

Briefing

Presentation of the aged residential care maximum contribution notices to the House

Date due to MO:	13 February 2023	Action required by:	14 February 2023
Security level:	IN CONFIDENCE	Health Report number:	2023019852
To:	Hon Dr Ayesha Verrall, Minister of Health		
Consulted:	Te Whatu Ora: <input checked="" type="checkbox"/> Te Aka Whai Ora: <input type="checkbox"/>		

Contact for telephone discussion

Name	Position	Telephone
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Minister's office to complete:

- | | | |
|---|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

Presentation of the aged residential care maximum contribution notices to the House

Security level: IN CONFIDENCE **Date:** 13 February 2023

To: Hon Dr Ayesha Verrall, Minister of Health

Purpose of report

1. This report informs you of the steps required to present to the House of Representatives the two notices of *Maximum Contribution Applying in Each Territorial Local Authority Region* for aged residential care from 1 July 2022 and 1 September 2022.
2. This report discloses all relevant information and implications.

Summary

3. In 2022 two notices of Maximum Contribution Applying in Each Territorial Local Authority Region from 1 July 2022 and from 1 September 2022 were made by the Director-General under section 53(4)(a) of the Residential Care and Disability Support Services Act 2018 (the Act).
4. As outlined in previous advice (HR20221456), these two notices are now required to be presented to the House of Representatives. Due to an administrative oversight these notices were not presented to the House of Representatives within the time required, although they were Gazetted and are officially in force.
5. This report requests you authorise the House Office to present the attached gazette notices to the House of Representatives.

Recommendations

We recommend that you:

- a) **Authorise** the House Office to present to the House of Representatives the two notices: **Yes/No**
- i. Maximum Contribution Applying in Each Territorial Local Authority Region from 1 July 2022
 - ii. Maximum Contribution Applying in Each Territorial Local Authority Region from 1 September 2022.



Steve Barnes
Group Manager
Family and Community Policy
Strategy, Policy and Legislation

13 February 2023

Hon Dr Ayesha Verrall

Minister of Health

Date:

PROACTIVELY RELEASED

Presentation of the aged residential care maximum contribution notices to the House

Background

6. In October 2022 a briefing was provided to you outlining that two Gazette notices of Maximum Contribution Applying in Each Territorial Local Authority Region from 1 July 2022 and 1 September 2022 were made by the Director-General under section 53(4)(a) of the Residential Care and Disability Support Services Act 2018 (the Act), and the requirement to present these to the House of Representatives (HR20221456 refers).
7. The notices set the amount that aged care residents, who own assets over the relevant threshold, must pay towards the cost of their care. In accordance with the Act the rates were set equivalent with the rest home price for the location.
8. Two maximum contribution notices were issued in 2022 because Te Whatu Ora and provider representatives had not agreed on the increase in the rest home price prior to 1 July 2022. Te Whatu Ora increased the rest home price on 1 July 2022 to ensure it was sufficient for providers to pay the legislated increase in support worker wages. The price was increased again on 1 September 2022 after the price negotiations were concluded.

Consideration of the Gazette Notices by Parliament's Regulations Review Committee

9. Under Standing Order 326(1), all regulations are subject to examination and possible investigation by Parliament's Regulations Review Committee (the Committee). The Chairperson of the Committee, Hon Judith Collins, wrote to Dr Diana Sarfati, Director-General of Health, on 30 January 2023 informing Dr Sarfati that the Committee had considered the two maximum contribution notices issued in 2022 at a meeting on 7 December 2022.
10. The Committee also:
 - a. requested that the Ministry publish the Gazette Notices in their entirety on the Ministry's website, which the Ministry has now done
 - b. noted that the two maximum contribution notices have not been presented the House of Representatives as required.
11. Section 114 of the Legislation Act 2019 and a Sessional Order for the 53rd Parliament require secondary legislation to be presented to the House no later than the 16th sitting day after the day on which it was made.

Process for presentation of notices to the House

12. Section 53(4)(c) of the Act states that the maximum contribution notices are disallowable instruments for the purpose of the Legislation Act 2012 (now replaced by the Legislation

Act 2019). Disallowable instruments are required to be presented to the House of Representatives.

13. The Regulations Review Committee has created the following steps for presenting instruments (in this case, Gazette notice) to the House of Representatives:
 - a. the law-making body (the Ministry in this case) sends a copy of the Gazette notice to the Minister's office (attached as Appendices 1 and 2)
 - b. the Minister's office staff give the House Office approval to present the Gazette notice
 - c. the Ministry delivers five hard copies and a soft copy of the Gazette notice to the House Office on the morning of the day on which the Gazette notice is due to be presented to the House
 - d. the House Office manages the presentation of the Gazette notice to the House.

Next steps

14. Once your Office authorises presentation of the Gazette notices to the House, and your staff inform the Ministry that approval has been given, the Ministry will deliver the required copies to the House Office.
15. Once the notices have been tabled the Director-General of Health will write to the Chair of the Regulations Review Committee to confirm that this has occurred.
16. Officials are taking steps, such as communications to staff, to ensure that any future notices are tabled in the House of Representatives within the standard timeframes as required by the Regulations Review Committee.

ENDS.

Minister's Notes

Appendices

Appendix A: Maximum Contribution Applying in Each TLA Region From 1 July 2022

Appendix B: Maximum Contribution Applying in Each TLA Region From 1 September 2022

PROACTIVELY RELEASED