



2019 Contract Redevelopment – Proposed Changes

The government is currently considering the feedback from the consultation of the exposure draft of the revised legislation underpinning the Hearing Services Program. The new Hearing Services Program (Voucher) Instrument is due to take effect on 1 October 2019. As a result of the proposed changes, the Service Provider Contract is being redeveloped to align with the new instrument. The requirements in the contract and Schedule of Service Items and Fees may be subject to change depending on the government's consideration of the new instrument.

General Changes

- A. The contract has been reviewed, consolidated and simplified. The existing contract had significant duplication across acknowledgements, warranties and terms of the contract and the new contract has removed this duplication. For example in the current contract multiple parts and clauses refer to records, services, sites and practitioners.
- B. The contract has been updated to refer to the updated sections of the new *Hearing Services Program (Voucher) Instrument 2019* and remove references to current instruments which will no longer be in place.
- C. As the new legislation and contract are not scheduled to commence until 1 October 2019, the existing Schedule of Service Items, Schedule of Fees, and program standards will be consolidated into a new Schedule of Service Items and Fees. The requirements will remain largely unchanged for the remainder of the 2019-20 financial year, except there will be three minor edits to service items and fee information. These changes cover the removal of minor maintenance service items, clarification to audiological case management service items and changes to client payment information stemming from the instrument consultation. Further information regarding these changes are outlined at the end of this document.
- D. So that providers will no longer need to cross reference against the Act, Instruments, contract, standards, evidence guide, and fees schedule for requirements for individual service items, the department will work with consumer and hearing sector representatives during 2019-20 to review the existing schedules, hearing rehabilitation outcomes and standards to finalise the updates to the Schedule of Service Items and Fees by 1 July 2020.
- E. If a contracted service provider has not renewed its contract with the department before 1 October 2019 it will cease to be accredited under the program and will no longer be able to claim for services to program clients. Pending the consultation on the contract, new contracts should be available by early September 2019.
- F. A transition period through to 1 January 2020, will be given to allow providers to update and amend policies, procedures, and forms to comply with the new arrangements. This includes proposed changes to insurance, subcontracting, device supply arrangements and general program requirements. Compliance activities will continue during this period where there is no material change to the requirements.

Schedule A – Contract Information

- A new part to the contract has been developed and is referred to as Schedule A.

Schedule A outlines specific provider and contract information including contract term, expiry, professional standards and policies, conditions of accreditation, insurance requirements and Commonwealth contact points. Schedule A is positioned between the terms and conditions and signature pages of the contract. The department can update this information at any time by providing written notice to the provider.

Contract Term and Start Date (Clause 2, Schedule A – Item A)

- The proposal is to have the contract for a set period with the option to extend the term of the contract by periods of up to two years in perpetuity.
- The contract date and term will no longer appear at the start of the contract.

Current contracts are for a maximum of three years. The proposal is to have the new contract expire on 30 June 2022, with the option to extend the term of the contract by periods of up to two years in perpetuity. Ongoing extensions will be via written notice and will not require formal variations. Variations will only be required where the terms of the contract need amendment. This will mean that contracts will be extended rather than new contracts being developed each time a contract expires. The contract will no longer specify a contract period on the cover page. Further information about the term of the contract is located at Item A of Schedule A. Any new providers will have the same expiry date as existing providers to ensure all contract periods are aligned.

The previous contract listed the execution date above the recitals. The commencement date for continuing providers will be 1 October 2019. For new providers the commencement date of the contract will be the date the contract is counter-signed by the Commonwealth.

Signatory Page

- Providers will now receive a contract which only includes the signatory page required for their entity type, rather than all signatory pages.

This should reduce the risk of entities signing the incorrect pages. The entity type is based on the entity details as provided via the ABN and/or ASIC register. Providers are reminded that they must inform the department before an entity change.

- The signatory page will also incorporate specific acknowledgements regarding compliance with the Act, contract and Schedule of Service Items and Fees.

Contract Terms and Conditions

Definitions

All definitions which also appear in the Act or the Instrument will be referenced in the contract.

Business Days: References to days will be business days as defined by the Acts Interpretation Act 1901, unless otherwise specified.

