



**SOUTH CANTERBURY DISTRICT HEALTH BOARD**

**ORGANISATIONAL WIDE**

<b>POLICY STATEMENT:</b>  <b>South Canterbury DHB Paid Family Carer Policy for Home-based Care</b>	<b>General Manager Sponsor:</b> Margaret Hill	<b>Authorised by:</b> Fiona Pimm	<b>Cultural Safety Check:</b> Fiona Pimm	<b>No. of Pages:</b>  Date for Review: 21 June 2014
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**1. Commencement**

This policy starts on 21 May 2014.

**2. Introduction**

The South Canterbury DHB recognises the important role of families and whānau in voluntarily providing care and support to their family/whānau members, including disabled family members.

DHB-funded home-based care services (Services) are based on an assessment of the person's identified health and/or disability needs and provided to people who need them most. They are generally delivered by paid carers who are not family members of the person receiving the care.

Part 4A of the New Zealand Public Health and Disability Act 2000 (the Act), however, requires the DHB to have a family care policy that allows payment of some family members for providing health and disability support services to an adult disabled member of the same family, in certain circumstances and where there are good reasons to do so.

Part 4A of the Act also affirms the principle that, in the context of the funding of health and support services, families generally have primary responsibility for the well-being of their family members. Any payments for such services delivered by the paid family members of disabled people must be within sustainable limits.

This Paid Family Carer policy details the circumstances in which the DHB will pay an eligible family member for providing home-based care services to an eligible person. An eligible person must be considered to be at very high needs that would otherwise require residential care.

This Paid Family Carer policy may change from time to time to ensure consistency with the authority, eligibility and related matters with the Government's Family Care Policy and also the Ministry of Health's Funded Family Care.

Consideration of payment of family carers will fall into one of the three following groups:

- a) situations that can be assessed and funded on a 'business as usual' basis through existing home-based care services systems (e.g., NASC assessments and care co-ordination, with care provided through DHB-contracted providers)
- b) situations that may be considered for funding a family carer (assessed against criteria for exceptional circumstances)
- c) situations under which a family carer will not be funded, under any circumstances.

**Controlled Document**

### 3. Principles

#### **This policy is based on the following principles:**

- The family has the right to accept and manage their responsibilities in their own home;
- Choices in how people live their lives at home are respected;
- The unique dynamics of the home and family/whānau/aiga setting are respected; and
- The contribution of family carers is valued whether they are paid or unpaid.

#### **In regard to the employment of a DHB-funded paid family carer, the following principles are expected to apply:**

- Will enable the disabled person to be better cared for in their home and more able to take part in family and community life than if a non-family paid carer was employed for this role;
- The partnering relationship between the paid family carer providing services and the rest of the family is vital and must operate in a way that ensures that the interests of the disabled person being cared for are promoted; and
- The paid family care management arrangements will be implemented in a way that respects the specific needs of Māori, Pasifika and other ethnic groups.

### 4. Paid Family Carer policy details

#### **Service Coverage and Management Arrangements**

This Paid Family Carer Policy is a family care policy agreed within the meaning of Part 4A of the Act. It therefore allows DHB funding to some people 18 years and over (who are eligible to receive publicly funded health and disability services) to receive their allocated Services from a paid family member.

The payment for paid family care is for home-based care only. These Services are for people who need help in their home or community. They may include personal care such as assistance with showering and consuming of food or assistance with night support in some cases. It can also include household management such as cleaning and cooking as well as some supports for the person to access community activities in certain circumstances.

The South Canterbury DHB requires that the paid family care arrangement is managed by purchase of Services from a DHB contracted provider, who will employ eligible paid family carers to deliver Services to an eligible adult family member – either solely, or in addition to providing Services through employees who are not family members.

### 5. Transitioning existing clients who have a paid family carer

Clients, for whom a family carer is currently being funded by a DHB but the family relationship and other circumstances are such that they will not be eligible under the new DHB policy, should be transitioned to arrangements that comply with the DHB's certified paid family care policy as soon as reasonably practicable.

DHB clients, who fall into the group that can be funded if there are exceptional circumstances, and who wish to continue with their funded family supports, should be reassessed by a NASC for the purpose of determining their eligibility under the certified policy.

Those who are ineligible for funding of a paid family carer under the policy may require co-ordination of alternative home-based support services by non-family members.

Consideration may be given to allowing existing arrangements that fall outside of the certified policy to continue, on a case-by-case basis. Considerations should include whether the paid family care arrangement has been long-standing, and where the welfare and care of the disabled person would be significantly and detrimentally affected. Similarly, continuing funding arrangements for situations where the person being supported is very ill or dying, when a change of carer would cause distress, should be considered.

