



Hearing Services Program (Voucher) Instrument 2019

I, [INSERT NAME], Minister for Health, make the following instrument.

Dated

EXPOSURE DRAFT APRIL 2019

[INSERT NAME] **DRAFT ONLY—NOT FOR SIGNATURE**
Minister for Health

EXPOSURE DRAFT APRIL 2019

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Part 1—Preliminary

1 Name

This instrument is the *Hearing Services Program (Voucher) Instrument 2019*.

2 Commencement

This instrument commences on 1 October 2019.

3 Repeals

Each of the following instruments is repealed:

- (a) *Hearing Services (Eligible Persons) Determination 1997*;
- (b) *Hearing Services Voucher Rules 1997*;
- (c) *Hearing Services (Participants in the Voucher System) Determination 1997*;
- (d) *Hearing Services Providers Accreditation Scheme 1997*;
- (e) *Hearing Services Rules of Conduct 2012*.

4 Authority

This instrument is made under the following provisions of the Act:

- (a) subsection 5(3);
- (b) subsection 11(1);
- (c) section 13;
- (d) subsection 15(1);
- (e) subsection 17(1).

5 Definitions

Note 1: The asterisked terms are defined in the definitions section in the Act.

Note 2: **business day** means a day that is not a Saturday, a Sunday or a public holiday in the place concerned – see section 2B of the *Acts Interpretation Act 1901*.

(1) In this instrument:

accreditation* means accreditation under the accreditation scheme.

accreditation scheme* means the scheme in force under section 15 of the Act.

Note: Part 4 of this instrument sets out a scheme for the accreditation of entities as service providers for subsection 15(1) of the Act.

accredited service provider* means an entity accredited under the accreditation scheme.

Act means the *Hearing Services Administration Act 1997*.

AHS* means Australian Hearing Services.

approved hearing device means a hearing device that is on the fully subsidised device schedule or partially subsidised device schedule published on the Program website or that is otherwise approved by the Minister.

approved membership category means a category of membership of a practitioner professional body that is listed on the Program website.

contracted service provider* means an accredited service provider engaged under section 20 of the Act.

de facto partner of a person has the meaning given by section 2D of the *Acts Interpretation Act 1901*.

eligible person* has the meaning given by section 5 of the Act.

Note: Part 2 of this instrument sets out additional eligible persons for the purposes of subsection 5(3) of the Act.

entity* means:

- (a) an individual; or
- (b) a body corporate; or
- (c) a partnership; or
- (d) an authority of the Commonwealth, a State or a Territory; or
- (e) a Department of the Government of the Commonwealth, a State or a Territory.

hearing device means goods, together with any attachment necessary for the operation of the goods (such as an earmould), for purposes in connection with:

- (a) hearing rehabilitation; or
- (b) assessment of hearing; or
- (c) hearing loss prevention.

hearing device maintenance means hearing services related to the maintenance of a hearing device, including the provision of batteries for a hearing device.

hearing services* means:

- (a) services for purposes in connection with:
 - (i) hearing rehabilitation; or
 - (ii) assessment of hearing; or
 - (iii) hearing loss prevention; or
- (b) goods for purposes in connection with:
 - (i) hearing rehabilitation; or
 - (ii) assessment of hearing; or
 - (iii) hearing loss prevention.

Note: Division 6.2 in Part 6 of this instrument sets out available hearing services.

Hearing Services Program means the Department.

Hearing Services Online Portal means the part of the website administered by the Hearing Services Program for the purposes of applications, information and other approvals under this instrument.

Note: In 2019 the Hearing Services Online Portal could be viewed at <http://www.hearingservices.gov.au>.

minimum hearing loss threshold means hearing loss averaging greater than 23 decibels when tested at 0.5, 1 and 2 kilohertz.

participant in the voucher system* has the meaning given by section 13 of the Act.

practitioner professional body means an Australian body:

- (a) formally constituted for the purpose of representing the interests of the professions of audiology or audiometry or both; and
- (b) whose membership is based on appropriate industry recognised professional qualifications for audiologists or audiometrists or both; and
- (c) that supervises and enforces a code of ethics for the professions of audiology or audiometry or both; and
- (d) that requires members to continue their professional development; and
- (e) that meets any practitioner professional body requirements published by the Hearing Services Program on the Program website; and
- (f) published on the list of practitioner professional bodies on the Program website.

Program website means the website administered by the Hearing Services Program for the purposes of setting out information related to hearing services.