Voucher-holder: To align with the Act and the new instrument, previous references to program client have been changed to voucher-holder. General communications will continue to use the reference program client.

Service Provider Warranties and Acknowledgements (Clauses 5 and 6)

- Existing warranties and acknowledgements have been reviewed and updated and new warranties and acknowledgements incorporated.
- Providers must be able to deliver all available services under the program and services must be delivered in accordance with appropriate program and professional standards.
- Providers must cease to communicate with clients if they have been notified by the client that they do not want to be contacted or if otherwise required not to contact the client by law.
- Providers must have in place policies and procedures in relation to delivering services as specified in Item C of Schedule A.
- Additional declarations have also been added to the provider signature page.

Portal Information Management (Clause 6.1(h))

- The contract further documents a provider's obligations regarding maintaining and updating provider, practitioner and site information in the Hearing Services Online Portal.

Provider, site and practitioner information is maintained in the portal. There have been ongoing issues with providers not updating this information. The contract now outlines specific requirements regarding information that must be maintained. Keeping this information up to date ensures claiming can occur, the provider has the required information, that their site information is up to date in the local provider directory, and ensures that only practitioners/personnel who work for the business are able to access the information held.

Service Provider Personnel (Clause 8)

- Practitioner and service provider personnel requirements have been consolidated into one clause.
- Additional requirements regarding provisional practitioner compliance with supervision plans in accordance with PPB requirements have been incorporated.

Compliance monitoring has identified ongoing issues with provisional practitioners not being supervised in accordance with the required supervision arrangements and providers requesting QP numbers for provisional practitioners. Only qualified practitioners are entitled

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to receive a QP number and all claims must be submitted with the QP number of the QP delivering the services or supervising the service being delivered.

- Information regarding requirements to update practitioner information in the portal have been strengthened

Requirements clarifying the management of qualified practitioners have been consolidated and strengthened including requirements to update linkages to practitioners in the portal and ensuring practitioners who are no longer working for the provider have been delinked in the portal (refer clause 6.1(h)).

Providers are required to maintain practitioner information in the portal. Only qualified practitioners can have a QP number. QPs must be linked to the provider at the date of service of any claim.

Device Supply Arrangements (Clause 9)

- Device/s must be purchased directly from an Appointed Supplier.
- Device/s must be on a Schedule of Approved Devices, or otherwise approved by the Minister or their delegate.

To ensure clients are receiving devices that meet program requirements and consumer legislation, providers must ensure they supply clients with devices that appear on an Approved Schedule of Devices and are purchased from an Appointed Supplier. An appointed supplier is a manufacturer/supplier who holds a contract with the Commonwealth for the supply of devices and has committed to a range of obligations when supplying devices.

- A device quote will be required to be provided for both fully and partially subsidised devices.

Clients are entitled to make an informed decision about the services they receive. To ensure clients understand their rights and responsibilities regarding devices, quotes will be required to contain information including costs (including the government subsidies), warranties, return policies and maintenance. The department will release a template quote and additional guidance regarding quotes. The templates will be optional but outline the requirements.

- All providers are required to provide, in writing, a disclosure of their device supply arrangements.
- The existing preferred supplier relationship disclosure requirements have been expanded to include disclosure of commissions, and where providers sell their own devices.

Under the existing contract, providers are required to disclose any preferred supplier relationships. Concerns have been raised through several inquiries and from consumer organisations regarding the lack of transparency regarding device supply and potential duress regarding partially subsidised devices. It is also important that clients know if a provider prefers to supply a limited range of the available devices. Further guidance will be provided on the program website.

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Sites (Clause 10)

- All clauses related to site management have been consolidated into one section of the contract.
- Requirements about ambient noise and equipment calibration have been further clarified.
- A new clause specifies that if a provider moves a site to a new address they must obtain a new site ID.

To ensure sites are a safe and appropriate location for services, requirements regarding ambient noise level testing have been clarified. Requirements have also been strengthened through clause 6.1h regarding keeping information up to date in the portal, particularly where sites have been closed.

- The obligations regarding displaying the client rights and responsibilities poster has been amended to require display in a public area and to provide the information to clients during home visits.

