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## HEARING AID SERVICES NOTICE 2011

PURSUANT TO SECTION 88 OF THE  
NEW ZEALAND PUBLIC HEALTH  
AND DISABILITY ACT 2000

# Hearing Aid Services Notice 2011

Pursuant to section 88 of the New Zealand Public Health and Disability Act 2000, the Crown issues the following notice.

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## **Part A**

### **Information about this notice**

**A1 Title**

This notice is the Hearing Aid Services Notice 2011.

**A2 Commencement**

This notice comes into force on 1 July 2011.

#### *Purpose and objectives*

**A3 Purpose of this notice**

The purpose of this notice is to set out the terms and conditions on which the Crown will pay for hearing aid services that are provided to an eligible person.

Defined in this notice: Crown, eligible person, hearing aid services

**A4 Principles of hearing aid services**

The principles of hearing aid services are to—

- (a) make an effective contribution towards helping people with hearing loss to live, as far as possible, as others do in their own homes and communities; and
- (b) represent value for money both now and in the future; and
- (c) ensure hearing aid services are allocated fairly through a consistent, principled, and equitable approach; and
- (d) reflect a lifetime perspective by recognising that the hearing aid services that are most appropriate for a person may change over time.

Defined in this notice: hearing aid services

#### *Overview of this notice*

**A5 Specific requirements**

- (1) The specific requirements that apply to each hearing aid service are set out in Part B.
- (2) The specific requirements cover each of the following:
  - (a) the hearing aid subsidy (see subpart BB of Part B):
  - (b) hearing aid funding for the purchase of hearing aids (see subpart BC of Part B):
  - (c) hearing aid funding for hearing aid repairs (see subpart BD of Part B):
  - (d) hearing aid funding for costs associated with replacement hearing aids that are partially met by insurance (see subpart BE of Part B).

- (e) the hearing aid subsidy, and hearing aid funding, in genuine and exceptional circumstances (see subpart BF of Part B).

Defined in this notice: hearing aid funding, hearing aid, hearing aid services, hearing aid subsidy

#### **A6 General requirements**

- (1) The general requirements that apply to all hearing aid services are set out in Part C.
- (2) The general requirements cover the following matters:
  - (a) authorisations and approvals (see subpart CA of Part C):
  - (b) the general requirements for providing hearing aid services (see subpart CB of Part C):
  - (c) applications (see subpart CC of Part C):
  - (d) claims (see subpart CD of Part C):
  - (e) reviews, audits, and inspections (see subpart CE of Part C).

Defined in this notice: application, authorisation, claim, hearing aid services

#### **A7 Definitions and interpretation**

The definitions and other interpretation provisions for this notice are set out in the Schedule.

#### *Amendment or revocation of terms and conditions of this notice*

#### **A8 When notice under section 88(2) of Act not required**

- (1) This clause applies to a proposal to amend or revoke the terms and conditions of this notice.
- (2) If this clause applies, the terms and conditions of this notice may, with the consent of all of the persons listed in subclause (3) be amended or revoked without giving the 12 weeks' notice that would, but for this subclause, be required to be given under section 88(2) of the Act.
- (3) The persons are the—
  - (a) New Zealand Audiological Society; and
  - (b) New Zealand Hearing Industry Association; and
  - (c) New Zealand Independent Audiologists.
- (4) If any of the persons listed in subclause (3) does not consent under subclause (2), then, to avoid doubt, the notice requirement in section 88(2) of the Act will apply to the amendment or the revocation.

Defined in this notice: Act

## Part B

### Specific requirements

#### Subpart BA—Approved hearing aid list

##### BA1 Approved hearing aid list

- (1) For the purposes of this notice, the Ministry of Health will keep a list (which is called the approved hearing aid list).
- (2) The approved hearing aid list will specify the following matters:
  - (a) the hearing aids that are eligible for the hearing aid subsidy;
  - (b) the hearing aids that are eligible for hearing aid funding;
  - (c) the minimum length of time that each of those hearing aids will be supported by the manufacturer;
  - (d) the amount of hearing aid funding (excluding GST) that is available for each of the hearing aids specified on the list under the hearing aid funding scheme.
- (3) The approved hearing aid list will be available to audiology providers from the services manager.

Defined in this notice: approved hearing aid list, audiology provider, GST, hearing aid, hearing aid funding, hearing aid subsidy, manufacturer, services manager

#### Subpart BB—Hearing aid subsidy scheme

##### BB1 Application of this subpart

This subpart applies to persons who are eligible for the hearing aid subsidy under clause BB3(1).

##### BB2 Hearing aid subsidy

- (1) The hearing aid subsidy is a fee of \$444.44 (excluding GST) per hearing aid.
- (2) The hearing aid subsidy is available not more than once in every 6-year period for each ear of an eligible person.

Defined in this notice: eligible person, hearing aid, hearing aid subsidy

##### BB3 Person who is eligible for hearing aid subsidy

- (1) A person is eligible for the hearing aid subsidy if the person—
  - (a) is eligible to receive services funded under the Act, as specified by the Minister in a direction issued under section 103 of the Crown Entities Act 2004; and
  - (b) is of or over the age of 16 years; and
  - (c) is not eligible for hearing aid funding under subpart BC; and

- (d) is not eligible for any kind of assistance for hearing loss from the ACC, the ACC and the Ministry of Health jointly, or from Veterans' Affairs New Zealand.
- (2) The Ministry of Health must, if requested in writing to do so, determine any question or dispute concerning whether a person is eligible for the hearing aid subsidy.

Defined in this notice: ACC, hearing aid funding, hearing aid subsidy

**BB4 Requirements to be met for payment of hearing aid subsidy**

An audiology provider must ensure that the requirements set out in this notice are met in order to claim the hearing aid subsidy.

Defined in this notice: audiology provider, hearing aid subsidy

**BB5 Approved assessor must assess hearing and hearing needs and provide fitting services**

- (1) An audiology provider must ensure that an approved assessor assesses an eligible person's hearing and hearing needs in accordance with the NZAS Standards of Practice.
- (2) An audiology provider must also ensure that an approved assessor ensures that the hearing aid provided to an eligible person is appropriate for, and is fitted and adjusted to meet, the eligible person's needs.

Defined in this notice: approved assessor, audiology provider, eligible person, hearing aid, NZAS Standards of Practice

**BB6 Eligible person must be given required information**

- (1) This clause applies after an approved assessor has assessed an eligible person's hearing needs, but before the eligible person agrees to trial or purchase a hearing aid from the audiology provider.
- (2) If this clause applies, the audiology provider must ensure that the eligible person is given the required information listed in subclause (3) for each hearing aid recommended by the approved assessor.
- (3) The required information must include—
  - (a) the retail price of each recommended hearing aid; and
  - (b) the amount of the hearing aid subsidy (if any) that is available in respect of each hearing aid; and
  - (c) an itemised list of charges associated with the purchase of each of the recommended hearing aids that the eligible person would be required to pay themselves (for example, any assessment or fitting fees); and
  - (d) a quote of the total amount that would be payable by the eligible person excluding the amount of the hearing aid subsidy; and
  - (e) a copy of the Guide to Getting Hearing Aids.

Defined in this notice: approved assessor, audiology provider, eligible person, Guide to Getting Hearing Aids, hearing aid, hearing aid subsidy, required information

**BB7 Additional information that must be given to eligible person if requested**

An audiology provider must ensure that an eligible person is given a copy of the following information if requested to do so by the eligible person:

- (a) the eligible person's hearing assessment:
- (b) the eligible person's hearing needs assessment.

Defined in this notice: audiology provider, eligible person

**BB8 Audiology provider to submit properly completed claim**

- (1) After an eligible person has chosen and received the hearing aid, the audiology provider must submit to the services manager its properly completed claim for payment of the hearing aid subsidy for that hearing aid purchase.
- (2) The services manager will assess the audiology provider's claim.
- (3) The services manager will authorise payment of the hearing aid subsidy if the services manager is satisfied that—
  - (a) the eligibility criteria in clause BB3 have been met; and
  - (b) the eligible person has received the hearing aid; and
  - (c) the hearing aid is on the approved hearing aid list.
- (4) If the Ministry of Health is satisfied that authorisation under subclause (3) has been given and the audiology provider meets the requirements in Part C, the services manager will pay the hearing aid subsidy to the audiology provider.

Defined in this notice: approved hearing aid list, audiology provider, claim, eligible person, hearing aid, hearing aid subsidy, services manager

**Subpart BC—Hearing aid funding scheme: purchase of hearing aids**

*General provisions*

**BC1 Hearing aid funding**

- (1) Hearing aid funding is the fee (excluding GST) set out in the approved hearing aid list that—
  - (a) corresponds with the particular hearing aid that is provided, in accordance with this notice, to a person who is eligible for hearing aid funding under clause BC2(1); and
  - (b) if all the applicable provisions of this notice have been complied with, is payable by the services manager directly to the manufacturer of the hearing aid.