Note: In 2019 the Program website could be viewed at <http://www.hearingservices.gov.au>.

provisional practitioner means a member of a practitioner professional body in an approved provisional membership category listed on the Program website who works under a supervision agreement or internship approved by that practitioner professional body.

QP number has the meaning given by section 37.

qualified practitioner means a member of a practitioner professional body in an approved membership category listed on the Program website.

Rehabilitation Plus Group Service means a service consisting of support and assistance provided in a group setting to voucher-holders in accordance with any requirements for the service set out in the schedule of service items.

schedule of service items means the schedule made by the Minister under section 41.

service provider contract means an agreement between the Minister on behalf of the Commonwealth and a contracted service provider under section 20 of the Act.

service provider personnel, in relation to a contracted service provider, means:

- (a) officers, employees, agents and contractors of the contracted service provider; and
- (b) officers, employees, agents and contractors of any subcontractor to the contracted service provider; and
- (c) any person (including a qualified practitioner, provisional audiologist, provisional audiometrist, student or locum) who, whether in the capacity of employee or otherwise, works for the contracted service provider in the provision of hearing services to voucher-holders.

specialist hearing services means services to treat:

- (a) a hearing loss where the average hearing threshold level for 0.5, 1 and 2 kilohertz in the person's better ear is greater than, or equal to, 80 decibels; or
- (b) hearing loss and communication difficulty that:
 - (i) prevents the person from communicating effectively in his or her daily environment; or
 - (ii) is caused or aggravated by significant physical, intellectual, mental, emotional or social disability.

voucher* means a voucher issued under section 10 of the Act.

Note: Part 3 of this instrument sets out rules relating to vouchers for the purposes of subsection 11(1) of the Act.

voucher-holder* means a participant in the voucher system who holds a voucher.

Wishes and Needs Tool means the system of questions, answers and scoring method for assessing participants set out in the Wishes and Needs Tool document issued by the National Acoustic Laboratories, as in effect on 1 July 2010.

- (2) A reference in this instrument to the provision of hearing services to a voucher-holder is a reference to the provision of those services to the voucher-holder under the voucher system.

Part 2—Additional eligible persons

6 Additional eligible persons

For subsection 5(3) of the Act, this Part specifies persons who are additional eligible persons for the purposes of the Act.

7 Dependants

- (1) A person is an eligible person if the person:
 - (a) is an Australian citizen or Australian permanent resident; and
 - (b) has attained 26 years of age; and
 - (c) is the spouse or de facto partner of an eligible person mentioned in paragraph 5(2)(a), (b), (c) or (d) of the Act or section 9 of this instrument.

8 NDIS participants up to 1 July 2020

A person is an eligible person at a time before 1 July 2020 if the person:

- (a) has reached the age of 21 years; and
- (b) satisfies one of the following:
 - (i) the person is a participant within the meaning of the *National Disability Insurance Scheme Act 2013* and has been referred to the Minister in connection with the funding or provision of supports under the participant's plan under Chapter 3 of that Act; or
 - (ii) the person is a participant within the meaning of the *Disability Services Act 1993* (WA) and has been referred to the Minister in connection with the funding or provision of supports under the participant's plan under section 26I of that Act.

9 Department of Veterans' Affairs clients

A person is an eligible person if the person:

- (a) holds a card issued by the Commonwealth and known as a DVA Health Card (Gold), where the card is expressed to be issued for all conditions; or
- (b) holds, for purposes connected with obtaining treatment for an injury, disease or condition that involves hearing loss, a card issued by the Commonwealth and known as a DVA Health Card (White), where the card is expressed to be issued for hearing specific conditions.

10 Disability Employment Services clients

A person is an eligible person if the person is referred to the Minister in connection with the provision of services under Part II of the *Disability Services Act 1986*.

Part 3—Voucher rules

11 Voucher rules

For subsection 11(1) of the Act, this Part sets out rules relating to vouchers.

12 Applying for a voucher

- (1) A person who wishes to have a voucher (the *applicant*) may apply to the Minister.
- (2) A contracted service provider may apply for a voucher on an applicant's behalf if the applicant consents.
- (3) An application must be:
 - (a) made in the form approved by the Minister; and
 - (b) accompanied by any information required by the form.

13 Issuing a voucher

- (1) The Minister may issue a voucher to the applicant only if:
 - (a) the applicant is an eligible person; and
 - (b) the application was made in the approved form; and
 - (c) the application form was properly completed.

