



Social Security (Disability Services— Financial Assessment) Amendment Regulations 2004

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 18th day of October 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 132B of the Social Security Act 1964, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

- (1) These regulations are the Social Security (Disability Services—Financial Assessment) Amendment Regulations 2004.

- (2) In these regulations, the Social Security (Disability Services—Financial Assessment) Regulations 1994¹ are called “the principal regulations”.

¹ SR 1994/32

2 Commencement

These regulations come into force on 19 November 2004.

3 Interpretation

- (1) Regulation 2 of the principal regulations is amended by revoking the definition of **income**.
- (2) Regulation 2 of the principal regulations is amended by inserting, in their appropriate alphabetical order, the following definitions:

funder means, in relation to a person, the entity responsible under the New Zealand Public Health and Disability Act 2000 for paying for some or all of the cost of residential care disability services provided to the person

weekly income means the person’s income (as defined in section 69E of the Act) divided by 52.

4 New regulation 4 substituted

The principal regulations are amended by revoking regulations 4 and 5, and substituting the following regulation:

“4 Assessment of financial means

- “(1) If the value of the realisable assets of a person exceeds the applicable amount specified in Part I of the Twenty-seventh Schedule of the Act, the chief executive must assess the person’s financial means to pay or contribute towards the cost of his or her residential care disability services as \$636 per week.
- “(2) If the value of the realisable assets of a person is equal to, or less than, the applicable amount specified in Part I of the Twenty-seventh Schedule of the Act, the chief executive must assess the person’s financial means to pay or contribute towards the cost of his or her residential care disability services as the weekly income of the person and his or her spouse, up to a maximum of \$636 per week.
- “(3) In making an assessment of the financial means of any person, the chief executive must not take into account the cost of the

residential care disability services that the person receives, whether those services are—

“(a) services that the funder is satisfied are necessary to meet the person’s need for residential care disability services (some or all of which the funder is liable to pay for under the New Zealand Public Health and Disability Act 2000); or

“(b) any other residential care disability services (none of which the funder is liable to pay for).

“(4) To avoid doubt, an assessment of the financial means of a person does not affect the person’s liability to pay for the cost of any residential care disability services referred to in subclause (3)(b).”

5 Exemption of ex gratia payments to former prisoners of war, civilian internees, or their surviving spouses

Regulation 6 of the principal regulations is amended by revoking subclause (2) and substituting the following subclause:

“(2) In calculating the financial means of a person, the chief executive must not include—

“(a) any specified payment in the calculation of a person’s weekly income; or

“(b) any specified payment in the calculation of a person’s realisable assets.”

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 19 November 2004, amend the Social Security (Disability Services—Financial Assessment) Regulations 1994 (“the principal regulations”).

It has been difficult to obtain a clear and consistent interpretation of the principal regulations. *New regulation 4* is intended to clarify the

original policy intention, which remains unchanged. The amendments to regulation 6 are merely consequential.

The policy behind the regulations is that the Crown (through District Health Boards (**DHBs**)) will pay the difference between what a person is assessed as being able to pay for residential care disability services and the actual cost (determined by contract between DHBs and providers) of those services provided to the person. The most that a person can be assessed as being able to pay is \$636 per week. However, the DHB will pay only for residential care disability services that—

- are necessary for the person's needs, as assessed by the DHB:
- are within the package of services that the Crown is liable (under the New Zealand Public Health and Disability Act 2000) to pay for and that, through DHBs, it buys from service providers.

Once a person is assessed as being able to pay \$636 per week (or any lesser amount), the DHB will pay the cost of any residential care disability services provided to the person that exceed that amount, so long as the services satisfy the criteria listed above. The person remains responsible for paying for any services provided to him or her that do not fit the criteria.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 21 October 2004.

These regulations are administered in the Ministry of Health.