- (2) Subject to subclause (3), hearing aid funding is available not more than once in every 6-year period for each ear of an eligible person.
- (3) Despite subclause (2), hearing aid funding is available not more than 3 times in every 6-year period for each ear of a person who is eligible for hearing aid funding under clause BC2(2)(a) or (b).

Defined in this notice: approved hearing aid list, GST, hearing aid, hearing aid funding, manufacturer, services manager

## **BC2 Person who is eligible for hearing aid funding**

- (1) Subject to subclause (3), a person is eligible for hearing aid funding if the person is eligible to receive services funded under the Act, as specified by the Minister in a direction issued under section 103 of the Crown Entities Act 2004 and the person meets 1 or more of the other eligibility criteria set out in subclause (2).
- (2) To be eligible for hearing aid funding, a person must (in addition to meeting the basic eligibility criteria referred to in subclause (1)) also meet 1 or more of the following criteria:

*Preschoolers, children, and persons up to age of 21 years and in full-time study*

- (a) the person is under the age of 5 years:
- (b) the person is of or over the age of 5 years, but under the age of 21 years, and is in full-time study:

*Persons in full-time study (of or over the age of 21 years)*

- (c) the person is of or over the age of 21 years, holds a community services card, and is in full-time study:

*Persons with complex needs (of or over the age of 16 years)*

- (d) the person is of or over the age of 16 years and has had severe long-term hearing loss since childhood:
- (e) the person is of or over the age of 16 years and has had sudden and severe hearing loss during adulthood:
- (f) the person is of or over the age of 16 years and has a significant visual disability:
- (g) the person is of or over the age of 16 years and has a significant physical or intellectual disability that impacts on the person's ability to communicate effectively and safely:

*Community services cardholders (of or over the age of 16 years) who are working, including doing certain kinds of voluntary work*

- (h) the person is of or over the age of 16 years, holds a community services card, and is working more than 30 hours per week:
- (i) the person is of or over the age of 16 years, holds a community services card, and, if the person is unable to work 30 hours per week due to the limitations of their disability, is working at their maximum capacity:

- (j) the person is of or over the age of 16 years, holds a community services card, and is earning at least the same as the person could earn on the sickness benefit:
- (k) the person is of or over the age of 16 years, holds a community services card, and is—
  - (i) doing more than 20 hours' voluntary work per week for a recognised voluntary organisation; and
  - (ii) able to demonstrate a long-term commitment to that voluntary work:
- (l) the person is of or over the age of 16 years, holds a community services card, and is the main carer for a dependent person:

*Community services cardholders (of or over the age of 16 years) who are seeking paid employment*

- (m) the person is of or over the age of 16 years, holds a community services card, and is seeking paid employment.
- (3) A person is not eligible for hearing aid funding if the person is eligible for any kind of assistance for hearing loss from the ACC, the ACC and the Ministry of Health jointly, or from Veterans' Affairs New Zealand.
  - (4) The Ministry of Health must, if requested in writing to do so, determine any question or dispute concerning whether a person is eligible to receive services funded under the Act.

Defined in this notice: ACC, full-time study, hearing aid funding, main carer, recognised voluntary organisation, seeking paid employment, severe long-term hearing loss since childhood, sudden and severe hearing loss during adulthood

### **BC3 Requirements to be met for payment of hearing aid funding**

- (1) An audiology provider must ensure that the requirements set out in this notice are met in relation to hearing aid funding.
- (2) An audiology provider must not charge an eligible person for a hearing aid that is subject to an application for hearing aid funding.

Defined in this notice: audiology provider, eligible person, hearing aid, hearing aid funding

#### *Procedural requirements*

### **BC4 When approved assessor must be involved**

- (1) An audiology provider must ensure that an approved assessor assesses an eligible person's hearing needs in accordance with the—
  - (a) NZAS Standards of Practice; and
  - (b) UNHSEIP Protocols (if, and to the extent that, they are applicable).
- (2) An audiology provider must also ensure that an approved assessor ensures that the hearing aid provided to an eligible person is

appropriate for, and is fitted and adjusted to meet, the eligible person's needs.

Defined in this notice: approved assessor, audiology provider, eligible person, hearing aid, NZAS Standards of Practice, UNHSEIP Protocols

**BC5 Eligible person must be given required information**

- (1) This clause applies after an eligible person is assessed by an approved assessor, but before the audiology provider applies for approval under clause BC7.
- (2) If this clause applies, the audiology provider must ensure that the eligible person is given the required information listed in subclause (3) for the hearing aid recommended by its approved assessor.
- (3) The required information must include—
  - (a) the hearing aid funding for the recommended hearing aid; and
  - (b) an itemised list of any charges associated with the purchase of the recommended hearing aid that the eligible person would be required to pay themselves (for example, any assessment or fitting fees); and
  - (c) an estimate of the time for funding to become available from the services manager, as published on the services manager's website; and
  - (d) a copy of the Guide to Getting Hearing Aids.

Defined in this notice: approved assessor, audiology provider, eligible person, Guide to Getting Hearing Aids, hearing aid, hearing aid funding, required information, services manager

**BC6 Additional information that must be given to eligible person if requested**

An audiology provider must also ensure that an eligible person is given a copy of the following information if requested to do so by the eligible person:

- (a) the eligible person's hearing assessment:
- (b) the eligible person's hearing needs assessment.

Defined in this notice: audiology provider, eligible person

**BC7 Audiology provider must apply for approval**

- (1) This clause applies after an approved assessor has assessed an eligible person's hearing aid needs, but before the eligible person trials the hearing aid that has been recommended by the approved assessor.
- (2) If this clause applies, the audiology provider must apply to the services manager for approval to trial and fund the hearing aid recommended by its approved assessor as being the most appropriate and cost-effective hearing aid for the eligible person.

- (3) An application under subclause (2) must include a priority rating.
- (4) The priority rating for an application is to be determined using the hearing prioritisation tool that is available from the Ministry of Health or the services manager.

Defined in this notice: approved assessor, audiology provider, eligible person, hearing aid, services manager

#### **BC8 Notification of outcome of assessment of application**

- (1) If the services manager is satisfied that all of the requirements in subclause (2) have been met, the services manager must—
  - (a) approve the application; and
  - (b) notify, in writing, the audiology provider—
    - (i) that the application has been approved; and
    - (ii) of the timeframe within which funding will be available for the application.
- (2) All of the following requirements must be met:
  - (a) the person who requires a hearing aid must be eligible for hearing aid funding;
  - (b) the hearing aid recommended by an approved assessor must be—
    - (i) on the approved hearing aid list; and
    - (ii) the most appropriate and cost-effective hearing aid for the eligible person;
  - (c) the approval, if given, would be consistent with the priority rating for the application, having regard to the priority rating of other applications of this kind.
- (3) However, if the services manager is not satisfied that the application meets all of the requirements in subclause (2), the services manager must decline the application.
- (4) If an application is declined under subclause (3), the services manager must notify, in writing, the audiology provider of the decision and its reasons for the decision.

Defined in this notice: application, approved hearing aid list, approved assessor, audiology provider, eligible person, hearing aid, hearing aid funding, services manager

#### **BC9 Notification that funding is available**

The services manager must, as soon as practicable,—

- (a) notify the audiology provider when the funding for an application is available; and
- (b) seek confirmation from the audiology provider that the application is still accurate and correct.

Defined in this notice: application, audiology provider, services manager

**BC10 Approved assessor to review application**

- (1) This clause applies after an audiology provider has been notified by the services manager that the relevant funding is available, but before the hearing aid recommended by the approved assessor is trialled.
- (2) If this clause applies, an approved assessor—
  - (a) must review the application for which funding is available; and
  - (b) must advise the services manager that—
    - (i) the application is still accurate and correct; or
    - (ii) the application is no longer accurate and correct; and
  - (c) may request approval from the services manager to trial—
    - (i) the recommended hearing aid, if paragraph (b)(i) applies; or
    - (ii) a different hearing aid that meets the eligible person's changed hearing needs, if paragraph (b)(ii) applies.
- (3) If the services manager is satisfied that—
  - (a) the application is still accurate and correct, the services manager may give the audiology provider approval to order and trial the recommended hearing aid; or
  - (b) the application is no longer accurate and correct, but a different hearing aid will meet the eligible person's changed hearing needs, the services manager may give the audiology provider approval to order and trial the different hearing aid.