Note: In administering this Part, the Minister is also required to have regard to the limited resources available to provide services and programs under the Act, and also the need to consider equity and merit in accessing the resources: see Act, subsection 8(1).

A decision refusing to issue a voucher is subject to reconsideration by the Minister and review by the Administrative Appeals Tribunal: see Act, sections 29 and 35.

- (2) A voucher is issued when an application for a voucher is approved and the voucher-holder's record is created in the Hearing Services Online Portal.

Validity

- (3) A voucher is valid for 3 years from the date of issue, subject to subsections (4) and (5).
- (4) If the voucher-holder is an eligible person under section 8 (eligible because of NDIS), the voucher ceases to be valid on 30 June 2020.
- (5) If the Minister considers it reasonable having regard to the general criteria set out in subsection 8(1) of the Act, the Minister may cease a voucher within the 3 year validity period. If the Minister does so, the voucher ceases on the day specified by the Minister.

Note: A decision to cease a voucher is subject to reconsideration by the Minister and review by the Administrative Appeals Tribunal: see Act, sections 29 and 35.

- (6) If after 30 June 2020, the voucher-holder becomes an NDIS participant, the voucher ceases on the day that the voucher-holder becomes an NDIS participant.

- (7) A voucher is valid for the services detailed in the schedule of service items in accordance with their associated conditions, unless varied in accordance with section 43.

14 Effect of issuing a voucher

The effect of issuing a voucher is that the voucher-holder may receive available hearing services while the voucher is valid.

Note: Available services are set out in Division 6.2 of Part 6 of this instrument.

15 A voucher-holder is a participant in the voucher system

An eligible person becomes a participant in the voucher system when the Minister issues him or her a voucher.

Part 4—Accreditation scheme

16 Accreditation scheme

For subsection 15(1) of the Act, this Part sets out a scheme for the accreditation of entities as service providers.

17 Application for accreditation

- (1) An entity may apply to the Minister for accreditation.
- (2) An application must be:
 - (a) made in the form approved by the Minister; and
 - (b) accompanied by any information required by the form.

18 Australian Hearing Services

Australian Hearing Services is taken to be an accredited service provider.

Note: In accordance with section 20 of the Act, AHS may be engaged under that section.

19 Decisions by the Minister

- (1) The Minister may decide:
 - (a) to accredit an entity; or
 - (b) to refuse to accredit an entity.

Note: A decision made by the Minister under this section is subject to reconsideration by the Minister and review by the Administrative Appeals Tribunal: see sections 29 and 35 of the Act.

- (2) The Minister must notify the entity of a decision to accredit or refuse to accredit the entity under subsection (1).
- (3) The Minister may decide to accredit an entity if the Minister considers that accreditation is in the best interests of persons receiving hearing services under the Act, having regard to the following matters:
 - (a) the standard of the service provided by the entity, including:
 - (i) the competency of the qualified practitioners employed by the entity;
 - (ii) whether the entity has appropriate systems and processes in place to protect client personal and health information;
 - (iii) the standard of the premises in which the services will be provided;
 - (b) any other matters that might affect the standard, delivery or claiming of services.
- (4) Accreditation may be subject to conditions.
- (5) At any later time, the Minister may by notice in writing to the contracted service provider:
 - (a) revoke or vary a condition of accreditation; or
 - (b) impose a further condition of accreditation.

- (6) If a contracted service provider has contravened the Act, this instrument or its service provider contract, the Minister may by notice in writing to the contracted service provider cancel its accreditation.
- (7) Before making a decision under subsection (5) or (6) the Minister may:
 - (a) notify the contracted service provider that the Minister is considering exercising the power under subsection (5) or (6); and
 - (b) invite the contracted service provider to make a written submission within 20 business days of when the notice is received as to why the intended action should not be taken.

20 Breaches to be reported

A contracted service provider must promptly inform the Department of any material breach or suspected material breach of any of the following:

- (a) the Act;
- (b) this instrument;
- (c) the service provider contract, including any requirements in the service provider contract to comply with any other laws.

Note: The service provider contract requires the contracted service provider to comply with the *Privacy Act 1988* and the Australian Consumer Law in Schedule 2 to the *Competition and Consumer Act 2010*.

