modules may be repeated.
 - 26.3 Module 5 may be completed in part, then suspended, and partial funding claimed. Module 5 can be repeated and funded later.

Travel costs

27 Travel costs may be claimed as set out in Table 4.

Table 4: Travel allowance

Component	Total distance travelled ¹	Able to claim	Amount per hour	Notes
Private motor vehicle	< 20 km			Not funded
	> 20 km	All		Reimbursed at the agreed rate, ⁴ which is the rate used by Disability Support Services for in-between travel
Other mode of transport		All		Actual and reasonable costs reimbursed on provision of an invoice and receipts
Time to travel		AMP/IMP/ANP	\$120.80	Travel time is pro-rated based on the time taken, to the nearest 15 minutes
		Psychiatrist	\$193.02	
Incidentals		All		Accommodation and meal costs reimbursed in exceptional circumstances if an overnight stay is required to provide the service, on provision of an invoice and receipts

¹ Total distance travelled is the return trip from the practitioner's usual place of work and the person's place of residence or location where they are receiving the assisted dying services.

Service standards

- 28 Practitioners claiming under the s88 notice must deliver services that meet the standards outlined in the notice. These standards require that the services are delivered in a prompt, efficient, professional and ethical manner and in accordance with:
- 28.1 **Care pathways** for providing services to Māori in a way that embraces, supports and encourages a Māori world view of health and provides high-quality and equitable services for Māori
 - 28.2 **Care pathways** for providing services in a culturally safe manner that reflects the person's culture and values
 - 28.3 the **standards of care** developed by the SCENZ Group

⁴ Rates of reimbursement are set out at **Ministry of Health Sector Operations**.

- 28.4 the requirements for reporting on assisted dying services, as set out on the **Ministry's** website
 - 28.5 the requirements of the practitioner's responsible authority, including requirements to act within their scope of practice
 - 28.6 the standards of any professional college of which the practitioner is a member
 - 28.7 the requirements of the Code of Health and Disability Services Consumer Rights 1996, Ngā Paerewa Health and Disability Services Standard NZS 8134:2021 and the End of Life Choice Act 2021
 - 28.8 all relevant law, including the requirements set out in the Act, the Health Practitioners Competence Assurance Act 2003, the Privacy Act 2020, and the Health Information Privacy Code 2020
 - 28.9 the specific requirements set out in Part B of the s88 notice.
- 29 Practitioners must also cooperate with and provide information to assist the Registrar of the Assisted Dying Service in relation to complaints received under the Act.

General requirements

- 30 General requirements for practitioners to meet under the s88 notice include:
- 30.1 complying with requirements related to audits, providing access to records and premises, and allowing auditors to interview anyone who works for them
 - 30.2 permitting inspection of records if the Ministry exercises powers under section 22G of the Health Act and provide any reporting required as a result of the inspection
 - 30.3 complying with the requirements related to making public statements and advertising
 - 30.4 providing prompt written notice of an uncontrollable event that may affect their ability to complete assisted dying services
 - 30.5 maintaining confidentiality in accordance with the relevant Acts and Codes.

Payment and reporting

Obtaining a s88 notice

- 31 AMPs, IMPs, ANPs and psychiatrists who are involved in providing assisted dying services can claim funding for providing assisted dying services through the s88 notice. Each practitioner must be eligible for funding under the s88 notice.
- 32 An ANP can claim under the s88 notice but can only act under instructions from an AMP.
- 33 The practitioner needs to complete a **s88 Assisted Dying Notice Request Form**.
- 34 Each practitioner must have an individual payee number under the s88 notice. However, payment may be to the individual, their business entity or their practice.
- 35 The practitioner does not need to renew or update their s88 notice authorisation. However, practitioners will need to contact Sector Operations at **DunedinAASupport@health.govt.nz** to advise of any change to payment details, for example bank account number and whether GST registered or not.
- 36 Before any payment is made for assisted dying services under the s88 notice, the practitioner's eligibility to receive payment will be validated.

Eligible practitioners

- 37 To be eligible to receive payment for assisted dying services under the s88 notice, a practitioner must:
 - 37.1 be a medical practitioner, nurse practitioner or psychiatrist as defined in the Act
 - 37.2 have completed the training requirements, which include initial training and refresher training (**LearnOnline** has more information)
 - 37.3 have delivered the assisted dying services in Modules 1 to 5 (see Table 3)
 - 37.4 be part of a general practice or a private practice.

- 38 Practitioners are not eligible to receive funding if:
 - 38.1 they are providing assisted dying services in their capacity as an employee of a DHB
 - 38.1.1 a practitioner operating in both a DHB and a private setting may only claim under the s88 notice for assisted dying services that were provided in their private capacity
 - 38.2 they are eligible to receive funding (either directly or indirectly) under any other arrangement with the Ministry (such as Disability Support Services), a DHB or another government agency (such as ACC)
 - 38.3 they have been suspended or disqualified by the Ministry from making a claim.

Reporting

- 39 The reporting requirements related to assisted dying services are published on the **Ministry's** website.
- 40 Reporting requirements must be completed within any stipulated timeframes before a claim will be accepted.
- 41 Reporting of assisted dying services should be completed and submitted electronically wherever possible through the assisted dying Health Advisory and Regulatory Platform (HARP).
- 42 The Ministry can be contacted at **AssistedDying@health.govt.nz** if forms cannot be completed electronically.
- 43 Services must be reported in full, supplying all required information.

Submitting a claim

- 44 Claims for assisted dying services are generated automatically when the activity has been completed and HARP is updated.
- 45 A claim is accepted when the required assisted dying services information has been received.
- 46 Claims may be returned to a practitioner for correction before payment.
- 47 As each module is completed and activity reported, the event will be captured in HARP. Practitioners will be able to view the status of their activity through a dashboard.

- 48 The Ministry will validate the information provided, which includes checking the practitioner's practising certificate and training status.
- 49 When a practitioner's claim has been validated, a file will be sent to Sector Operations. They will make payment through:
 - 49.1 a buyer-created tax invoice for any GST-registered practitioner
 - 49.2 a buyer-created invoice for any practitioner who is not GST-registered.
- 50 Practitioners will need to advise the Ministry at **AssistedDying@health.govt.nz** they are:
 - 50.1 unable to submit forms electronically
 - 50.2 submitting an invoice for travel costs.
- 51 Payments will be for the amount set out in the pricing schedule in the **section 88 Assisted Dying Services Notice 2021** for each module and any additional components.
- 52 Invoices for travel allowance must be accompanied by receipts and details of the start and end points of the journey.
- 53 Claims for accommodation and meal costs must include an explanation about why an overnight stay was required.

Receiving payment

- 54 Claims must be received by the Ministry within six months of the delivery of the module.
- 55 Claims will be paid on or before the 22nd day (or the next working day) of the month following the Ministry's acceptance of the claim, by direct credit to the bank details provided on the s88 Assisted Dying Notice Request Form.
- 56 To receive payment a practitioner needs to hold a current practising certificate and have completed the Ministry's required training
- 57 A practitioner cannot receive payment under the s88 notice if the person receiving the assisted dying services has been charged a co-payment for an appointment that is part of the assisted dying process.⁵
- 58 If the Ministry determines that a practitioner has been overpaid or was not entitled to a payment, the Ministry may recover that amount as a debt or deduct it from any future payments.
- 59 The Ministry may withhold payment if there are reasonable grounds to believe that a practitioner has materially or intentionally breached the s88 notice or their claim is materially or intentionally false.

⁵ The initial discussion where assisted dying is raised as part of a general health assessment is not part of the assisted dying process and a co-payment may be charged.