



## Translation Document – Current to New Legislation

**Table 1 - Hearing Services (Eligible Persons) Determination 1997**

#	Current	New	Change / Comment
1	Citation	NA	NA
2	Commencement	NA	NA
3	Interpretation	5 Definitions	Updates as required or as identified below.
	dependant, of an eligible person mentioned in paragraph 5 (2) (a), (b), (c) or (d) of the Act, means:	5 Definitions 8 Dependants	NA
	(a) a person who has attained the age of 21 years and is the spouse or de facto partner of the eligible person; or	As above	Age has changed to 26 to reflect CSO coverage.
	(b) a person who (i) has attained the age of 21 years but is under 25 years; and	As above	Part (b) of dependant definition removed as age range covered by CSO eligibility.
4	Eligible Persons	Part 2— Additional eligible persons	See below.

#	Current	New	Change / Comment
	<p>(2) The class consists of those persons, each of whom, before 1 November 1997:</p> <ul style="list-style-type: none"> <li>(a) was, at any time, an eligible person (within the meaning of the 1991 Act) other than an eligible person under paragraph 5 (1) (ac) or 5 (1) (ad) of that Act; and</li> <li>(b) had a hearing device fitted by the Authority (within the meaning of the 1991 Act) or by a service provider contracted by the Authority; and</li> <li>(c) ceased to be an eligible person under the 1991 Act.</li> </ul> <p>(3) The class consists of those persons, each of whom, before 1 July 1997:</p> <ul style="list-style-type: none"> <li>(a) was, at any time, an eligible person (within the meaning of the 1991 Act) under paragraph 5 (1) (ac) or 5 (1) (ad) of that Act; and</li> <li>(b) had a hearing device fitted by the Authority (within the meaning of the 1991 Act) or by a service provider contracted by the Authority; and</li> <li>(c) ceased to be an eligible person under the 1991 Act.</li> </ul>	NA	<p>Transitional provisions from 1991 Act which are now redundant.</p> <p>These classes of eligible persons have been removed.</p>

<p>(4)The class consists of those persons, each of whom:</p> <p>(a) has, at any time, been an eligible person under subsection 5 (1) of the Act; and</p> <p>(b) has had a hearing device fitted by a contracted service provider; and</p> <p>(c) has subsequently ceased to be an eligible person under that subsection.</p>	NA	<p>Class removed. This class relates to Class 4 in Tables A and B of the <i>Hearing Services (Participants in the Voucher System) Determination 1997</i></p> <p>Table A Class 4 Eligible Persons:</p> <ul style="list-style-type: none"> <li>• Eligible persons under the Hearing Services (Eligible Persons) Determination) 1997 excluding those in the class specified in subsection 4 (6) of that Determination</li> </ul> <p>Table B Class 4 Available Hearing Services:</p> <ul style="list-style-type: none"> <li>• Necessary repairs and maintenance of the hearing device, excluding the replacement of major electronic components within the device and provision of batteries for use with the device, for a period of 5 years from the date the participant ceased to be an eligible person.</li> </ul> <p>Table B describes the “Minor Repairs” items 900 / 910 on the Schedule of Service Items.</p> <p>The original provisions were drafted at a time when the “Voucher Period” was six months. The voucher period is now three years. The original provision is considered to be redundant.</p> <p>Further, the provision taken in isolation (of the Participants Determination) has led to the belief that a client who has been fitted with a device is always eligible for any service item.</p> <p>In 2017-18</p> <ul style="list-style-type: none"> <li>• Over 72,000 claims for payment were made worth \$14m, by providers for services rendered to voucher clients who did NOT have a valid voucher at the time of the service.</li> <li>• Only 732 were legitimate Minor Repairs claims.</li> </ul>
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#	Current	New	Change / Comment
	<p>(6) The class consists of persons each of whom:</p> <p>(a) has reached the age of 21 years, and</p> <p>(b) is either</p> <p>(i) 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</p> <p>(ii) 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.</p>	<p>8 NDIS participants up to 1 July 2020</p>	<p>NDIS eligibility time limited to 30 June 2020 to coincide with NDIS transition and the cessation of “in-kind” arrangements with the Hearing Services Program.</p>
	<p>(7) The class consists of persons each of whom:</p> <p>(a) has, at any time, been an eligible person under subsection 4 (6), and</p> <p>(b) has had a hearing device fitted by a contracted service provider; and</p> <p>(c) has subsequently ceased to be an eligible person under that subsection.</p>	<p>NA</p>	<p>Provision removed as NDIS transition and the cessation of “in-kind” arrangements with the Hearing Services Program after 30 June 2020 leave it redundant.</p>