21 Accreditation only effective while an agreement under section 20 of the Act is in force

- (1) An accredited service provider may not provide voucher services under its accreditation until the entity has entered into an agreement under section 20 of the Act.
- (2) If an accredited service provider's agreement under section 20 of the Act is terminated, its accreditation is taken to be cancelled.

22 Minister may approve the transfer of accreditation

- (1) This section applies if an accredited entity changes its structure so that it is no longer the same entity.

Example: This section would apply if an accredited service provider that is a sole trader becomes a company.

- (2) An accredited entity may apply to the Minister to transfer its accreditation to another entity.
- (3) An application must be:
 - (a) in the form approved by the Minister; and
 - (b) accompanied by any information required by the form.
- (4) The Minister may approve the transfer of accreditation if the Minister considers that the transfer is in the best interests of persons receiving hearing services under the Act.

Example: If a partnership that is an accredited service provider is dissolved, the Minister may approve that accreditation be transferred to 1 of the partners.

23 Register

The Minister must keep a public register of contracted service provider details.

Part 5—Rules of conduct

Division 5.1—Preliminary

24 Rules of conduct

For section 17(1) of the Act, this Part sets out rules of conduct relating to the provision of hearing services to voucher-holders.

Division 5.2—Information

25 Obligation to provide information to potential voucher-holders and voucher-holders

Potential voucher-holders

- (1) If a person asks a contracted service provider about any hearing services, the contracted service provider must:
 - (a) inform the person of hearing services available from the Hearing Services Program and the eligible person criteria; and
 - (b) if the person consents, assist the person to check whether he or she is eligible for a voucher.
- (2) If the person is eligible, the contracted service provider must give the person:
 - (a) details of the services that may be available to the person free of charge under the voucher system; and
 - (b) any other information required by the guidance issued by the Hearing Services Program that is published on the Program website; and
 - (c) any other appropriate information about the voucher system.

Voucher-holders

- (3) A contracted service provider must give the voucher-holder details of the services that may be available to the voucher-holder free of charge under the voucher system, and any other appropriate information about the voucher system.

26 Records

- (1) A contracted service provider must:
 - (a) make and maintain a comprehensive record in respect of each voucher-holder to whom the contracted service provider delivers hearing services; and
 - (b) ensure that the information contained on the record is complete, legible, accurate and current.
- (2) A contracted service provider must ensure, as far as practicable, that information regarding voucher-holders:

- (a) is stored in such a way that it is easily identifiable and accessible; and
 - (b) is retained for at least 7 years from the date of the contracted service provider's most recent interaction with the voucher-holder; and
 - (c) is managed in accordance with any requirements set out in guidance issued by the Hearing Services Program that is published on the Program website.
- (3) A contracted service provider must allow such access to records relating to the provision of hearing services to voucher-holders as is necessary for it to comply with its service provider contract.
- (4) The record maintained under subsection (1) must include:
- (a) any device supplied to a voucher-holder that is:
 - (i) less than 5 years old; and
 - (ii) has been returned to the contracted service provider; and
 - (iii) is unable to be returned to the supplier for credit; until such time the voucher-holder is eligible for refitting under the program; and
 - (b) for a voucher-holder who meets the additional requirement in paragraph 47(2)(b)—the signed Wishes and Needs Tool and evidence supporting the fitting.

Note 1: The *Privacy Act 1988* contains provisions relevant to the use and disclosure of information.

Note 2: These records are also Commonwealth records and the *Archives Act 1983* contains provisions relevant to the ownership of and access to Commonwealth records.

27 Access to information

If a contracted service provider holds personal information about a voucher-holder, the contracted service provider must, on request by the voucher-holder, give the voucher-holder access to the information free of charge.

Note: This section imposes an obligation additional to those in the Australian Privacy Principles set out in Schedule 1 to the *Privacy Act 1988*.

28 Requirement to disclose device supply arrangements

A contracted service provider must inform a voucher-holder of any preferred device supply arrangements the contracted service provider has, including, but not limited to, whether a qualified practitioner receives a commission, incentive or other reward for the provision or sale of a particular device or brand.

29 Power to require information

- (1) For the purpose of confirming compliance with the Act, this instrument or the service provider contract, the Minister may at any time by written notice require a contracted service provider to give to the Minister a document or a certified copy of a document in the possession, or under the control, of the contracted service provider that relate to the provision of hearing services to voucher-holders for or on behalf of the contracted service provider.

- (2) The contracted service provider must provide the document within the time specified in the notice.