To ensure clients who receive services at locations other than sites also understand the client rights and responsibilities, the information contained in the document should also be made available to these clients.

Client Records (Clause 11 and Clause 17)

- Contract clauses related to client records have been consolidated and clarified.
- Contract clauses have been updated to match the new instrument and the program requirements regarding the management of client records.
- Wording has been strengthened regarding the management of client records as sensitive personal and health information.
- Provisions have been strengthened regarding client consent for relocation, including clauses preventing the 'sale' of client lists/records to other providers.
- Provisions to notify the department regarding any breaches of the *Privacy Act 1988* or *National Archives Act 1983* have been strengthened.

Client records are Commonwealth Records. Client records hold sensitive personal and health information and are protected by the *Privacy Act 1988*. Providers must ensure they are aware of their obligations under the *Privacy Act 1988*, including the notifiable data breach requirements. Providers must inform the department if there are any breaches of the *Privacy Act 1988* or of breaches to program requirements regarding client records. Client records also substantiate the services provided and ensure continuity of care. Program requirements are documented in the Provider Factsheet – Managing Client Records.

Payments to Service Providers (Clause 12 and 13)

- All clauses relating to payments to providers have been consolidated.
- Providers must be able to demonstrate that they checked client eligibility and, with the client's consent, obtained a voucher, or checked what services were available to a client before delivering and claiming for services.

- Providers must not submit a claim for payment if it does not meet the legislative and contractual requirements, and the requirements specified in the Schedule of Service Items and Fees.
- The requirement to obtain a client signature on the claim form will be removed and the claim form will be simplified to cover tax invoice and claiming requirements only.

In addition to the tax legislation and claiming requirements, the claim form is currently being used to verify a range of program requirements including the clients' attendance, eligibility, and that they received the specific service item number. The claim form will be simplified to require the tax and claiming information only. Providers will still be required to demonstrate the client received the service in accordance with the program requirements through record keeping, audiograms, appointment calendars, file notes, data logging or other means.

- Providers will be required to submit claim forms within 12 months of the date of service.

Currently providers are not allowed to submit claims more than 20 business days after termination of the contract or after a client relocates. The new provision will also require claims to be submitted within 12 months of the date of service. This will reduce the risk of incorrect service and claiming history, particularly if a client relocates.

- Where reimbursements are required, the contract specifies that the invoice must be paid by the due date specified.

The department standard is 28 days not 30 days as currently listed in the contract. The contract has been updated to reflect this.

Contract Liaison and Notices (Clause 15, Clause 42 and Schedule A - Item F)

- Information regarding the Commonwealth contact points will be documented in the new Schedule A.
- Providers must maintain and update their contact information, including contact point and address information, in the portal.
- Requirements have been strengthened to reassert that providers must keep up to date with notices and information published by the program, including ensuring providers review and comply with information sent in Contracted Service Provider Notices (CSPNs).
- Clarifications have been made to sections regarding the provision and receipt of notices under the contract, including method of delivery and when a notice is deemed to have been received.

The department is responsible for administering the program, and communications and notices sent out by the department must be reviewed and actioned as required. Providers are responsible for ensuring they comply with the requirements of the program.

Some providers have not been updating their details in the portal and are not able to be contacted by the department or receive critical information. Providers are reminded to update the portal within five days of any changes to contact points, addresses etc. The annual self-assessment process will require providers to outline how they have implemented CSPN related information.

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Subcontracting (Clause 21)

- To align with the new provisions in the instrument restricting subcontracting of hearing services, providers will no longer be able to subcontract the delivery of clinical hearing services, except in the case of obtaining locum support or rehab plus services.

The program will no longer allow entities to operate under a subcontracting arrangement with another contracted service provider. Any existing hearing services subcontractors who wish to continue delivering services under the program will be required to obtain their own accreditation. Decisions will need to be made between contracted service providers and their current subcontractors as clients are linked to the contracted service provider. Clients have a right to choose which provider they wish to receive services from. If the client elects to stay with the subcontracted entity and that subcontracted entity has obtained its own accreditation, clients can consent to relocating to the new contracted entity. Providers will still be able to subcontract where a provider subcontracts for a locum to deliver services at a site owned and directly operated by the provider. Subcontracting will also be allowed for non-hearing related services and for any services where specified for specific service items, which currently allows for the subcontracting of certain forms of rehabilitation plus services if managed by a QP.