**Table 2 - Hearing Services (Participants in the Voucher System) Determination 1997**

#	Current	New	Change / Comment
1	Name of Determination	NA	NA
2	Commencement	NA	NA
3	Definitions	5 Definitions	NA
4	Purpose of this Determination	14 Effect of issuing a voucher 15 A voucher-holder is a participant in the voucher system	NA
5	Classes of eligible persons	Part 2—Additional eligible persons (sections 6-10)	New provision is that all eligible persons have access to the same services as outlined in the Schedule of Service Items and Fees.
6	Classes of hearing services	41 Schedule of service items and fees 42 Hearing Services	
	Table B – Class 4 Necessary repairs and maintenance of the hearing device... for a period of 5 years from the date the participant ceased to be an eligible person.	NA	Provision removed.  Relates to <i>Hearing Services (Eligible Persons) Determination 1997</i> section 4(4) [see table above] and is redundant with removal of that class of eligible persons.
7	Charges payable by participant who comes within class 1 or 2	Part 7— Fees and charges	

#	Current	New	Change / Comment
8	Charges payable by participant who comes within class 3	Part 7— Fees and charges	The concept of fees and charges by eligible classes has been removed. Fees and charges are standard for voucher-holders generally.  Provision retained with updates (refer replacement devices).
9	Additional requirements	Division 6.3—Additional requirements  47 Additional requirements where minimum hearing loss threshold not met	Provision retained with updates to exceptions for high frequency hearing loss and tinnitus.
10	Delegation	NA	Section 27 of the <i>Hearing Services Administration Act 1997</i> provides delegation authority.

**Table 3 - Hearing Service Providers Accreditation Scheme 1997**

#	Current	New	Change / Comment
1	Name of instrument	NA	NA
2	Commencement	NA	NA
3	Definitions	5 Definitions	NA
4	Purpose	16 Accreditation scheme	NA
5	Application for accreditation	17 Application for accreditation	Superfluous wording removed.
5A	Application by audiometrists	NA	Provision removed.
6	Decisions by the Minister	19 Decisions by the Minister	Minor updates and includes contravention provisions.
7	Australian Hearing Services	18 Australian Hearing Services	NA
8	Register	23 Register	Provision retained and updated.
9	Notice of alleged contravention  2(b) allow the provider 30 days after receiving the notice to make written submissions on the allegation.	19 Decisions by the Minister  19(7)(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.	Minor wording update and change to reference period.
10	Action on alleged contravention	19 Decisions by the Minister	No material change.
11	Cancellation where contract terminated	21 Accreditation only effective while an agreement under s 20 of the Act is in force	No material change.

Date of issue 0419

#	Current	New	Change / Comment
12	Surrender of accreditation	NA	Provision removed as it is redundant with new s21.
13	Accreditation not transferable	22 Minister may approve the transfer of accreditation	A transfer of accreditation may be approved under certain circumstances.