Defined in this notice: application, approved assessor, audiology provider, eligible person, hearing aid, services manager

**BC11 Order and trial of recommended hearing aid**

- (1) This clause applies after the services manager has given an audiology provider approval to order and trial a hearing aid.
- (2) If this clause applies,—
  - (a) the approved assessor must—
    - (i) order the recommended hearing aid from the manufacturer; and
    - (ii) send a copy of that order to the services manager; and
    - (iii) notify the services manager when the recommended hearing aid is supplied by the manufacturer for trial; and

- (b) the eligible person may trial the recommended hearing aid.
- (3) After the eligible person has trialled the recommended hearing aid, the eligible person and the approved assessor will agree whether the trialled hearing aid meets the eligible person's hearing needs.

Defined in this notice: approved assessor, audiology provider, eligible person, hearing aid, manufacturer, services manager

#### **BC12 Unsuccessful trial of recommended hearing aid**

- (1) If the eligible person and approved assessor do not agree that the trialled hearing aid meets the eligible person's hearing needs, the audiology provider—
  - (a) must return the trialled hearing aid to the manufacturer; and
  - (b) must inform the services manager that the hearing aid has been returned and the reasons why the hearing aid was returned; and
  - (c) may request approval from the services manager for the eligible person to trial another recommended hearing aid.
- (2) If subclause (1)(c) applies,—
  - (a) the services manager will advise the audiology provider when the eligible person may trial another recommended hearing aid; and
  - (b) the process set out in clause BC11 applies again with the necessary modifications.

Defined in this notice: approved assessor, audiology provider, eligible person, hearing aid, manufacturer, services manager

#### **BC13 Successful trial of recommended hearing aid**

The approved assessor must notify the services manager, in writing, that the trialled recommended hearing aid meets the eligible person's hearing needs if—

- (a) the eligible person and the approved assessor agree that the hearing aid meets the eligible person's hearing needs; and
- (b) the hearing aid has been supplied to the eligible person.

Defined in this notice: approved assessor, eligible person, hearing aid, services manager

### **Subpart BD—Hearing aid funding scheme: hearing aid repairs**

#### *General provisions*

#### **BD1 Person who is eligible for hearing aid repairs**

- (1) Except as provided in subclause (2), a person is eligible for hearing aid repairs if the person is eligible for hearing aid funding and the requirements of this subpart are met.

- (2) A person is not eligible for hearing aid repairs that are eligible to be funded by a Deaf Education Centre.

Defined in this notice: hearing aid, hearing aid funding

**BD2 Service specification: hearing aid repairs**

A repair to a hearing aid covers a repair to a hearing aid—

- (a) that was purchased through the Hearing Aid Funding Scheme, which—
- (i) includes a hearing aid funded under the previous Children’s Hearing Aid Fund or the previous Equipment and Modification Services scheme; but
  - (ii) does not include a hearing aid purchased with the hearing aid subsidy; and
- (b) if the repair—
- (i) is necessary to re-establish the proper function of the hearing aid; and
  - (ii) is cost-effective for meeting the eligible person’s hearing needs; but
- (c) does not include—
- (i) replacing consumable items; and
  - (ii) repairing a hearing aid if the repair is covered by a warranty; and
  - (iii) the cost of assessing or fitting a repaired hearing aid by any person.

Defined in this notice: consumable items, eligible person, hearing aid, hearing aid subsidy

*Procedural requirements*

**BD3 Eligible person must be given required information**

Before any hearing aid repairs are started, an audiology provider must ensure that the eligible person concerned is given the following information:

- (a) a quote of the repair cost:
- (b) the amount of funding (if any) that is available from the services manager for the repair.

Defined in this notice: audiology provider, eligible person, hearing aid, services manager

**BD4 Application for hearing aid repairs**

An audiology provider’s application for approval to fund an eligible person’s hearing aid repairs must be made in accordance with the process set out by the services manager.

Defined in this notice: application, audiology provider, eligible person, hearing aid, services manager

**BD5 When application under clause BD4 may be made**

An audiology provider may apply for approval from the services manager to fund an eligible person's hearing aid repairs only if it is the most appropriate and cost-effective method for meeting the eligible person's hearing needs.

Defined in this notice: audiology provider, eligible person, hearing aid, services manager

**BD6 Notification of outcome of assessment of application**

- (1) This clause applies if—
  - (a) the person who requires funding for the repair of the person's hearing aid is eligible under clause BD1; and
  - (b) the repair of the eligible person's hearing aid is covered by clause BD2.
- (2) If this clause applies, the services manager—
  - (a) may either—
    - (i) approve the application; or
    - (ii) decline the application with reasons; and
  - (b) must notify the audiology provider, in writing, that—
    - (i) the application has been approved; or
    - (ii) the application has been declined and the reasons for declining the application.

Defined in this notice: application, audiology provider, eligible person, hearing aid, services manager

**BD7 Audiology provider to submit properly completed claim**

- (1) The audiology provider must submit to the services manager its properly completed claim for the hearing aid repair.
- (2) The services manager must pay the hearing aid funding for the repair if the services manager is satisfied that—
  - (a) the hearing aid repair was covered by the approved application; and
  - (b) before the hearing aid was repaired, an approved assessor confirmed that the person whose hearing aid was to be repaired was still eligible for hearing aid funding; and
  - (c) the hearing aid repair has been satisfactorily completed and the eligible person has received the repaired hearing aid; and

- (d) the requirements in Part C have been met.

Defined in this notice: audiology provider, claim, eligible person, hearing aid, hearing aid funding, services manager

**Subpart BE—Hearing aid funding scheme: costs associated with replacement hearing aids that are partially met by insurance**

**BE1 Reimbursement for costs associated with replacement hearing aid that are partially met by insurance**

- (1) This clause applies if—
- (a) an eligible person has received a hearing aid purchased with hearing aid funding, or via the previous Children's Hearing Aid Fund, or the previous Equipment and Modification Services scheme; and
  - (b) as a result of the eligible person's hearing aid being lost, damaged, or for any other reason, the eligible person requires a replacement hearing aid; and
  - (c) some of the cost of replacing the hearing aid is to be met by insurance.
- (2) If this clause applies, an audiology provider—
- (a) may forward a claim to the services manager for reimbursement of the cost of the eligible person's replacement hearing aid that—
    - (i) is not to be met by insurance; and
    - (ii) does not exceed the amount of hearing aid funding that would otherwise be available for the hearing aid; and
  - (b) must submit with the audiology provider's claim—
    - (i) a written statement from an approved assessor that the replacement hearing aid is the most appropriate and cost-effective hearing aid for the eligible person; and
    - (ii) a letter from the insurer stating that the insurance claim in relation to the replacement hearing aid has been accepted by the insurer and stating the amount paid, or to be paid, on the insurance claim by the insurer.
- (3) If this clause applies, the services manager will consider, and may approve, the audiology provider's claim for reimbursement of the portion of the cost of the eligible person's replacement hearing aid that has been paid, or will be paid, by the insurer.

Defined in this notice: approved assessor, audiology provider, claim, eligible person, hearing aid, hearing aid funding, services manager

## **Subpart BF—Genuine and exceptional circumstances**

### **BF1 Genuine and exceptional circumstances**

- (1) This clause applies if the services manager has declined—
  - (a) a claim for a hearing aid subsidy; or
  - (b) an application for hearing aid funding; or
  - (c) an application or claim for hearing aid repairs; or
  - (d) a claim for reimbursement of costs associated with a replacement hearing aid that are partially met by insurance.
- (2) If this clause applies, the services manager, may, on the written application of an audiology provider, request, in writing, the Ministry of Health (through its EMS Review Panel) to consider whether to approve the claim or application (as applicable) referred to in subclause (1).
- (3) The EMS Review Panel may approve the claim or application if it is satisfied that the following criteria have been established:
  - (a) the departure from the procedural requirements set out in this notice will result in improved outcomes for the eligible person to whom the claim or application relates;
  - (b) the audiology provider's request has been made within 3 months of the claim or application being declined;
  - (c) there are genuine and exceptional circumstances that justify the approval of the claim or application.

Defined in this notice: application, audiology provider, claim, eligible person, hearing aid funding, hearing aid subsidy, EMS Review Panel, services manager

## **Part C**

### **General requirements**

#### **Subpart CA—Authorisations and approvals**

##### *Authorised audiology providers*

#### **CA1 Granting authorisation**

- (1) The Ministry of Health may grant an authorisation to an audiology provider under the hearing aid subsidy scheme or under the hearing aid funding scheme (or both).
- (2) Before the Ministry of Health may grant an authorisation under subclause (1), the Ministry of Health must be satisfied that—
  - (a) the audiology provider has properly completed the application form; and

- (b) the reasonable conditions that the Ministry of Health requires for granting the authorisation have been met or will be met.

Defined in this notice: audiology provider, authorisation

### **CA2 Duration of authorisation**

An authorisation continues in effect until it is terminated, suspended, or lapses under this subpart.