All subcontracting arrangements must cease by 1 January 2020. The program will support any existing subcontractors to apply for their own accreditation. After 1 October 2019, the accreditation and contracting processes will be significantly streamlined.

Public Liability and Professional Indemnity Insurance (Clause 23, Schedule A – Item D)

- Public Liability Insurance levels will increase from \$10m to \$20m.
- Professional Indemnity Insurance levels will increase from \$1m to \$10m.
- Requirements to hold separate professional indemnity for each and every practitioner have been removed and providers will be required to hold professional indemnity that covers all practitioners delivering services to program clients.
- Providers will be required to notify the department if there is a claim against their professional indemnity insurance.

The department has established levels for public liability and professional indemnity insurances where providers are delivering health services. These amounts are set at \$20m for Public Liability and \$10m for professional indemnity insurance. These are higher than the requirements set in the current contract. Currently providers are required to hold separate insurance for each and every practitioner. This requirement is being amended to make it easier for providers to ensure that all practitioners delivering services to program clients are covered by Professional Indemnity insurance. If adopted, providers would have to update the insurance to the new levels when the current insurance expires. Providers must continue to hold required workers compensation insurance for each and every state and territory in which they operate. If adopted, providers will be required to have new insurance certification at the required levels by 1 January 2020.

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Limits on Service Provision (Clause 27.3)

- Providers will no longer be able to deliver specific services within the last 20 days of their operation as a provider under the program.

If a provider determines it will cease to operate as a provider in the program, there will now be additional limitations on providing services in the 20 business days prior to the date the provider ceases to be a contracted service provider. These include assessment, fitting, and maintenance services to program clients.

Contract Novation and Corporate Changes (Clause 32 and Clause 33)

- With some minor changes to corporate entity status, for example where a sole trader is becoming a company, providers may be able to novate their contract to the new entity.
- Requirements to notify the Commonwealth of relevant corporate changes have also been strengthened.

Currently providers must terminate their current contract and accreditation and apply for new accreditation under the accreditation scheme. This change in the instrument and contract will prevent the need for reaccreditation and a new contract when the entity has had a minor change to their entity type, for example where a partnership changes to a corporation.

Compliance with Applicable Laws (Clause 38)

- Existing provisions have been expanded to incorporate and emphasise compliance with relevant consumer legislation.

Several providers have had a range of actions taken against them for breaches of national consumer laws. The contract now specifically references compliance with the *Australian Competition and Consumer Act 2010 (Cth)* and other relevant consumer laws. Providers must ensure they comply with relevant Commonwealth, and state/territory consumer laws.

Key Service Item Changes

Audiological Case Management

- Audiological case management requirements will be clarified to reassert that 610/810 claims are only claimable by an audiologist when the audiologist receives a referral from an audiometrist for advice on the management of a non-routine client.

The program has identified that audiologists have been incorrectly claiming audiological case management items. Wording will be clarified to specify that only audiologists who are providing advice to an audiometrist on the management of a non-routine client may claim items 610 or 810. Medical referral where appropriate is expected from all practitioners as part of any service and is not a specific claiming item.

Minor Maintenance

- When a client's voucher has expired and they are no longer eligible for a return voucher, minor maintenance will no longer be available.

The Act and instrument are founded on the basis that services are available to voucher-holders. A specific class of eligible people were those who lost their eligibility.

Fees and Charges

- The client maintenance and replacement co-payments will be listed in the fees table.
- Maintenance and replacement client co-payments will be chargeable per device.

Indexation information will be contained in the Schedule of Service Items and Fees, rather than in the legislative instruments. There has been inconsistency in the way fees and charges have been applied, particularly client co-payments. In line with the new instrument, the amendments clarify that each co-payment relates to an individual device. Binaural maintenance and replacement co-payments will be double the monaural co-payment amount.

Further Information

Further information regarding the program changes and the consultation on the contract is available on the [program website](#).