**Table 4 - Hearing Services Voucher Rules 1997**

#	Current	New	Change / Comment
1	Name of Rules	NA	NA
2	Commencement	NA	NA
3	Definitions	5 Definitions	No material changes.
4	Purpose of Rules	11 Voucher rules	NA
5	Application Form  (3) The form must require an applicant who has not previously applied for a voucher to obtain a certificate from a medical practitioner stating whether there are any medical contraindications to the fitting of the applicant with a hearing device.  (4) The form must require an applicant who has previously been fitted with a hearing device to obtain a certificate from a hearing services practitioner or a medical practitioner stating that the applicant needs the hearing service applied for.	12 Applying for a voucher  NA	Provisions requiring medical certification removed.  <ul style="list-style-type: none"> <li>Stakeholders during the Thematic Review consultation conducted in 2018, specifically commented that this requirement creates unnecessary administrative burden for service providers, individuals and medical practitioners.</li> <li>In late 2016, the U.S. Food and Drug Administration issued a guidance document explaining that it does not intend to enforce the requirement that individuals 18 and up receive a medical evaluation or sign a waiver prior to purchasing most hearing aids.</li> </ul>
6	Applying for a voucher	12 Applying for a voucher	No material change.  Acknowledges current practice of provider applying on client's behalf.

#	Current	New	Change / Comment
7	Issuing voucher	13 Issuing a voucher	No material change. Clarifies 'issued'. Incorporate 'validity' of voucher.
8	Replacement Voucher	NA	Provision removed as it is redundant.
9	Using voucher	13 Issuing a voucher 14 Effect of issuing a voucher 53 Charges for device replacement and maintenance	No material change.
10	Replacement hearing devices	48 Replacement hearing devices	
	(2) The Minister may authorise a contracted service provider to use the voucher to replace the device with a <u>similar</u> device or a reasonable alternative approved by the Minister.	(2) The Minister may authorise a contracted service provider to use the voucher to replace the device with the <u>same</u> device or a reasonable alternative approved by the Minister.	The intent of 'replacement' devices was that it would be the same device, so a new 'fitting' would not be required.  If binaurally fitted and replacing a single device, it must be the same as the remaining device.  The Schedule of Service Items will provide details regarding "...or a reasonable alternative approved by the Minister". It is likely that this will mean a different device may be used as a replacement however a fitting service cannot be claimed while the replacement will be deemed to be a fitting for the purposes of the refitting rules.

#	Current	New	Change / Comment
	<p>Note also section 28 of <i>Hearing Services Rules of Conduct 2012</i>:</p> <p>(5) A contracted service provider may charge a voucher-holder no more than:</p> <p>(a) \$30 for an approved hearing device replacement;</p>	<p>53 Charges for device replacement and maintenance</p> <p>(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 <u>individual</u> approved hearing device.</p>	<p>In respect of Section 48(2), section 53 clarifies that the replacement charge required by the voucher holder is levied per device.</p> <p>Refer to comments against <i>Hearing Services Rules of Conduct 2012</i> Section 28 (table below).</p>
11	Validity of voucher	13 Issuing a voucher	Incorporates 'validity'.
	(4) A voucher will continue to have effect for specified maintenance services in accordance with the Hearing Services (Participants in the Voucher System) Determination 1997.	NA	Provision removed. Refer comments at <i>Hearing Services (Eligible Persons) Determination 1997</i> Section 4(4) – Table 1.
12	Revalidation of voucher	43 Approval of additional hearing services	Clarification that the provision is to approve additional services, not re-issue a new voucher.

**Table 5 - Hearing Services Rules of Conduct 2012**

#	Current	New	Change / Comment
1	Name of Rules	NA	NA
2	Commencement	NA	NA
3	Repeal	NA	NA
4	Interpretation	5 Definitions	Updated as required.
5	Personnel	30 Obligation to inform contracted service provider personnel 38 Responsibilities of contracted service providers	Provisions retained and updated.
	(1) Subject to these Rules and its service provider contract, a contracted service provider may arrange for someone else to perform a duty or exercise a function the contracted service provider has under these Rules. However, the contracted service provider must ensure that the duty is performed or the function exercised in accordance with these Rules.	31 Limit on subcontracting A contracted service provider must <u>not</u> subcontract the delivery of hearing services to a voucher-holder to another entity.	REVERSES current provision which allows subcontracting of clinical services.  Issues have been contracted service providers subcontracted clinical services to third parties without appropriate arrangements that would enable compliance with the Act, instruments or service provider contract.
6	Responsibility for services to voucher-holders	38 Responsibilities of contracted service providers.	
7	Records	26 Records	No material change.

