



## Hearing Services (Declared Hearing Services) Determination 2019

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

Dated

EXPOSURE DRAFT APRIL 2019

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

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## 1 Name

This instrument is the *Hearing Services (Declared Hearing Services) Determination 2019*.

## 2 Commencement

This instrument commences on 1 October 2019.

## 3 Authority

This instrument is made under section 8 of the *Australian Hearing Services Act 1991*.

Note: Section 8 of the Act sets out the functions of the Authority known as Australian Hearing Services. Under subsection 8(1), the Authority has the function of providing declared hearing services to: young Australians (paragraph (aa)); referred Comcare clients (paragraph (ab)); referred Commonwealth employees (paragraph (ac)); and designated persons (paragraph (ad)). This determination sets out the hearing services that are declared hearing services for the purposes of those paragraphs, under subsections 8(4), (5), (6) and (8) of the Act. This determination also specifies persons who are a designated person for the purposes of paragraph 8(1)(ad), under subsection 8(7) of the Act.

## 4 Definitions

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

(1) In this instrument, unless the contrary intention appears:

**Aboriginal person** has the meaning given by the *Aboriginal and Torres Strait Islander Act 2005*.

**Act** means the *Australian Hearing Services Act 1991*.

**ASGS** means the geographical framework known as the Australian Statistical Geography Standard, July 2011 edition, published by the Australian Bureau of Statistics.

**Authority\*** means the authority, known as Australian Hearing Services, established by section 7 of the Act.

**CDEP Program** means the Community Development Employment Projects Program administered by the Department of Social Services.

**CDP** means the Community Development Program jointly administered by the Department of the Prime Minister and Cabinet.

**Comcare** means the Safety, Rehabilitation and Compensation Commission.

**eligible for specialist hearing services:** a person is **eligible for specialist hearing services** if, and only if, he or she is an eligible person who has:

- (a) a hearing loss where the average hearing threshold level for 0.5, 1 and 2 kilohertz (kHz) 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.

**eligible person** means a person who, under the *Hearing Services Administration Act 1997*, is an eligible person.

**Modified Monash Model area 6** means all areas in Remoteness Area 4, as determined by the Department using ASGS data, that are not on a populated island that is separated from the mainland and is more than 5 kilometres offshore.

**Modified Monash Model area 7** means all areas in Remoteness Area 5, as determined by the Department using ASGS data, that are on a populated island that is separated from the mainland and is more than 5 kilometres offshore.

**NDIS** means the National Disability Insurance Scheme.

**parent**, in relation to a young Australian or young adult or young NDIS participant, includes a step-parent, adoptive parent, foster parent or legal guardian of the young Australian or young adult or young NDIS participant.

**referred Comcare client** has the meaning given by subsection 8(10) of the Act.

**referred Commonwealth employee** has the meaning given by subsection 8(10) of the Act.

**Torres Strait Islander** has the meaning given by the *Aboriginal and Torres Strait Islander Act 2005*.

**young adult** means:

- (a) an Australian citizen who has turned 21 and who is under 26 years of age; or
- (b) an Australian permanent resident who has turned 21 and who is under 26 years of age.

**young Australians\*** means:

- (a) Australian citizens under 21 years of age; or
- (b) Australian permanent residents under 21 years of age.

**young NDIS participant** means a person who at a time before 1 July 2020:

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

- (2) Except as otherwise provided in Classes 6 and 7 in section 6, a reference in section 6 to the provision of a hearing device includes the provision of a replacement hearing device if the replacement is necessary:
  - (a) on clinical grounds; or
  - (b) because the device has been:
    - (i) destroyed; or
    - (ii) lost, and unlikely to be found; or
    - (iii) damaged, and cannot be reasonably repaired.

- (3) A reference in this instrument to any hearing service does not include services which test for, treat and rehabilitate individuals who have Central Auditory Processing Disorder.

Note: Central Auditory Processing Disorder is a deficit in the information processing of audible signals not attributed to impaired peripheral hearing sensitivity or intellectual impairment. This information processing involves perceptual, cognitive, and linguistic functions.

## 5 Repeals

The *Declared Hearing Services Determination 1997* is repealed.

## 6 Declared hearing services

The following declared hearing services are specified for persons in each class.