Defined in this notice: authorisation

### **CA3 Price monitoring programme**

- (1) For the avoidance of doubt, this clause—
  - (a) applies only in respect of each application for which hearing aid funding has been provided following the successful trial of the hearing aid covered by the application; and
  - (b) does not apply in respect of claims made under the hearing aid subsidy scheme.
- (2) The Ministry of Health will measure (on a rolling 6-month basis) the average price of hearing aids for which each audiology provider applies for hearing aid funding.
- (3) Every 3 months, the Ministry of Health will assess each audiology provider's average price against an average price target, which the Ministry of Health will publish from time to time.
- (4) If an audiology provider is assessed as being over the average price target, the services manager will write to the audiology provider seeking a written explanation for this.
- (5) If the audiology provider's written explanation is not satisfactory, the services manager will notify, in writing, the audiology provider that, if the audiology provider is not on or below the average price target within the next 3 months, the audiology provider's authorisation under the hearing aid funding scheme—
  - (a) will be reviewed; and
  - (b) may be suspended for a period of up to 6 months.
- (6) If the audiology provider is not on or below the average price target within the 6 months immediately after the end of the audiology provider's suspension (if applicable), the audiology provider's authorisation under the hearing aid funding scheme—
  - (a) will be reviewed; and
  - (b) may be—
    - (i) suspended for up to 12 months, which starts on the date after the process set out in clause CA5 has been completed; or

- (ii) terminated under this notice.

Defined in this notice: application, audiology provider, authorisation, hearing aid funding, services manager

#### **CA4 Variation, suspension, or termination of authorisation**

Subject to clause CA5, the Ministry of Health may vary, suspend, or terminate the authorisation of an audiology provider if the audiology provider, or anyone who works for the audiology provider, has not complied with the audiology provider's authorisation or this notice.

Defined in this notice: audiology provider, authorisation

#### **CA5 Process for varying, suspending, or terminating authorisation**

- (1) Before the Ministry of Health may vary, suspend, or terminate an authorisation of an audiology provider under clause CA3(6) or CA4, the Ministry of Health must—
- (a) notify, in writing, the audiology provider of its intention to vary, suspend, or terminate the authorisation; and
  - (b) provide written reasons for varying, suspending, or terminating the authorisation.
- (2) The audiology provider has 20 working days from receipt of the written notification to—
- (a) comply with the authorisation or this notice (as applicable); or
  - (b) satisfy the Ministry of Health that the authorisation or this notice (as applicable) will be complied with.
- (3) If, at the end of the 20 working day period, the Ministry of Health is not satisfied with the written response from the audiology provider, it may give final notice of 5 working days that it will vary, suspend, or terminate the authorisation.

Defined in this notice: audiology provider, authorisation, working day

#### **CA6 Withdrawal from providing hearing aid services**

- (1) An audiology provider may, at any time, withdraw from providing hearing aid services under this notice by giving the Ministry of Health not less than 4 weeks' written notification.
- (2) Notification under subclause (1) terminates the audiology provider's authorisation.

Defined in this notice: audiology provider, authorisation, hearing aid services

#### **CA7 Lapse of authorisation**

An authorisation of an audiology provider lapses and ceases to have effect if—

- (a) the audiology provider has not made a claim under this notice for a period of 12 months; or

- (b) the audiology provider becomes bankrupt or goes into liquidation (as applicable).

Defined in this notice: audiology provider, authorisation, claim

**CA8 Consequences of variation, suspension, termination, or lapse of authorisation**

- (1) The variation, suspension, termination, or lapse of an audiology provider's authorisation under this subpart does not affect the rights of the Ministry of Health in relation to that authorisation or this notice.
- (2) An audiology provider whose authorisation under this subpart has been suspended or terminated or has lapsed (as applicable) is not entitled to claim for hearing aid services that were provided after that suspension, termination, or lapse.
- (3) However, an audiology provider whose authorisation under this subpart has been suspended or terminated or has lapsed (as applicable) is entitled to claim for hearing aid services that were provided, in accordance with the requirements of this notice, before that suspension, termination, or lapse.

Defined in this notice: audiology provider, authorisation, claim, hearing aid services

*Approved assessors*

**CA9 Approved assessors**

- (1) A person who is an approved assessor under the Ministry of Health's Disability Support Services Accreditation Framework for Hearing Aids is an approved assessor for the purposes of providing hearing aid services under this notice.
- (2) A person who is an approved assessor for the purposes of providing hearing aid services under this notice is subject to the provisions of this notice, including, without limitation, the provisions relating to the variation, suspension, termination, or lapse of the assessor's approval.

Defined in this notice: approved assessor, hearing aid services

**CA10 Variation, suspension, or termination of assessor's approval**

Subject to clause CA11, the Ministry of Health may vary, suspend, or terminate an assessor's approval if the assessor, or anyone who works for the assessor, has not complied with the assessor's approval or this notice.

**CA11 Process for varying, suspending, or terminating assessor's approval**

- (1) Before the Ministry of Health may vary, suspend, or terminate an assessor's approval under clause CA10, the Ministry of Health must—
- (a) notify the assessor, in writing, of its intention to vary, suspend, or terminate the assessor's approval; and

- (b) provide written reasons for varying, suspending, or terminating the assessor's approval.
- (2) The assessor has 20 working days from receipt of the written notification to—
- (a) comply with the assessor's approval or this notice (as applicable); or
  - (b) satisfy the Ministry of Health that the assessor's approval or this notice (as applicable) will be complied with.
- (3) If, at the end of the 20 working day period, the Ministry of Health is not satisfied with the written response from the assessor, it may give final notice of 5 working days that it will vary, suspend, or terminate the assessor's approval.

Defined in this notice: working day

**CA12 Consequences of variation, suspension, termination, or lapse of assessor's approval**

- (1) The variation, suspension, termination, or lapse (as applicable) of an assessor's approval under this subpart does not affect the rights of the Ministry of Health in relation to the assessor's approval or this notice.
- (2) A person whose approval to provide hearing aid services under this notice has been suspended, terminated, or has lapsed (as applicable) may not provide hearing aid services under this notice.

Defined in this notice: hearing aid services

**Subpart CB—Hearing aid services**

*Standards*

**CB1 Service standards**

An audiology provider must ensure that it provides hearing aid services—

- (a) in a prompt, efficient, professional, and ethical manner; and
- (b) in a manner that is consistent with any health strategy, disability strategy, and any strategy for the development and use of nationally consistent standards, quality assurance programmes, and performance monitoring, issued by the Minister under section 8 or 9 of the Act; and
- (c) in accordance with—
  - (i) all relevant law; and
  - (ii) the Ministry's approved standards (if any); and
  - (iii) the NZAS Standards of Practice; and
  - (iv) the UNHSEIP Protocols (if, and to the extent that, they are applicable); and

- (v) the specific requirements set out in Part B; and
- (d) without material interruption.

Defined in this notice: Act, audiology provider, hearing aid services, NZAS Standards of Practice, UNHSEIP Protocols

## **CB2 Record keeping**

- (1) An audiology provider must keep and preserve records and protect the security of those records in accordance with best business practice and its legal obligations, and make them available to either or both the Ministry of Health or the services manager in accordance with the Ministry's reasonable instructions and rights to access such records.
- (2) An audiology provider must take all due care to ensure that, in the event of the audiology provider ceasing to provide hearing aid services, the records are properly preserved and, if appropriate, records relating to eligible persons are transferred to a new audiology provider.
- (3) An audiology provider must, in relation to a person to whom the audiology provider provides hearing aid services under this notice, keep a full clinical record that includes a record of the following:
  - (a) demographic information collected:
  - (b) all assessments completed and the outcome of these assessments:
  - (c) the performance of hearing aids trialled or supplied:
  - (d) any adjustments completed:
  - (e) that the supplied hearing aids have met the eligible person's hearing needs, including both subjective and objective measures:
  - (f) all interactions with the eligible person:
  - (g) the person who works for the audiology provider and who provided each part of the services to the eligible person.
- (4) For each hearing assessment and recommendation made by an approved assessor, the approved assessor must record that—
  - (a) the assessment and recommendation is correct; and
  - (b) the criteria in the current Hearing Aid Services Manual have been met.

Defined in this notice: approved assessor, audiology provider, eligible person, hearing aid, Hearing Aid Services Manual, services manager

## **CB3 Financial management**

- (1) An audiology provider must operate sound financial and business management principles, procedures, and practices.

- (2) An audiology provider must maintain full and proper financial and business records in accordance with generally accepted accounting principles, procedures and practices, best business practice generally, and any legal obligations applicable to the audiology provider.