30 Obligation to inform service provider personnel

A contracted service provider must ensure that all relevant service provider personnel are aware of requirements under the Act, this instrument and the service provider contract.

Division 5.3—Service management

31 Limit on subcontracting

A contracted service provider must not subcontract the delivery of hearing services to a voucher-holder to another entity.

32 False or misleading representations

- (1) A contracted service provider must not make any representation in connection with the provision of hearing services to voucher-holders that:
- (a) is misleading or deceptive, or likely to mislead or deceive; or
 - (b) is calculated to mislead either directly or by implication; or
 - (c) suggests, directly or indirectly, that:
 - (i) hearing services under the voucher system are only available from the contracted service provider; or
 - (ii) the contracted service provider enjoys a special relationship with the Minister or the Department that will help get favourable treatment for a voucher-holder; or
 - (iii) the contracted service provider's accreditation under the accreditation scheme is a recommendation or endorsement by the Commonwealth of its hearing services; or
 - (iv) the approval of any hearing device by the Minister for provision to a voucher-holder, is a recommendation, endorsement or award by the Commonwealth other than that the device meets specified standards.

Note: Paragraph (a) covers comparison advertising.

- (2) Subsection (1) does not affect the operation of any other law, including a law of a State or Territory.
- (3) A contracted service provider must use the phrase 'conditions apply to clients under the Australian Government Hearing Services Program' in any advertisement or statement published or caused to be published by it that refers to a device or service which is able to be provided to voucher-holders under the voucher system.
- (4) A contracted service provider must not make any representation in connection with the provision of hearing services to voucher-holders that:
- (a) brings the voucher system into disrepute, including any representation that suggests that fully subsidised hearing devices are generally unsuitable; or

- (b) suggests that fully subsidised hearing devices are provided free by the contracted service provider rather than by the Australian Government.
- (5) In this section, **any representation** includes:
 - (a) a representation in advertising, on product packaging, in the media and online; and
 - (b) a statement made or information provided to the voucher-holder orally or in writing.

33 Complaints

- (1) A contracted service provider must cooperate fully and promptly with any inquiries by the Minister or the Department in relation to any complaint.
- (2) A contracted service provider must establish a procedure for dealing with complaints by or on behalf of a voucher-holder about a hearing service provided by the contracted service provider.
- (3) A contracted service provider must provide each voucher-holder who receives a hearing service from that provider with clear and simple written information about the contracted service provider's complaints procedure, including the way to make a complaint.
- (4) If a person makes a complaint about a hearing service provided by a contracted service provider under the voucher system, the contracted service provider must take reasonable steps to try to resolve the complaint to the satisfaction of the person.

34 Hearing services not to be refused to voucher-holders

- (1) A contracted service provider must not refuse or fail to provide available hearing services to a voucher-holder unless in the circumstances, it is reasonable to do so.
- (2) Despite subsection (1), a contracted service provider must not refuse or fail to provide available hearing services to a voucher-holder on the ground that the voucher-holder will not enter into an arrangement for a partially subsidised device.
- (3) If a contracted service provider refuses or fails to provide hearing services under subsection (1), the contracted service provider must:
 - (a) inform the voucher-holder and the Department within 5 business days of the reasons for that refusal or failure; and
 - (b) give the voucher-holder an opportunity to respond and rectify the reason for refusal or failure.

35 Voucher-holders relocating between contracted service providers

- (1) A contracted service provider (**new provider**) may request a voucher-holder's records from another contracted service provider (**old provider**) by submitting a request in the Hearing Services Online Portal (a **relocation request**).

- (2) A contracted service provider must not make a relocation request without written or oral authority from the voucher-holder.
- (3) The authority referred to in subsection (2) must be documented on the voucher-holder's records in accordance with any requirements set out in guidance issued by the Hearing Services Program that is published on the Program website.
- (4) If the old provider receives notice of a relocation request from the Department via the Hearing Services Online Portal the old provider must provide the records to the new provider within 7 business days.
- (5) When providing records under subsection (4), the old provider must:
 - (a) provide the voucher-holder's complete original record (with the exception of original claim forms and client payment receipts); and
 - (b) provide the voucher-holder's returned devices; and
 - (c) provide copies of the original claim forms and client payment receipts; and
 - (d) retain original claim forms and copies of client payment receipts for no less than 7 years from the date of service.