## 6. Key Roles and Relationships

The key roles and relationships that will make the preferred funding or purchasing mechanism for paid family care function efficiently in the South Canterbury DHB catchment area are as follows:

- Under the management arrangement outlined above, only eligible family members of eligible adult disabled people will be paid employees; and
- Under the management arrangements outlined above, the employer(s) of the paid family carer will be a DHB contracted service provider with approval to employ paid family carers.

## 7. Specific Roles and responsibilities

<p><b>DHBs</b> <i>(as policy owner and funder, who contracts with provider organisation to employ family carer)</i></p>	<ul style="list-style-type: none"> <li>• Determine the person's eligibility for access to home-based support;</li> <li>• Contract with home-based care provider organisations;</li> <li>• Monitor and audit delivery, safety and quality of paid family care.</li> </ul>
<p><b>Provider organisations</b> <i>(as DHB agent and employer of the paid family carer, if this is the preferred employment mechanism)</i></p>	<ul style="list-style-type: none"> <li>• Arrange for the assessment of the needs of the person;</li> <li>• Approve the capability of the family carer, if employing them;</li> <li>• Set up the service arrangement;</li> <li>• Employ and pay the family carer;</li> <li>• Comply with all laws as an employer;</li> <li>• Provide the family carer with any contracted required training;</li> <li>• Provide replacement care, if the family carer is unavailable;</li> <li>• Monitor and review the performance of the family carer;</li> <li>• Report to the DHB on the paid family care arrangements.</li> </ul>
<p><b>Paid Family Carers</b> <i>(as employees of the provider organisation and caregiver to the family member, if this is the preferred employment mechanism)</i></p>	<ul style="list-style-type: none"> <li>• Subject to negotiations, ensure the contract with the contracted provider includes the provision of home-based support services, and covers gaining paid family carers written agreement to at least the following matters:             <ul style="list-style-type: none"> <li>○ agree to allow the DHB or the DHB's agent to visit the home for any assessment, evaluation, monitoring and auditing;</li> <li>○ provide the service to the family member to the required standard;</li> <li>○ comply with the responsibility of providing the service;</li> <li>○ notify the DHB of any problems that affect delivery, safety or quality;</li> </ul> </li> <li>• notify the DHB of any change in the disabled person's circumstances that makes them not eligible for family care.</li> </ul>
<p>Eligible person requiring home-based support services <i>(if family carer is employed by a provider organisation)</i></p>	<p>Agree (in writing unless that is not possible) to a family member providing the service instead of any other employee of the contracted provider</p> <ul style="list-style-type: none"> <li>• Comply with monitoring and auditing of service.</li> </ul>
<p>Family</p>	<p>The DHB acknowledges that family/whanau members have an important role in providing natural support to one another as they need it. The needs assessment will consider the role of the family/whanau in providing these natural supports. The HBSS providers will only be required to provide PFC services beyond the expected role of natural supports</p>

## 8. Criteria for the Paid Family Carer policy

A person is eligible to receive home-based care from a paid family member instead of from any other employee of the contracted provider by meeting all of the eligibility requirements and at least one of the exceptional circumstances (see below).

## 9. Eligibility requirements

**A person is eligible for paid family care if they are:**

- 18 years and older;
- Eligible for publicly funded health and disability services;
- Eligible for DHB-funded long term disability home and community support services, mental health services or chronic health conditions;
- Is assessed as requiring very high level of care as would otherwise need to be placed into long term residential care;

**A family member is eligible to be assessed for suitability for providing paid family care to an eligible disabled member of their family if they are:**

- Not the disabled person's spouse, civil union or de facto partner;

**The family member ,carer relationships that the DHB will permit to be considered for paid family care:**

- (a) parent, step-parent, or grandparent; or
- (b) child, stepchild, or grandchild; or
- (c) sister, half-sister, stepsister, brother, half-brother, or stepbrother; or
- (d) aunt or uncle; or
- (e) nephew or niece; or
- (f) first cousin.
- (g) other family carer relationships may also be considered at the discretion of the DHB(e.g. in-laws or guardians).

**The assessment criteria to be applied to determine whether those family members who are eligible for assessment are suitable to be paid family carers will be applied by the DHB NASC service**

The assessment criteria the approved assessors will take into account:

- The nature of the Services to be provided;
- The skills and experience needed to undertake it;
- The exceptional circumstances of the disabled family member and his wider family/whanau (refer below);
- The willingness of the DHB contracted providers to enter into an employment relationship with the family carer for the provision of services to the eligible person; and
- Whether it is clinically advisable for the care to be provided by this family member.