#	Current	New	Change / Comment
8	Advertising	32 False or misleading representations	Provision retained and updated. Broaden provision to relate to any representation made.
9	Complaints	33 Complaints	No material change.
10	Breaches to be reported	20 Breaches to be reported	Expanded to include the Act and service provider contract.
11	Power to require information	29 Power to require information	Updated to include original documents.
12	Voucher-holders relocating between contracted service providers	35 Voucher holders relocating between contracted service providers	Provision retained and updated.
13	Hearing services not to be refused to voucher-holders	34 Hearing services not to be refused to voucher holders	Provision retained and updated.
14	Complex clients	50 Specialist Hearing Services 5 Definitions (Specialist Hearing Services)	Provision retained but renamed. Definition of Specialist Hearing Services consolidates all aspects of definition (profound hearing loss and severe communication impairment).
15	Hearing devices to be supplied	44 Approved Hearing devices	Provision retained and updated.
16	Choice of hearing device	45 Choice of hearing device	Provision retained and updated.

#	Current	New	Change / Comment
17	Top-up devices	46 Partially subsidised devices	Provision retained and updated. Additional details around quotes and record keeping to be outlined in Schedule of Service Items and Fees.
18	Ongoing follow up assistance	41(1)(f)	Provision retained and simplified.
19	Professional standards	39 Professional standards	Provision retained and updated.
20	Voucher-holder information	25 Obligation to provide information to potential voucher-holders and voucher-holders	No material change.
21	Referral of certain non-routine clinical findings	39 Professional standards	Specific provision removed as referral is covered under professional standards generally.
22	Not to discriminate against voucher-holders	NA	Provision removed as covered by general law and service provider contract.
23	Types of practitioner	5 Definitions (qualified practitioner)	Provision removed as covered by definition i.e. a member of a practitioner professional body.
24	Hearing services to be provided by qualified or supervised practitioners	38 Responsibilities of contracted service providers	Provision retained.

#	Current	New	Change / Comment
25	Qualified practitioner numbers	37 Qualified practitioner number 55 Transitional arrangements	Provision retained and updated. 25(2) moved to s55 Transitional arrangements.
26	Authorisation	40 Minister authorised to obtain and disclose certain information	Provision retained and updated.
27	Information to potential voucher-holders	25 Obligation to provide information to potential voucher-holders and voucher-holders	Provision retained and updated.
28	Fees and charges	51 Contracted service providers may accept and charge certain fees only 53 Charges for device replacement and maintenance	Provision retained and update. Details to be provided in Schedule of Service Items.
	(5) A contracted service provider may charge a voucher-holder no more than  (a) \$30 for an approved hearing device replacement	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.	Section 53 clarifies that the replacement charge required by the voucher holder is per device.  Unlike other client charges, the replacement charge is not indexed.  It is intended to increase the binaural replacement charge to match the DVA reimbursement rate which has been indexed and is currently \$40.05 and halve for a monaural replacement.

#	Current	New	Change / Comment
	<p>(5) A contracted service provider may charge a voucher-holder no more than:</p> <p>(b) subject to subrule 17(3), as an annual fee for the supply of batteries for, and maintenance of, a hearing device</p> <p>(ii) for a later financial year — the amount calculated in accordance with rule 29.</p>	53 Charges for device replacement and maintenance	Provision retained. Fees and charges to be detailed in Schedule of Service Items.
29	Indexation of annual maintenance fee	54 Indexation of fees	<p>Provision now relates to all fees and charges (not just maintenance).</p> <p>Allows for details to be specified in the Schedule of Service Items.</p>
	Schedule 1 Approved membership categories	NA	Schedule removed.