36 Notification of closure or transfer of business

- (1) This section applies if:
 - (a) a contracted service provider intends to close or transfer any part of their business; and
 - (b) the closure or transfer will result in a voucher-holder's records being relocated to a new contracted service provider.
- (2) The contracted service provider must:
 - (a) notify the voucher-holder no less than 10 business days prior to the closure or transfer; and
 - (b) provide the voucher-holder an opportunity to relocate their records to an alternative contracted service provider.

Part 6—Services

Division 6.1—Services to be delivered by qualified practitioners

37 Qualified practitioner number

The Minister may allocate each qualified practitioner a unique number (a *QP number*).

38 Responsibilities of contracted service providers

A contracted service provider:

- (a) is responsible for the services provided to voucher-holders by its service provider personnel; and
- (b) is responsible for any act or omission of any of its service provider personnel; and
- (c) must ensure that hearing services, unless hearing device maintenance or rehabilitation plus group services, are delivered by a qualified practitioner or provisional practitioner under the supervision of a qualified practitioner, and in accordance with the requirements of the relevant practitioner professional body; and
- (d) must ensure that the delivery of hearing services are provided in accordance with current Australian standards, including, but not limited to, those for ambient noise level testing and audiometric equipment; and
- (e) must ensure that hearing device maintenance and rehabilitation plus group services are conducted by persons with the appropriate skills; and
- (f) must ensure that each qualified practitioner who delivers services to voucher-holders has a QP number and makes claims under the voucher system using that number only; and
- (g) are responsible for checking the details (person's name, date of birth and approved membership category) of its practitioners with QP numbers that are shown in the Hearing Services Online Portal and notifying the Department of any errors; and
- (h) must ensure that its service provider personnel comply with the Act, this instrument and the service provider contract.

39 Professional standards

- (1) A contracted service provider must, in relation to the provision of hearing services to a voucher-holder, comply with applicable professional standards as set by the practitioner professional bodies.
- (2) A contracted service provider must ensure that, where it is clinically appropriate, a voucher-holder is referred to a medical practitioner prior to a hearing device being recommended or fitted.
- (3) This section does not affect the operation of any other law, including a law of a State or Territory.

40 Minister authorised to obtain and disclose certain information

For the purposes of investigating and monitoring compliance with the Act, this instrument or the service provider contract, the Minister may disclose or collect information about a qualified practitioner or a provisional practitioner to:

- (a) any practitioner professional body of which the person is or has been a member; or
- (b) any contracted service provider that engages, has engaged or plans to engage the person.

Division 6.2—Available services

41 Schedule of service items and fees

- (1) Subject to subsection (2), the following hearing services may be available to a voucher-holder:
 - (a) services necessary to assess and measure the nature and extent of the voucher-holder's hearing loss;
 - (b) advice and assistance to the extent necessary to achieve a rehabilitation outcome by the voucher-holder that is clinically reasonable;
 - (c) provision and fitting of a hearing device that:
 - (i) meets the specifications approved by the Minister; and
 - (ii) is approved by the Minister for fitting at no cost to voucher-holders (fully subsidised);
 - (d) provision and fitting of a hearing device that:
 - (i) meets the specifications approved by the Minister; and
 - (ii) is approved by the Minister as a device for which voucher-holders can be asked to make a payment to the provider (partially subsidised); and
 - (iii) is clinically necessary and appropriate to the voucher-holder's hearing loss, capacity to benefit from its use and life circumstances;
 - (e) replacement of a hearing device that has been lost or damaged beyond repair, if authorised by the Minister in accordance with section 48;
 - (f) appropriate follow-up care in accordance with professional standards, including the provision of follow-up support free of charge for a period of 12 months following the fitting of a hearing device;
 - (g) necessary repairs and hearing device maintenance.
- (2) The Minister may approve a schedule of service items specifying:
 - (a) hearing services of the type listed in subsection (1) that will be available to voucher-holders under section 42; and
 - (b) conditions that must be met in order for a voucher-holder to receive a particular hearing service; and
 - (c) conditions that must be met in order for a contracted service provider to claim a payment in relation to a particular hearing service from the Commonwealth; and

- (d) the fees payable to contracted service providers by the Commonwealth in relation to the provision of a particular hearing service to a voucher-holder; and
- (e) any voucher-holder co-payment associated with a particular hearing service; and
- (f) a formula for calculating the indexation of fees and charges; and
- (g) any other relevant information.