## 10. Exceptional circumstances criteria

One or more of the following exceptional circumstances criteria must be fulfilled to permit a family member to be paid to provide home-based care. The DHB will consider each application on a case by case basis.

The level of the person's support needs is so high that without their able and willing parent or resident family/whānau carer(s) being paid to support these needs the person would be unable to remain living in their chosen living environment.<sup>1</sup>

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<sup>1</sup> Note that some people reach a point at which it is only clinically appropriate and financial sustainable

There is significant risk to the safety or wellbeing of either the eligible disabled person or a non-family/whānau carer if the chosen family/whānau carer is not employed to provide the care (e.g. evident distress to the person caused by alteration of routine and changes of carer).

No alternative non-family/whānau carer is available (e.g. the person and their family/whānau live in an isolated rural locality).

Significant communication issues exist due to the person's condition or impairment, and the chosen family/whānau carer(s) and the person understand each other but no other available carer could adequately provide the person's supports because of this.

Complexity of need, where only the disabled person's chosen family/whānau carer(s) has the suitable skills to provide the specialised personal cares required. This could be related to the disabled person's individual characteristics.

There is no alternative available within current DHB funding mechanisms to enable the DHB to safely provide care in the person's individual circumstances.

Note that specific cultural considerations on their own would not be grounds for an exception but the absence of culturally specific care may be a contributing factor when considering an exception on other grounds above.

## **11. Exclusions**

### **People are not eligible for DHB paid family care if the person:**

- Is not a New Zealand resident;
- Requiring care is under 18 years of age;
- Nominated to provide the care is under 18 years of age;
- Will need supports for less than six months (i.e. has a temporary or short-term disability)
- Is assessed for home-based supports but does not have high or very high needs;
- Is in residential care;
- Is eligible for Ministry of Health Funded Family Care;
- Is primarily impaired by an injury whose cover has been accepted by ACC;
- Nominated family member to provide care is refused employment on lawful grounds by DHB contracted providers; and
- Is the person's spouse, civil union or de facto partner.

## **12. Accessing paid family carer home-based support**

Disabled people can access paid family care through self-referral or a referral from a health practitioner to a DHB funded needs assessment and service coordination (NASC) service.

If the person is already receiving home-based care from a contracted provider and seeks access to paid family care, the provider may refer the person to the DHB NASC to re-assess the change in supports needs.

In the case where the person is already receiving home based support services and seeks to access paid family care through another contracted provider (resulting in two agencies being funded to provide care), the person will request needs assessment and service co-ordination to review the allocation of services and have the services transfer to the new provider with the permission of the person receiving care. Employment by one provider and services being provided by another is not allowed under this policy..

## **13. Decision review process**

If the disabled person seeking paid family care is not happy with decisions relating to their needs assessment, eligibility for paid family care or service allocation, or the person seeking to be approved as a paid family carer they may seek a review.

**The process for the review is as follows:**

- The process to review a decision made by the DHB NASC is outlined in the NASC policy and procedures document. The DHB may review a decision to reject the application for paid family care, if the person requests a review of the assessment findings and decision on eligibility.
- Reviews by the DHB and NASC are limited to eligibility for paid family care and service allocation and will not cover employment related decision or issues between the family carer and the DHB contracted provider.

**14. Agreements to provide paid family care**

**The following conditions must be met before paid family care services can be implemented.**

- The eligible person must first agree that they want an approved family carer to provide the Service. The person may be supported to make this decision;
- The approved family carer must agree to provide the service instead of a non-family service provider. More than one family carer may be approved to provide the paid family care to the eligible person;
- The family carer must be capable of providing the service and will only be approved if they are so capable;
- The Family carer must be employed by a DHB contracted provider;
- The parties agree to the type, range and quality of service to be provided and delivered according to the individual service arrangement, and in a safe and acceptable manner to the person;
- All the parties agree to provisions for replacement care for when the family carer is unable or unavailable to provide services;
- If all the parties agree, then an employment contract is signed between the employer and the employee (as per Section 5 above on contractual mechanisms and employee/employer relationships.)

**Subject to the DHB's current paid family carer contractual requirements, the contract will be the standard terms and conditions of the employer but will also include matters relating to:**

- Ensuring that the family carer does not carry out any other paid work, outside the agreed hours of the disability support services, if that work is likely to affect the provision, safety or quality of those services;
- Ensuring that the family carer completes any training and assessment requirements as per normal process of the DHB contracted provider;
- Complying with monitoring or auditing processes, and with any requirements following those processes;
- Any other conditions that apply to the care situation, including for replacement care.