Defined in this notice: audiology provider

**CB4 Ongoing improvement of quality of hearing aid services**

An audiology provider must have systems and processes for the ongoing improvement of the quality of its hearing aid services.

Defined in this notice: audiology provider, hearing aid services

*Relationship with eligible persons*

**CB5 Quality assurance programme**

- (1) An audiology provider will maintain a quality assurance programme that includes identification and risk management of any areas of potential harm to eligible persons.
- (2) A quality assurance programme must include, but is not limited to,—
- (a) a quality plan; and
  - (b) a training programme and performance reviews of all staff; and
  - (c) a complaints procedure in accordance with clause CB8; and
  - (d) appraisal of eligible persons' satisfaction; and
  - (e) ensuring staff and subcontractors are aware of the relevant parts of this notice; and
  - (f) information standards.

Defined in this notice: audiology provider, eligible person

**CB6 Relationship to be based on informed consent**

An audiology provider must ensure that the relationship between the audiology provider (including the approved assessors who work for them and other staff) and an eligible person is based on informed consent and that the dignity of the eligible person is respected.

Defined in this notice: approved assessor, audiology provider, eligible person

**CB7 Eligible persons' consumer rights**

An audiology provider must provide hearing aid services in accordance with all requirements of the Code, including—

- (a) ensuring that a copy of the Code is available to eligible persons to whom the audiology provider provides the hearing aid services; and

- (b) establishing policies and procedures to ensure that the audiology provider—
  - (i) complies with the Code; and
  - (ii) understands the Code and, where requested by the Ministry of Health, is able to refer to documented policies and procedures to demonstrate the provider's effective implementation of the Code.

Defined in this notice: audiology provider, Code, eligible person, hearing aid services

#### **CB8 Complaints procedure**

- (1) An audiology provider must establish a complaints procedure for eligible persons, their families and whanau or other persons, which is made known to and easily understandable by eligible persons.
- (2) An audiology provider must ensure that, under the complaints procedure—
  - (a) all parties have the right to be heard; and
  - (b) the person handling the complaint acts fairly; and
  - (c) complaints are handled at the level appropriate to the complexity or gravity of the complaint; and
  - (d) any corrective action required following a complaint is undertaken; and
  - (e) eligible persons are informed of their right to direct their complaints to the Health and Disability Commissioner and to the Ministry of Health, particularly in the event of non-resolution of a complaint; and
  - (f) complaints are handled sensitively with due consideration of cultural or other values; and
  - (g) the making of a complaint will not in any way compromise the eligible person's ability to receive the hearing aid services or the ability of that eligible person's family or whanau to be involved in the hearing aid services; and
  - (h) complaints are regularly monitored by the audiology provider and trends identified in order to improve delivery of the hearing aid services by the audiology provider; and
  - (i) the complaints procedure is consistent with the Ministry of Health's complaints policy, as amended from time to time.

Defined in this notice: audiology provider, eligible person, hearing aid services

#### *Relationship with Ministry of Health*

#### **CB9 Other arrangements**

- (1) An audiology provider must not enter into any other arrangement that may prejudice the audiology provider's ability to meet its

obligations under this notice, but subject to this, the audiology provider may provide services to other persons for whom it does not claim payment under this notice.

- (2) Nothing in this notice gives an audiology provider an exclusive right to provide hearing aid services and the Ministry of Health may make payments to any number of audiology providers under this notice.

Defined in this notice: audiology provider, hearing aid services

### **CB10 Indemnity**

An audiology provider must indemnify and keep indemnified the Ministry of Health against all claims, losses, damages, penalties and reasonable costs and expenses (including all legal or other costs or expenses associated with the enforcement of this notice but excluding any indirect or consequential loss made or incurred by the Ministry of Health) that have been caused by—

- (a) a failure by the audiology provider to comply with any obligations under this notice; or
- (b) any act or omission by the audiology provider or by any person for whom the audiology provider is responsible, where that act or omission occurs in the course of the audiology provider performing (or failing to perform) an obligation under this notice.

Defined in this notice: audiology provider

### **CB11 Notification of problems**

- (1) An audiology provider must advise the Ministry of Health promptly in writing—
  - (a) of anything that may or is likely to materially reduce or affect its ability to provide hearing aid services, including anything relating to any premises or equipment used by the audiology provider or the audiology provider's key staff; and
  - (b) if the audiology provider materially fails to comply with any of its obligations under this notice; and
  - (c) of any serious complaints or disputes that directly or indirectly relate to the provision of hearing aid services; and
  - (d) of any issues concerning the services that might have high media or public interest.
- (2) An audiology provider must have in place realistic and reasonable risk management processes and contingency plans to enable it to continue to provide hearing aid services on the occurrence of any of the matters in this clause, and must provide the Ministry of Health with details of those plans if so requested.

Defined in this notice: audiology provider, hearing aid services

### **CB12 Disclosure of interests**

An audiology provider must disclose to the Ministry of Health any interest (whether financial or otherwise) that the audiology

provider, or any of its approved assessors, may have in any matter relating to the provision of hearing aid services, including (without limitation) the decision to recommend a specific hearing aid to an eligible person.

Defined in this notice: approved assessor, audiology provider, eligible person, hearing aid, hearing aid services

**CB13 Audiology providers must not seek, receive, or offer benefits with conditions attached**

- (1) An audiology provider, or anyone who works for an audiology provider (whether as an employee or otherwise), must not knowingly receive or seek money or any other benefit from the following persons in relation to the provision of hearing aid services if the receipt has a condition attached to it and whether the receipt or condition is direct, indirect, formal, informal, or otherwise:
  - (a) a manufacturer of hearing aids:
  - (b) a person who manufactures or distributes consumable items for hearing aids:
  - (c) a person who repairs hearing aids:
  - (d) any other person who may be affected by, or have an interest in, the hearing aid services provided by the audiology provider under this notice.
- (2) To avoid doubt, this clause applies whether—
  - (a) the condition is attached either before or after the money or other benefit is received by the person concerned; or
  - (b) any money or other benefit is actually received by the person concerned.

Defined in this notice: approved assessor, audiology provider, consumable items, hearing aid, hearing aid services, manufacturer

**CB14 Public statements and advertising**

- (1) Neither the Ministry of Health nor an audiology provider may directly or indirectly criticise the other publicly, without first fully discussing the matters of concern with the other in good faith and in a co-operative and constructive manner.
- (2) Nothing in this clause prevents either the Ministry of Health or an audiology provider from discussing any matters of concern with their respective staff, subcontractors, agents, or advisers.
- (3) An audiology provider must not use the Ministry of Health's name or logo or the services manager's name or logo, without the Ministry of Health's prior written consent and then only in accordance with the Ministry of Health's instructions.

Defined in this notice: audiology provider, services manager

**CB15 Dispute resolution**

- (1) This clause does not apply to disputes about any of the following matters:
  - (a) the suspension or termination of an audiology provider's authorisation:
  - (b) the suspension or termination of an assessor's approval:
  - (c) whether or not any person is an eligible person:
  - (d) the variation or revocation of this notice.
- (2) Subject to subclause (1), if the Ministry of Health or an audiology provider has any dispute with the other under this notice, then the Ministry of Health and the audiology provider will use their best endeavours to settle the dispute by agreement.
- (3) If the dispute is not settled by agreement within 20 working days, then, unless it is agreed otherwise, either party may (by written notice to the other) require that the dispute be submitted for mediation by—
  - (a) a single mediator agreed by the Ministry of Health and the audiology provider; or
  - (b) if the Ministry of Health and the audiology provider cannot agree on a mediator, a mediator nominated by LEADR; or
  - (c) if LEADR no longer exists or is unable to nominate a mediator, the President for the time being of the New Zealand Law Society.
- (4) If a dispute is submitted for mediation under subclause (2)—
  - (a) the mediator will not be deemed to be acting as an expert or an arbitrator; and
  - (b) the mediator will determine the procedure and timetable for the mediation; and
  - (c) the cost of the mediation will be shared equally between the Ministry of Health and the audiology provider (unless otherwise agreed).
- (5) If the dispute is not settled by mediation in accordance with subclauses (2) and (3), then either party may commence proceedings in the District Court.
- (6) The Ministry of Health and the audiology provider will continue to comply with all their obligations under this notice until the dispute is resolved.

Defined in this notice: audiology provider, authorisation, eligible person, LEADR

**CB16 Uncontrollable events**

- (1) Neither the Ministry of Health nor an audiology provider affected by an uncontrollable event will be in default under the terms of this notice if the default is caused by that uncontrollable event.