42 Hearing services

- (1) For the purposes of paragraph 13(1)(b) of the Act, a hearing service is available to the voucher-holder if:
 - (a) the hearing service is specified in the schedule of service items; and
 - (b) any conditions set out in the schedule of service items in respect of that hearing service are met in relation to the voucher-holder.
- (2) However, the hearing services available to an individual voucher-holder are subject to assessment of the voucher-holder's clinical need for that service.

43 Approval of additional hearing services

- (1) The Minister may approve additional hearing services if:
 - (a) a voucher-holder has used his or her voucher to receive the available hearing services; and
 - (b) the voucher-holder's contracted service provider applies, in the form approved by the Minister, for additional services to be made available to the voucher-holder; and
 - (c) the Minister is satisfied that specifying additional services to be available is reasonable, having regard to:
 - (i) the voucher-holder's clinical need for the services; and
 - (ii) the voucher-holder's eligibility to receive hearing services under the Act; and
 - (iii) the type and date of previously provided hearing services; and
 - (iv) the funds available to the Commonwealth for hearing services; and
 - (v) the demand for hearing services.
- (2) The voucher-holder may continue to use any other hearing services available to him or her under the voucher in accordance with the schedule of service items.

Note: A decision refusing to approve additional services for a voucher is subject to reconsideration by the Minister and review by the Administrative Appeals Tribunal: see Act, sections 29 and 35.

44 Approved hearing devices

- (1) A contracted service provider must not, in providing hearing services to a voucher-holder, fit the voucher-holder with a hearing device that is not available to the voucher-holder under his or her voucher, unless approved by the Minister.

- (2) The Minister may revoke an approval made under subsection (1), or under subparagraph 41(1)(c)(i) or (d)(ii), at any time.

45 Choice of hearing device

- (1) If a contracted service provider determines that a voucher-holder requires a hearing device, the contracted service provider must provide the voucher-holder with a choice from a range of types and styles of approved hearing devices which are available free of charge to the voucher-holder under the voucher system and are appropriate to meet the voucher-holder's audiological needs.
- (2) If a contracted service provider determines that a voucher-holder requires a hearing device and would benefit from a telecoil, then, unless the voucher-holder makes an informed decision that he or she does not need a telecoil, the contracted service provider must:
 - (a) provide the voucher-holder with an approved hearing device which is or can be fitted with a telecoil; and
 - (b) if the approved hearing device is not fitted with a telecoil, provide and fit the telecoil at no cost to the voucher-holder or the Department.
- (3) The contracted service provider must keep in its records written evidence of the voucher-holder's informed decision and why the voucher-holder has chosen a particular hearing device.

Division 6.3—Additional requirements

46 Partially subsidised devices

- (1) A contracted service provider must not encourage a voucher-holder to select and pay for a partially subsidised device where an approved hearing device available to the voucher-holder free of charge under the voucher system would reasonably meet the voucher-holder's hearing rehabilitation needs.

Note: See section 42 for the services that are available to a voucher-holder.

- (2) A contracted service provider must not supply a partially subsidised device to a voucher-holder unless the voucher-holder has signed and dated a quote in accordance with the conditions set out in the schedule of service items in respect of the provision of a partially subsidised device.
- (3) The contracted service provider must keep in its records a copy of the quote signed and dated by the voucher-holder and a record of the reason the voucher-holder selected the partially subsidised device.

Note: For fees and charges associated with partially subsidised devices see section 52.

47 Additional requirements where minimum hearing loss threshold not met

- (1) This section applies to a voucher-holder whose hearing loss in the ear to be fitted does not meet the minimum hearing loss threshold.

- (2) The voucher-holder may be fitted with a hearing device in accordance with section 42 if:
- (a) a qualified practitioner has determined that the voucher-holder would benefit from a hearing device for hearing loss; and
 - (b) the voucher-holder:
 - (i) completes the Wishes and Needs Tool without influence from the contracted service provider; and

Note: The signed Wishes and Needs Tool and evidence supporting the fitting must be included in the voucher-holder's record: see paragraph 26(4)(b).

- (ii) receives a total score of 5 or greater on the Tool with a score of 2 or greater for each response; and
- (c) the voucher-holder has:
 - (i) high frequency average hearing loss of 40 decibels or greater when tested at 2, 3 and 4 kilohertz; or
 - (ii) tinnitus, the symptoms of which can be reduced through the use of the device; or
 - (iii) previously used a voucher to obtain a hearing device and can demonstrate to the satisfaction of a contracted service provider use of that device ; or
 - (iv) a visual impairment that reduces the ability to see mouth movements and is not able to be corrected by medical or optometrical treatment.