**15 Payment rate**

The actual rate of pay is to be agreed between the family carer and their employer and must take account of the provisions of other employment-related legislation.

**16 Limits on hours of paid family care**

The provider may employ one or more family carers within the maximum allocation of 25 hours per week.

The DHB may in exceptional circumstances review applications for an allocation beyond 25 hours per week on a case by case basis.

## 17 Individual service plan

The delivery of the Service by the family member to the eligible person will be recorded in the person's individual service plan.

The plan will determine which of the assessed needs can be met by the person's natural supports, which can be supported through the DHB, and which can be supported by other agencies.

The plan will be reviewed in line with the complexity of the client and with current expectations as outline in the service specification for age related home based support services.

The parties also acknowledge that they must meet their obligations that:

- Services are delivered as planned and agreed;
- Services are delivered as per the relevant service specification for the level of assessed need;
- Arrangements for replacement care are in place if the family carer is unavailable to provide PFC; and
- They comply with monitoring and auditing.

## 18. Information to be provided

SCDHB will collect the following information on the PFC arrangement:

- Client and carer details, including relationship of the paid family carer to the client;
- The number of PFCs employed;
- Total hours of PFC delivered by month and services being provided by PFC; and
- Report on any issues, changes in service relating to the employment of PFCs.

## 19. Monitoring, audit and review

- Ensure the home-based services are being provided as agreed;
- Verify that payments are being used properly;
- Confirm that all other requirements have been complied with;
- All the parties must co-operate with monitoring or auditing as set out in the agreement between the DHB and our contracted providers; and
- Review of service delivery will be in line with current expectation as outline within the service specification for aged related home based support services. [DHB to specify how the adequacy of Services being delivered to the person in their home will be reviewed].

## Definitions/Construction

### Definitions

The following terms have the meanings given to them:

**DHB** – District Health Board under section 6(1) of the New Zealand Public Health and Disability Act 2000

**Family carer** – the family member who is approved by the DHB, and employed by the contracted provider, to provide the Services to an eligible disabled family member;

**Home** – the person's usual place of residence, or any other place where the home-based care Services are regularly provided;

**Home-based care** – Services

**Individual service plan** – the arrangement of personal care or household tasks, or both, for the disabled person

**Ministry** – Ministry of Health (representing the Crown);

**Monitoring** – as set out in the DHB's family care policy;

**NASC** – Needs Assessment and Service Co-ordination agencies

**Paid family carer (PFC)**- Home Based Services

**Person (disabled person)** – a person who is receiving the Services;

**Paid family care policy**; this policy made under Part 4A of the New Zealand Public Health and Disability Act 2000;

**Support Services** – disability support services under section 6(1) of the New Zealand Public Health and Disability Act 2000;

### **Construction (aids to reading this Policy)**

Parts of this Policy are called clauses.

The Policy should be read as a whole, and in the context of Part4A of the Act, to help with the meaning of any clause.

The singular includes the plural, and vice versa.

Any term used in this Policy, but not defined, has its meaning as understood in the health and disability sector or meaning in the New Zealand Public Health and Disability Act 2000.

### **References**

*Funded Family Care Operational Policy 2013*, Ministry of Health and *The Funded Family Care Notice 2013*, New Zealand Gazette, 26/9/2013, No. 131, p.3670

<http://www.health.govt.nz/our-work/disability-services/disability-projects-and-programmes/funded-family-care-notice-and-operational-policy>

Parliamentary Digest No. 2049 New Zealand Public Health and Disability Amendment Bill (No 2) 2013 Part 4A of the New Zealand Public Health and Disability Act 2000

United Nations Convention on the Rights of Persons with Disabilities 2006

<http://www.legislation.govt.nz/>

### **Policy response:**

- Cabinet Minute – Power to Act for Cabinet Social Policy Committee (CAB MIN (12) 44/5A)
- Cabinet Paper – Proposed response (11 December 2012)
- Cabinet Social Policy Committee Minute – Proposed response (SOC MIN (12) 28/2)
- Cabinet Paper – Implementation of proposed response and consideration of broader issues (22 March 2013)
- Cabinet Minute – Implementation of Proposed Response and Consideration of Broader issues (CAB MIN (13) 10/14)

<http://www.health.govt.nz/our-work/disability-services/disability-projects-and-programmes/funded-family-care-notice-and-operational-policy/funded-family-carers-background-documents>

### **Court Judgements**

*Ministry of Health v Atkinson and others* [2012] NZCA 184

*Spencer v Attorney-General* [2013] NCHC 2580