- (2) The Ministry of Health or the audiology provider must—
  - (a) promptly give written notice to the other specifying—
    - (i) the cause and extent of the party's inability to perform any of the party's obligations; and
    - (ii) the likely duration of the non-performance; and
  - (b) in the meantime, take all reasonable steps to remedy or reduce the impact of the uncontrollable event.
- (3) Neither party is obliged to settle any strike, lock out, or other industrial disturbance.
- (4) Performance of any obligation affected by an uncontrollable event must be resumed as soon as is reasonably possible after the uncontrollable event ends or its impact is reduced.

Defined in this notice: audiology provider, uncontrollable event

#### **CB17 Confidentiality**

- (1) Except as provided under this notice, neither the Ministry of Health nor an audiology provider may disclose any confidential information to any person.
- (2) The Ministry of Health or the audiology provider may publish this notice, in any media, including publication on the internet.
- (3) Subject to subclause (4), the Ministry of Health or the audiology provider may disclose confidential information only in the following circumstances:
  - (a) disclosure is to a person involved in the provision of hearing aid services under this notice, if necessary to provide those services:
  - (b) disclosure is to the Ministry of Health or the audiology provider's respective professional advisers and representative agents:
  - (c) if disclosure is permitted under this notice, including under clause CE2:
  - (d) the information is already in the public domain without being in breach of this clause:
  - (e) disclosure is required by law, including where the Ministry of Health considers it necessary to disclose confidential information under the Official Information Act 1982 or otherwise under Ministry's public law obligations:
  - (f) if the other party has consented in writing to such disclosure:
  - (g) disclosure required by a relevant stock exchange.
- (4) Both the Ministry of Health and the audiology provider will ensure that confidential information is kept in confidence and in accordance with any legal requirements, including, without

limitation, any disclosure of health information by either the Ministry of Health or the audiology provider must comply with the Privacy Act 1993 and the Health Information Privacy Code 1994.

- (5) Both the Ministry of Health and the audiology provider will ensure that confidential information is subject to user authorisation procedures during an audit carried out in accordance with clause CE2.

Defined in this notice: audiology provider, confidential information

## **Subpart CC—Applications**

### **CC1 Basis for applying under this notice**

An audiology provider may apply under this notice to provide a hearing aid service, but only if—

- (a) the audiology provider holds a current authorisation for providing the hearing aid service; and
- (b) the hearing aid service has been, or will be provided to an eligible person; and
- (c) the hearing aid service has been, or will be, provided in accordance with all the applicable requirements of this notice; and
- (d) the application is permitted under this notice; and
- (e) the assessor involved in providing the hearing aid service is an approved assessor at the time the hearing aid service is provided.

Defined in this notice: application, approved assessor, audiology provider, authorisation, eligible person, hearing aid services

### **CC2 Application to be properly completed**

An audiology provider must ensure that every application that the audiology provider makes is properly completed in accordance with the requirements specified by the Ministry of Health or the services manager.

Defined in this notice: application, audiology provider, services manager

### **CC3 Manual applications**

- (1) An audiology provider may make a manual application by submitting either—
- (a) an application on a form approved by the Ministry of Health and available from the services manager; or
  - (b) the application form printed from a practice management system that is in the same format and contains identical information as the application forms approved by the Ministry of Health.

- (2) An audiology provider who makes an application must certify that the application is accurate and complies with the requirements of this notice.

Defined in this notice: application, audiology provider, services manager

#### **CC4 Electronic applications**

- (1) An audiology provider may apply electronically by submitting an electronic application file to the services manager.
- (2) An audiology provider who intends to apply electronically must comply with the standards for network interoperability and security set by the Health Information Standards Organisation and use a platform supported by the services manager.
- (3) The electronic application file must be in a format approved by the Ministry of Health or the services manager.
- (4) An audiology provider who submits an electronic application file must retain and make available on audit—
  - (a) a copy of the application file in a format that allows the application to be available to the auditors of the Ministry of Health; and
  - (b) evidence that the audiology provider and approved assessor have certified that the services have been, or will be, provided in accordance with the requirements of Part B.
- (5) The information referred to in subclause (4)—
  - (a) must be readily accessible for audit; and
  - (b) if requested by the Ministry of Health or the services manager—
    - (i) must be forwarded by fax or some other electronic means to the services manager within 1 working day or as agreed by the Ministry of Health; and
    - (ii) the original must be made available for inspection.

Defined in this notice: application, approved assessor, audiology provider, services manager, working day

### **Subpart CD—Claims**

#### **CD1 Basis for claiming under this notice**

An audiology provider may claim payment under this notice for providing a hearing aid service, but only if—

- (a) the audiology provider holds a current authorisation for providing the hearing aid service; and
- (b) the hearing aid service is provided to an eligible person; and

- (c) the hearing aid service has been provided in accordance with all the applicable requirements of this notice; and
- (d) the claim is permitted under this notice; and
- (e) the assessor involved in providing the hearing aid service is an approved assessor at the time the hearing aid service is provided.

Defined in this notice: approved assessor, audiology provider, authorisation, claim, eligible person, hearing aid services

## **CD2 No claim if claim is covered by another arrangement**

An audiology provider may not claim under this notice if the audiology provider, or anyone who works for the audiology provider (whether as an employee or otherwise) is entitled to have the claim satisfied (whether directly or indirectly) under any other arrangement with the Ministry of Health, the ACC, the ACC and the Ministry of Health jointly, or Veteran's Affairs New Zealand.

Defined in this notice: ACC, audiology provider, claim

## **CD3 When claims for hearing aid subsidy must be for actual cost of hearing aid**

- (1) This clause applies if—
  - (a) an audiology provider receives a hearing aid from a manufacturer for an amount that is less than the hearing aid subsidy; and
  - (b) the audiology provider claims the hearing aid subsidy under this notice for providing the hearing aid.
- (2) If this clause applies, then, without limiting clause CB13, the audiology provider may claim only the actual cost of the hearing aid and not the hearing aid subsidy.
- (3) For the purposes of subclause (2), **actual cost**, in relation to a hearing aid, includes, but is not limited to, discounts for bulk purchases of the hearing aid.

Defined in this notice: audiology provider, claim, hearing aid, hearing aid subsidy, manufacturer

## **CD4 Claim to be properly completed**

- (1) An audiology provider must ensure that every claim that the audiology provider makes is properly completed in accordance with the requirements specified by the Ministry of Health or the services manager.
- (2) An audiology provider must ensure that the eligible person's NHI number is supplied with each claim.

Defined in this notice: audiology provider, claim, eligible person, NHI number, services manager

## **CD5 Timing of claims**

- (1) An audiology provider may make a claim only on completion of the hearing aid service for which the claim is made.

- (2) An audiology provider must ensure that the services manager receives the audiology provider's claim for a hearing aid service within 6 months of the service being completed.
- (3) The services manager will return an improperly completed claim to the audiology provider concerned within 5 working days, but only if the audiology provider can be identified.

Defined in this notice: audiology provider, claim, hearing aid services, services manager, working day

#### **CD6 Manual claims**

- (1) An audiology provider may make a manual claim by submitting either—
  - (a) a claim on a form approved by the Ministry of Health and available from the services manager; or
  - (b) the claim form printed from a practice management system that is in the same format and contains identical information as the claim forms approved by the Ministry of Health.
- (2) An audiology provider who makes a manual claim must certify that the claim is accurate and complies with the requirements of this notice.

Defined in this notice: audiology provider, claim, claim form, services manager

#### **CD7 Electronic claiming**

- (1) An audiology provider may claim electronically by submitting an electronic claim file to the services manager.
- (2) An audiology provider who intends to claim electronically must comply with the standards for network interoperability and security set by the Health Information Standards Organisation and use a platform supported by the services manager.
- (3) The electronic claim file must—
  - (a) include the date of the claim, the amount of the claim, and the eligible person's NHI number; and
  - (b) be in a format approved by the Ministry of Health or the services manager.
- (4) An audiology provider who submits an electronic claim file must retain and make available on audit—
  - (a) a copy of the claim file in a format that allows the claim to be available to the auditors of the Ministry of Health; and
  - (b) evidence that the audiology provider and approved assessor have certified that the hearing aid services have been provided in accordance with the requirements of this notice.
- (5) The information referred to in subclause (4)—
  - (a) must be readily accessible for audit; and

- (b) if requested by the Ministry of Health or the services manager—
  - (i) must be forwarded by fax or some other electronic means to the services manager within 1 working day or as agreed by the Ministry of Health; and
  - (ii) the original must be made available for inspection.