48 Replacement hearing devices

- (1) This section applies if:
- (a) a voucher has been used by the voucher-holder to obtain a hearing device; and
 - (b) the voucher-holder satisfies the Minister, in accordance with the conditions for replacement hearing devices set out in the schedule of service items, that the device has been:
 - (i) lost, and is unlikely to be found; or
 - (ii) damaged, and cannot reasonably be repaired.
- (2) The Minister may authorise a contracted service provider to use the voucher to replace the device with the same device or a reasonable alternative approved by the Minister.
- (3) The authorisation may be subject to any conditions set out in the schedule of service items in respect of replacement hearing devices.

Note: See section 53 for fees and charges associated with replacements.

49 Delivery of private services

A contracted service provider must not provide or arrange for the provision of any private service if the same or a substantially similar service is available under section 42 or section 43, or is required to be provided as a follow-up service under paragraph 41(1)(f).

50 Specialist Hearing Services

(1) If a contracted service provider knows or reasonably believes that a person who asks it for hearing services is a voucher-holder and is eligible for specialist hearing services for the purposes of the *Declared Hearing Services Determination 2019*, the contracted service provider must:

- (a) notify the Department that a voucher-holder who is eligible for specialist hearing services is requesting hearing services; and
- (b) explain to the voucher-holder the specialist hearing services that may be available to him or her from AHS; and

Note: In 2019 a factsheet on Specialist Hearing Services could be viewed at <http://www.hearingservices.gov.au>.

- (c) allow at least 10 business days from the time at which the explanation under (1)(b) was provided before contacting the voucher-holder to ask whether he or she has decided whether to receive specialist services from AHS; and
- (d) not provide further hearing services to the voucher-holder until the person advises the contracted service provider that he or she has made an informed decision not to receive specialist services from AHS; and
- (e) retain evidence on the voucher-holder's record of the advice given to the voucher-holder and the voucher-holder's decision.

(2) Paragraphs (b), (c), (d) and (e) do not apply where the contracted service provider is AHS.

Note: The Act defines **AHS** to mean Australian Hearing Services.

Part 7— Fees and charges

51 Contracted service providers may accept and charge certain fees only

- (1) A contracted service provider must not request or accept a fee or any other payment from a voucher-holder for a service provided to the voucher-holder under the voucher system other than in accordance with this instrument and the conditions set out in the schedule of service items.
- (2) If a contracted service provider accepts a fee or any other payment from a voucher-holder contrary to the Act, this instrument or the service provider contract, it must refund that amount to the voucher-holder.
- (3) Nothing in this Part prevents a voucher-holder from purchasing private services:
 - (a) in accordance with section 49; or
 - (b) from a provider that is not a contracted service provider.
- (4) A contracted service provider must have procedures in place to inform a voucher-holder in writing of any fees that are expected in respect of that voucher-holder's services at the earliest opportunity before the services are provided.

52 Charges for partially subsidised devices

Where a contracted service provider provides a partially subsidised device to a voucher-holder, the contracted service provider may charge the voucher-holder:

- (a) the difference between the government subsidy and the total price of the partially subsidised device as agreed between the voucher-holder and the contracted service provider; and
- (b) the price agreed between the voucher-holder and the contracted service provider for additional hearing device maintenance and repairs, in accordance with the quote signed by the voucher-holder under section 46.

53 Charges for device replacement and maintenance

- (1) A contracted service provider may charge a voucher-holder no more than the replacement charge specified in the schedule of service items for the replacement of an individual approved hearing device.
- (2) A contracted service provider may charge a voucher-holder no more than the maintenance charge specified in the schedule of service items as an annual fee for the supply of batteries for, and maintenance of, an individual hearing device.
- (3) This section does not limit section 52.

54 Indexation of fees

The GST exclusive amount for fees and charges required from voucher-holders will be adjusted on the first day of each financial year, in accordance with the indexation rules set out in the schedule of service items.

Part 8—Transitional

55 Transitional arrangements

- (1) An entity that held accreditation given under section 6 of the *Hearing Service Providers Accreditation Scheme 1997* immediately before the repeal of that instrument is taken to have been accredited under section 20 of this instrument.
- (2) A QP number that a person held immediately before the commencement of this instrument is taken to have been assigned under this instrument.