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<b>Class</b>	<b>Persons to receive the hearing services</b>	<b>Declared hearing services</b>
1	(1) Young Australians generally. (2) A person who is: (a) a young adult; (b) a young NDIS participant.	<ol style="list-style-type: none"><li>1. Services that are necessary to assess and measure the nature and extent of any hearing loss in the person.</li><li>2. Provision of any hearing device (other than a cochlear implant or a cochlear implant speech processor unit) that is:<ol style="list-style-type: none"><li>(a) clinically appropriate to the hearing loss, the person's capacity to benefit from the device and his or her life circumstances; and</li><li>(b) approved by the Authority.</li></ol></li><li>3. Provision of a replacement cochlear implant speech processor unit.</li><li>4. Services necessary to fit, and monitor the suitability of, a selected hearing device and to achieve the maximum functionality of the device.</li><li>5. Ongoing advice and assistance about rehabilitation to the extent necessary to enable the person to achieve a rehabilitation outcome commensurate with his or her needs, including the provision of advice and support to the person's parents, teachers and educational establishment on the management and support of the person concerning the hearing impairment.</li><li>6. Provision of necessary repairs, adjustment and maintenance of a hearing device, including the reasonable provision of replacement batteries.</li></ol>
2	Referred Comcare clients generally.	Services that are necessary to assess and measure the nature and extent, and to determine the cause, of any hearing loss in the person.
3	Referred Comcare clients who, under an agreement between the Authority and Comcare, are persons to whom those hearing services are to be made available.	<ol style="list-style-type: none"><li>1. Services that are necessary to assess and measure the nature and extent, and to determine the cause, of any hearing loss in the person.</li><li>2. Provision of any hearing device (other than a cochlear implant or a cochlear implant speech processor unit) that is clinically appropriate to the hearing loss, the person's capacity to benefit from the device and his or her life circumstances.</li></ol>

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Class	Persons to receive the hearing services	Declared hearing services
		<ul style="list-style-type: none"> <li>3. Services necessary to fit, and monitor the suitability of, a selected hearing device and to achieve the maximum functionality of the device.</li> <li>4. Ongoing advice and assistance about rehabilitation to the extent necessary to enable the person to achieve a rehabilitation outcome commensurate with his or her needs.</li> <li>5. Provision of necessary repairs, adjustment and maintenance of a hearing device, including the reasonable provision of replacement batteries, for the first year.</li> <li>6. Other clinically necessary hearing services, if agreed between the Authority and Comcare as hearing services to be made available to referred Comcare clients in this Class.</li> </ul>
4	Referred Commonwealth employees generally.	Services that are necessary to assess and measure the nature and extent of any hearing loss in the person.
5	<p>A person who:</p> <ul style="list-style-type: none"> <li>(a) has turned 26 and, immediately before turning 26, was a young adult or young NDIS participant;</li> <li>or</li> <li>(b) has ceased to be a member of Class 6.</li> </ul>	<p>Maintenance by the Authority of a hearing device issued to the person under paragraph 8(1)(aa) or (ad) of the Act, but excluding:</p> <ul style="list-style-type: none"> <li>(a) replacement of major electronic components within a hearing device;</li> <li>(b) provision of a battery for use in a hearing device;</li> <li>(c) replacement by the Authority of a hearing device that is lost or damaged;</li> </ul> <p>for the period of 5 years beginning on the day when:</p> <ul style="list-style-type: none"> <li>(a) in the case of a person who turns 26 and, immediately before turning 26, was a young adult or young NDIS participant—the person turns 26; or</li> <li>(b) in the case of a person who ceases to be a member of Class 6—the person ceases to be a member of the class.</li> </ul>
6	<p>An eligible person who:</p> <ul style="list-style-type: none"> <li>(1) is eligible for specialist hearing services; or</li> </ul>	<ul style="list-style-type: none"> <li>1. Services that are necessary to assess and measure the nature and extent of any hearing loss in the person.</li> </ul>