Defined in this notice: approved assessor, audiology provider, claim, NHI number, services manager, working day

#### **CD8 Payment of claims**

- (1) Subject to clause CD10(2), the services manager will pay a claim on or before the 22<sup>nd</sup> day of the month (or, if that day is not a working day, the next working day) following the acceptance of a valid claim.
- (2) Payment will be made by way of direct credit.
- (3) If a claim has to be returned to an audiology provider for correction of claiming details and a corrected claim has been submitted by the audiology provider, the corrected claim will be paid based on the date of receipt of the corrected claim.
- (4) No claim for a hearing aid service will be paid if the claim is received more than 6 months after the hearing aid service has been completed.
- (5) Subclause (4) applies unless, in its sole discretion, the Ministry of Health considers there were circumstances beyond the control of the audiology provider that prevented the claim being submitted any earlier.

Defined in this notice: audiology provider, claim, hearing aid services, services manager, working day

#### **CD9 Set-off**

- (1) If the Ministry of Health determines that an audiology provider has been overpaid or that an audiology provider was not entitled to a payment, or any part of a payment, the Ministry of Health may recover that amount as a debt due and owing or deduct any overpayment from any subsequent payment payable to that audiology provider.
- (2) Before making any deduction, the Ministry of Health will advise the audiology provider of the proposed deduction and give the audiology provider—
  - (a) the reason for the deduction; and
  - (b) 10 working days to request that the Ministry of Health reconsider the deduction.

Defined in this notice: audiology provider, working day

#### **CD10 Withholding of payments**

- (1) This clause applies if, in the opinion of the Ministry of Health based on reasonable grounds—

- (a) an audiology provider is materially or intentionally in breach of this notice; or
  - (b) a claim made by that audiology provider is materially or intentionally false.
- (2) If this clause applies, the Ministry of Health may, in addition to, or instead of, any other remedy under this notice or at law, withhold some or all of the payments due to the audiology provider until—
- (a) the audiology provider has remedied the breach; or
  - (b) the Ministry of Health is satisfied of the veracity of the audiology provider's claim.
- (3) Before withholding any payment under subclause (2), the Ministry of Health must inform the audiology provider in writing—
- (a) of the breach or false claim; and
  - (b) that, if the breach is not remedied or the Ministry of Health is not satisfied of the veracity of the audiology provider's claim, within a specified period of not less than 20 working days, payments will be withheld after the expiry of that specified period.
- (4) Subclause (2) overrides clause CD8(1).

Defined in this notice: audiology provider, claim, working day

## **Subpart CE—Reviews, audits, and inspections**

### **CE1 Review of application or claim**

- (1) A person may, within 3 months from the date on which the person receives notice that an application or claim has been declined, request, in writing, that the services manager review that decision.
- (2) If a person makes a request under subclause (1), the following process applies:
  - (a) the person must provide additional written information to the services manager in support of the person's request:
  - (b) the services manager will consider the request and advise the person of the outcome of the review within 10 working days of receiving the request:
  - (c) if, having received the outcome of the review undertaken by the services manager, the person is still dissatisfied with the outcome of that review, the person may require the services manager to refer the matter to the EMS Review Panel to undertake a second review:
  - (d) the EMS Review Panel will review the services manager's decision and inform the services manager of its decision within 10 working days of the receipt of the request for a review:

- (e) the services manager will promptly advise the person of the EMS Review Panel's decision.

Defined in this notice: application, claim, EMS Review Panel, services manager, working day

## **CE2 Audit**

- (1) An audiology provider must provide the Ministry of Health and its authorised agents (the auditors) with access on 24 hours' notice (or immediate access if the auditor reasonably suspects that a fraudulent application has been made or fraudulent claiming has occurred) to—
- (a) all records related to the provision of hearing aid services by the audiology provider; and
  - (b) the premises where hearing aid services are provided; and
  - (c) the premises where the records are kept.
- (2) For the purposes of carrying out an audit, an audiology provider must allow the auditors to interview—
- (a) anyone who works for the audiology provider (whether as an employee or otherwise), and
  - (b) any person receiving hearing aid services.
- (3) If the audit identifies an overpayment of a claim or evidence of non or partial service delivery, or other breach of this notice, the Ministry of Health or the services manager may do all or any of the following:
- (a) obtain a full or partial repayment of the claim, either directly or by using its right to set-off in accordance with clause CD9:
  - (b) vary, suspend, or terminate the authorisation of an audiology provider in accordance with clause CA5:
  - (c) vary, suspend, or terminate an assessor's approval in accordance with clause CA11.
- (4) If any protocols have been agreed between the Ministry of Health and the New Zealand Audiological Society, the Ministry of Health will conduct audits of audiology providers in accordance with those protocols.
- (5) The Ministry of Health's right to audit under this clause continues after this notice ends but only to the extent that it is relevant to the period that the audiology provider was providing hearing aid services under this notice.

Defined in this notice: application, audiology provider, audit, authorisation, claim, hearing aid services

## **CE3 Inspection of records under Health Act 1956**

If the Ministry of Health exercises powers under section 22G of the Health Act 1956, or any enactment that replaces that section and, following inspection under that section, the Ministry of Health is

unable to verify any of an audiology provider's applications or claims under this notice, the Ministry of Health may do all or any of the following:

- (a) require the audiology provider to report at such intervals and on such financial matters as the Ministry of Health may specify:
- (b) recover monies from the audiology provider under this notice:
- (c) withhold payments under this notice from the audiology provider in accordance with clause CD10(1):
- (d) vary, suspend, or terminate the authorisation of an audiology provider in accordance with clause CA5:
- (e) vary, suspend, or terminate an assessor's approval in accordance with clause CA11:
- (f) take any further action that it considers necessary in the circumstances.

Defined in this notice: application, audiology provider, authorisation, claim

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**Schedule**  
**Definitions and interpretation**  
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**1 Definitions**

In this notice, unless the context otherwise requires,—

**ACC** means the Accident Compensation Corporation continued by section 259 of the Accident Compensation Act 2001

**Act** means the New Zealand Public Health and Disability Act 2000

**application** means an application made under any of subparts BC, BD or BF of Part B for approval to provide hearing aid services under this notice

**approved hearing aid list** means the list kept by the Ministry of Health under clause BA1

**approved assessor** has the meaning set out in clause CA9

**audiology provider** means an organisation (including a DHB) or an individual that provides hearing aid services

**audit** means an audit, investigation, or review of—

- (a) the quality of hearing aid services provided; and
- (b) the performance of hearing aid services in accordance with this notice; and
- (c) any other matter concerning compliance with any of the obligations of an audiology provider or of an approved assessor under this notice

**authorisation** means an authorisation granted by the Ministry of Health under clause CA1

**better ear** means the ear with the lesser hearing threshold level at the relevant audiometric frequency

**bone anchored hearing aid** means a surgically implanted system for rehabilitating hearing loss that works through direct bone conduction

**claim** means a request for payment for hearing aid services made under any of subparts BB, BD or BE of Part B, and that is completed in accordance with this notice and submitted to the services manager

**claim form** means the relevant hearing aid services claim form that is available from the services manager

**cochlear implant** means a device that is surgically implanted in a person's cochlea and that works through electrical stimulation to provide a sense of sound to a person who is severely or profoundly deaf

**Code** means the Code of Health and Disability Services Consumers' Rights 1996 issued under the Health and Disability Commissioner Act 1994

**confidential information**—

- (a) health information; or
- (b) any information disclosed by the Ministry of Health to an audiology provider or by an audiology provider to the Ministry of Health at any time before revocation of this notice or arising out of the operation of this notice that—
  - (i) is agreed by both the Ministry and the audiology provider as being confidential; or
  - (ii) may reasonably be considered to be confidential taking into account all the circumstances, including the manner of and circumstances in which disclosure occurred; but
- (c) does not include the terms of this notice

**consumable items**, in relation to a hearing aid, means components of the hearing aid that are necessary for either or both the operation or maintenance of the hearing aid and that will need to be replaced over time (for example, batteries and microphone covers)

**Crown** means Her Majesty the Queen in right of New Zealand

**dB HL** means hearing threshold in decibels of a given ear at a specified frequency and for a specified type of transducer when measured with an audiometer calibrated to reference equivalent levels for air or bone conduction

**dependent person** means a person who requires full-time care because—

- (a) the person is a child of or under the age of 13 years; or
- (b) of the person's long-term health or disability needs

**eligible person**, in relation to—

- (a) the hearing aid subsidy, has the meaning set out in clause BB3(1):

- (b) hearing aid funding, has the meaning set out in clause BC2:
- (c) funding for hearing aid repairs, has the meaning set out in clause BD1:
- (d) the reimbursement for costs associated with an eligible person's replacement hearing aid that are partially met by insurance, has the meaning set out in clause BC2

**EMS Review Panel** means the Ministry of Health's Equipment and Modification Services Review Panel

**full-time study** means pre-school education, compulsory education (primary, secondary, correspondence school, and home schooling), tertiary level education, and vocational training