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Class	Persons to receive the hearing services	Declared hearing services
	<p>(2) resides in, and receives his or her hearing services in, a place geographically within Modified Monash Model area 6 or Modified Monash Model area 7.</p> <p>Note: In 2019, maps of current Modified Monash Model areas could be viewed at <a href="http://www.doctorconnect.gov.au">http://www.doctorconnect.gov.au</a>.</p>	<p>2. Provision of any hearing device (other than a cochlear implant or a cochlear implant speech processor unit) that is:</p> <p>(a) clinically appropriate to the hearing loss, the person's capacity to benefit from the device and his or her life circumstances; and</p> <p>(b) approved by the Authority.</p> <p>3. Replacement of a hearing device (other than a cochlear implant or a cochlear implant speech processor unit):</p> <p>(a) that has been:</p> <p>(i) destroyed; or</p> <p>(ii) lost, and unlikely to be found; or</p> <p>(iii) damaged, and cannot be reasonably repaired; and</p> <p>(b) if authorised by the Authority in accordance with regulation 4A of the <i>Australian Hearing Services Regulations 1992</i>.</p> <p>4. Services necessary to fit, and monitor the suitability of, a selected hearing device and to achieve the maximum functionality of the device.</p> <p>5. Ongoing advice and assistance about rehabilitation to the extent necessary to enable the person to achieve a rehabilitation outcome commensurate with his or her needs.</p> <p>6. Provision of necessary repairs, adjustment and maintenance of a hearing device, including the reasonable provision of replacement batteries.</p>
7	<p>Aboriginal persons or Torres Strait Islanders who are:</p> <p>(a) under 26; or</p> <p>(b) over 50; or</p> <p>(c) a participant in the CDP; or</p> <p>(d) an eligible person; or</p> <p>(e) a person who:</p> <p>(i) was a participant in the CDEP Program at any time between 1 December 2005 and 30 June 2008; and</p>	<p>1. Services that are necessary to assess and measure the nature and extent of any hearing loss in the person.</p> <p>2. Provision of any hearing device (other than a cochlear implant or a cochlear implant speech processor unit) that is:</p> <p>(a) clinically appropriate to the hearing loss, the person's capacity to benefit from the device and his or her life circumstances; and</p>

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Class	Persons to receive the hearing services	Declared hearing services
	<ul style="list-style-type: none"> <li>(ii) ceased to be a participant before 30 June 2013; and</li> <li>(iii) between ceasing to be a participant and 30 June 2013 had received or was part way through receiving from the Authority one or more of the hearing services specified in item 8; or</li> <li>(f) a person who:               <ul style="list-style-type: none"> <li>(i) was a participant in the CDEP Program at any time on or after 30 June 2013; and</li> <li>(ii) has ceased to be a participant; and</li> <li>(iii) before ceasing to be a participant had received or was part way through receiving from the Authority one or more of the hearing services specified in item 8; or</li> </ul> </li> <li>(g) a participant in the CDP.</li> </ul>	<ul style="list-style-type: none"> <li>(b) approved by the Authority.</li> <li>3. For an eligible person, replacement of a hearing device (other than a cochlear implant or a cochlear implant speech processor unit):               <ul style="list-style-type: none"> <li>(a) that has been:                   <ul style="list-style-type: none"> <li>(i) destroyed; or</li> <li>(ii) lost, and unlikely to be found; or</li> <li>(iii) damaged, and cannot be reasonably repaired; and</li> </ul> </li> <li>(b) if authorised by the Authority in accordance with regulation 4A of the <i>Australian Hearing Services Regulations 1992</i>.</li> </ul> </li> <li>4. Services necessary to fit, and monitor the suitability of, a selected hearing device and to achieve the maximum functionality of the device.</li> <li>5. Ongoing advice and assistance about rehabilitation to the extent necessary to enable the person to achieve a rehabilitation outcome commensurate with his or her needs, including the provision of advice and support to the person's family and community on the management and support of the person in regard to his or her hearing impairment.</li> <li>6. Provision of necessary repairs, adjustment and maintenance of a hearing device, including the reasonable provision of replacement batteries.</li> <li>7. Provision of services, training and advice, in a culturally appropriate way, on matters of aural health and hygiene, including services, training and advice for the prevention and treatment of chronic conditions such as otitis media.</li> <li>8. Provision of specialised amplification devices to meet the particular needs of certain persons in this class of persons.</li> </ul>

## 7 Designated persons

For the purposes of paragraph 8(1)(ad) and subsection (7) of the Act, a person in one of the following classes is a **designated person**:

- (a) Subclass 1(2);
- (b) Class 5;
- (c) Class 6;
- (d) Class 7.

## **8 Certain services subject to payment of any applicable charges**

- (1) The provision to a person of a service specified in an item mentioned in subsection (2) is subject to payment of the charge, if any, that is payable by the person under the *Australian Hearing Services Regulations 1992* for a service of that kind.
- (2) The items are:
  - (a) in Class 1—item 6; and
  - (b) in Class 3—item 5; and
  - (c) in Class 6—items 3 and 6; and
  - (d) in Class 7—item 3.

## **9 Transitional**

A person who had received services by virtue of being in a class covered by the operation of subparagraph 12(c)(ii) of the *Declared Hearing Services Determination 1997* within 2 years before the repeal of that instrument, and who is not in subclass 6(2) of this instrument, is taken to be in class 6 of this instrument.