**GST** means good and services tax payable under the Goods and Services Tax Act 1985

**Guide to Getting Hearing Aids—**

- (a) means the Guide to Getting Hearing Aids issued by the Ministry of Health (as amended from time to time); and
- (b) includes any document issued in substitution for the Guide to Getting Hearing Aids

**health information** means the following information or classes of information about an identifiable and living natural person:

- (a) information about the health of that person, including his or her medical history:
- (b) information about any disabilities that person has, or has had:
- (c) information about any health services or disability services that are being provided, or have been provided, to that person:
- (d) information provided by that person in connection with that donation, by that person, of any body part or any bodily substance of that person or derived from the testing or examination of any body part, or any bodily substance of that person:
- (e) information about that person that is collected before or in the course of, and incidental to, the provision of any health service or disability service to that person

**Health Information Privacy Code 1994** means the code relating to privacy of health information issued under section 46 of the Privacy Act 1993

**hearing aid—**

- (a) means a personal electronic amplification device that is used wholly or principally by a person to alleviate the impact of their hearing loss; and

- (b) includes—
  - (i) FM systems:
  - (ii) bone anchored hearing aids:
  - (iii) hearing aid accessories; but
- (c) excludes—
  - (i) cochlear implants:
  - (ii) devices that have microphones and amplification systems that are designed primarily for other uses, such as stereos and mobile phones:
  - (iii) consumable items (for example, batteries):
  - (iv) second-hand hearing aids

**hearing aid accessories**, in relation to a hearing aid, means equipment that has the purpose of enhancing the functionality of the hearing aid (but is not necessary for the operation or maintenance of the hearing aid) and that does not need to be replaced over time (for example, remotes, open fit tubes, speakers, and wireless devices)

**hearing aid funding** has the meaning set out in clause BC1

**hearing aid services—**

- (a) means services provided under the hearing aid subsidy scheme:
- (b) services provided under the hearing aid funding scheme

**Hearing Aid Services Manual—**

- (a) means the Hearing Aid Services Manual issued by the Ministry of Health (as amended from time to time):
- (b) includes any document issued in substitution for the Hearing Aid Services Manual

**hearing aid subsidy** has the meaning set out in clause BB2

**hearing assessment** includes the taking, interpretation, and recording of the results of an audiogram (and related testing)

**hearing needs assessment—**

- (a) means a comprehensive assessment of a person's hearing function, communication needs, and rehabilitation options; and
- (b) includes recommending options for achieving the person's hearing goals as agreed between the approved assessor and the person during the assessment process

**Hz**, which is the international measure of frequency, means Hertz where 1 Hertz equals 1 cycle per second

**LEADR** means an Australasian not-for-profit membership organisation formed in 1989 to serve the community by promoting and facilitating the use of consensual dispute resolution processes generally known as Alternative Dispute Resolution or ADR

**main carer**, in relation to a person, means an unpaid carer who lives with the person and provides the majority of the person's care

**manufacturer** means a person who manufactures hearing aids or distributes hearing aids to audiology providers (or both)

**maximum capacity**, in relation to a person, means the maximum number of hours that the person is capable of working due to the limitations imposed by their disability, as confirmed by a medical practitioner registered by the Medical Council of New Zealand

**Ministry's approved standards—**

- (a) means a standard that is approved by the Ministry of Health and that is publicly available on the Ministry of Health's website or the services manager's website (or both); and
- (b) includes an amendment to an approved standard that is approved by the Ministry of Health and that is publicly available on the Ministry of Health's website or the service manager's website (or both)

**NHI number** means the National Health Index number, a unique person identifier number allocated by the New Zealand Health Information Service

**NZAS Standards of Practice—**

- (a) means the Standards of Practice issued by the New Zealand Audiological Society (as amended from time to time); and
- (b) includes any standards or guidelines issued in substitution for the Standards of Practice referred to in paragraph (a)

**price monitoring programme** means the price monitoring programme referred to in clause CA3

**recognised voluntary organisation—**

- (a) means an established non-profit organisation that provides voluntary services for the benefit of the community as a whole and that is recognised by the Ministry of Health for the purposes of equipment and modification services funding; but
- (b) excludes schools, kindergartens, kohanga reo, sporting organisations and churches

**required information**, in relation to—

- (a) a person who is eligible for the hearing aid subsidy, means the required information set out in clause BB6(3):
- (b) a person who is eligible for hearing aid funding, means the required information set out in clause BC5(3)

**seeking paid employment**, in relation to a person who is eligible to receive services funded under the Act, means the person is registered for employment with Work and Income, Workbridge, or employment support services associated with specific disability organisations such as Deaf Aotearoa or the Royal New Zealand Foundation of the Blind

**services manager**—

- (a) means a person authorised by the Ministry of Health to administer and approve the hearing aid subsidy or hearing aid funding (as the case may require) on behalf of the Ministry of Health; and
- (b) includes anyone who works for the services manager (whether as an employee or otherwise)

**severe long-term hearing loss since childhood**, in relation to a person who is eligible to receive services funded under the Act, means—

- (a) the average of the person's 3 worst hearing threshold levels, which have been measured at audiometric frequencies of 500, 1000, 2000, and 4000 Hz, is equal to or greater than 70 dB HL in the better ear; and
- (b) the person has had a continuous need for hearing aids since childhood

**significant intellectual disability**, in relation to a person, means significantly sub-average general intelligence that—

- (a) may be indicated by an IQ of 70 or below on an individually administered IQ test; and
- (b) reduces the person's ability to communicate effectively

**significant physical disability**, in relation to a person, means a significant long-term physical disability that affects the person's ability to communicate effectively (for example, a person who has difficulties with expressive communication due to a neurological condition)

**significant visual disability**, in relation to a person, means that—

- (a) the person's corrected vision (with lenses) does not exceed 6/24 in the person's better eye; or
- (b) the person has significant limitation in their binocular central field vision not less than 10° in extent at the widest diameter; or
- (c) the person's overall binocular visual field is no greater than 30° at its widest diameter

**sudden and severe hearing loss during adulthood**, in relation to a person who is eligible to receive services funded under the Act, means that, within the last 6 months,—

- (a) the person has, over a period of 1 to 14 days, developed a significant increase in the person's hearing threshold level of at least 30 dB HL on average in 1 ear or both ears; and
- (b) this has resulted in the average of the person's 3 worst hearing threshold levels, which have been measured at audiometric frequencies of 500, 1000, 2000, and 4000 Hz, being equal to or greater than 70 dB HL in the better ear

**uncontrollable event** means an event that is beyond the reasonable control of a person but does not include—

- (a) any risk or event that the person could have prevented or overcome by taking reasonable care including having in place a reasonable risk management process; or
- (b) lack of funds for any reason (other than where the Ministry has failed to make due payment)

**UNHSEIP Protocols** means the Universal Newborn Hearing Screening and Early Intervention Programme; National Policy and Quality Standards in Appendix F of the Diagnostic and Amplification Protocols issued by the Ministry of Health (as amended from time to time)

**working day** means a day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day; and
- (b) the day observed in the appropriate area as the anniversary of the province of which the area forms a part; and
- (c) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
- (d) if 1 January falls on a Friday, the following Monday; and
- (e) if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday.

## **2 Application of clauses 3 to 7**

Clauses 3 to 7 apply to this notice unless the context requires otherwise.

## **3 Meanings of terms and expressions defined in Act**

Any term or expression that is defined in the Act and used, but not defined, in this notice, has the same meaning as in the Act.

## **4 Parts of speech and grammatical forms**

Grammatical forms of a word that is defined in this notice have corresponding meanings in this notice.

## **5 Numbers**

Words in the singular include the plural and words in the plural include the singular.

**6 Time**

- (1) A period of time described as beginning at, on, or with a specified day, act, or event includes that day or the day of the act or event.
- (2) A period of time described as beginning from or after a specified day, act, or event does not include that day or the day of the act or event.
- (3) A period of time described as ending by, on, at, or with, or as continuing to or until, a specified day, act, or event includes that day or the day of the act or event.
- (4) A period of time described as ending before a specified day, act, or event does not include that day or the day of the act or event.
- (5) A reference to a number of days between 2 events does not include the days on which the events happened.
- (6) A thing that, under this notice, must or may be done on a particular day or within a limited period of time may, if that day or the last day of that period is not a working day, be done on the next working day.

**7 Enactments**

A reference to an Act includes—

- (a) all regulations under that Act; and
- (b) all amendments to that Act; and
- (c) an Act substituting for it which incorporates any of its provisions.

**8 Interpretational aids: list of defined terms**

- (1) The list of defined terms following a clause is included in this notice only as interpretational aids. If there is conflict between an interpretational aid and a provision of this notice, the provision prevails.
  - (2) If a defined term is used in a clause and is not included in the list of defined terms following the clause, the term is nevertheless used in the clause as defined.
-