

Australian Capital Territory

Lifetime Care and Support (Catastrophic Injuries) Guidelines 2014 (No 14)

Disallowable instrument DI2014–215

made under the

Lifetime Care and Support (Catastrophic Injuries) Act 2014, section 93 (Making of Guidelines)

1 Name of instrument

This instrument is the *Lifetime Care and Support (Catastrophic Injuries) Guidelines 2014 (No 14)*.

2 Delegation

In the LTCS Guidelines any reference to the LTCS Commissioner includes any delegate of the LTCS Commissioner.

3 Commencement

This instrument commences on the day after its notification.

4 Guidelines

The Guidelines at Schedule 1 are Part 14 of the LTCS Guidelines made under section 93 of the *Lifetime Care and Support (Catastrophic Injuries) Act 2014*.

Karen Doran

Lifetime Care and Support Commissioner of the Australian Capital Territory

7 July 2014

PART 14 - Home modifications

This part of the Lifetime Care and Support Guidelines is issued under section 93 of the *Lifetime Care and Support (Catastrophic Injuries) Act 2014*.

To avoid requirements that might be unreasonable in the circumstances on any participant, the LTCS Commissioner may waive observance of any part or parts of these LTCS Guidelines.

Background

The LTCS Commissioner recognises that as a consequence of their motor accident injury, home modifications will be the preferred option for some participants to access their homes and live safely. Home modifications are considered in the overall decision making process regarding the living arrangements of the participant. In deciding the best residential outcome for the participant, the LTCS Commissioner will consider the participant's short and long term living arrangements, and all reasonable alternatives such as the provision and installation of equipment, and relocation to a more appropriate residence, as well as home modifications to an existing residence.

All home modifications require prior approval in writing by the LTCS Commissioner.

Policy

The LTCS Commissioner will fund the reasonable and necessary cost of home modifications for a participant who is residing in a new home or returning to their existing home for the long term, and the need for home modifications is related to the motor accident injury.

Definitions

Home – a domestic structure which is a participant's usual place of residence, for example, a house or unit.

Home modification – modification to the structure, layout or fittings of a home where the motor accident injury restricts or prevents the ability to utilise the home's standard fittings or facilities.

Relocation costs – costs directly related to moving from one home to another.

Rental property – a home lived in by a participant whereby rent is paid to a private owner, Community Services Directorate, or a community housing association.

1. Consent

The participant, wherever possible, should be involved in the decision making processes relating to their home modification and agree to any proposed modifications. Agreement and

permission from the home owner must be obtained before the home modification process can proceed.

2. Ensuring the home can be modified

The LTCS Commissioner will first ensure that the participant's home is reasonably able to be modified. This will be assessed on several factors including but not limited to:

- access and egress to the home;
- accessibility to all areas of the home;
- the safety of the participant, family members and attendant care workers;
- the ownership of the home;
- the cost and extent of the home modifications; and
- the participant's expected length of tenancy if the home is rented.

To ensure that the home is reasonably able to be modified, all proposed home modifications must be approved where necessary by relevant ACT planning authorities before any work may begin.

The LTCS Commissioner will not fund home modifications for any residence or property that constitutes, is likely to constitute, or will result in, an illegal structure. An illegal structure is one that is contrary to relevant building and construction codes or relevant ACT planning Guidelines, statutes and/or laws.

3. Assessment of the need for home modifications

The LTCS Commissioner will require a home assessment to be conducted by an occupational therapist with appropriate experience in home modifications. The assessment should include the participant's functional status and their proposed home environment. The assessment should identify environmental barriers relating to the motor accident injury, including all options to overcome these barriers. For example, any existing equipment and non-structural home modifications should be considered as an option if they enable an appropriate level of independence or safety for the participant and family.

Recommendations for home modification as a preferred option must include clear clinical justification as to why home modifications are reasonable and necessary, and the feasibility of the proposed home modification compared with other alternatives such as relocation.

The participant's need for home modifications is determined by the extent of physical injury and/or permanent loss of physical functioning and mobility that a participant has experienced as a result of their motor accident injury. The participant's need may also be determined by the extent of the participant's cognitive and/or behavioural impairment.

Factors to consider when assessing a participant's need for home modifications may include:

- impaired mobility;
- wheelchair use, including type of wheelchair;
- ability to transfer;
- impaired arm and/or hand function;
- impaired thermo-regulation;

- cognitive impairment such as impulsiveness, lack of awareness or insight and poor judgement;
- behavioural impairment that may place the participant, their family or attendant care workers at risk;
- ability to perform activities of daily living (ADLs);
- level of functional performance;
- life roles and associated responsibilities;
- the participant's physical and social environment, including social supports; and
- whether any future improvement or change in the above factors is likely.

4. Factors impacting upon whether home modifications are reasonable and necessary

Factors taken into account when deciding if a home modification is reasonable and necessary include:

- the anticipated length of time that the participant will need home modifications and whether this need is likely to change;
- structural constraints, for example, size, surrounding terrain and condition of the home;
- ownership of the property;
- permission of the owner or body corporate to temporarily or permanently undertake modification to the home;
- local planning regulations;
- building permits;
- length of lease of a rental property;
- anticipated period of occupancy of the home to be modified;
- the scale and cost of the proposed modifications when considered in conjunction with alternative residential options; and
- the LTCS Commissioner's ability to negotiate any necessary agreement or consent required on modifications with any external parties.

The LTCS Commissioner will assess whether home modifications are reasonable and necessary based on information contained in building modification project plans, reports from the home assessment completed by the occupational therapist, final modification costs and any other relevant information or reports.

The LTCS Commissioner may approve home modifications in principle if final costs for modifications are being established. The LTCS Commissioner may delay definitive modifications where the participant's injury is likely to change or improve. In these circumstances the LTCS Commissioner may approve staged modifications to ensure the safety of the participant in the short term.

4.1. Modifications costing less than \$11,100

The LTCS Commissioner will fund reasonable and necessary home modifications that cost less than or equal to \$11,100 (GST exclusive) irrespective of the type of residence or accommodation being modified, if the owner of the premises agrees to the proposed modifications and the home is able to be modified.

4.2. Modifications to a rental property

The LTCS Commissioner will fund reasonable and necessary home modifications for participants in a private rental property or rental with family. The LTCS Commissioner will fund up to \$11,100 in home modifications for every year of a guaranteed lease, if the owner of the premises agrees to the proposed modifications and the home is able to be modified.

If the participant moves out of a private rental property, the LTCS Commissioner will fund the reasonable and necessary costs of returning a rental property to its former state, when the costs:

- are related to the services or modifications that were previously approved or installed by the LTCS Commissioner;
- are reasonable and necessary; and
- are related to the participant's motor accident injury.

For example, the LTCS Commissioner may fund the removal of grab rails, wedge ramps or replacement of a shower screen or hob at the end of a long-term tenancy.

The LTCS Commissioner will only consider other costs relating to returning a rental property to its former state if they are reasonable and necessary, related to the motor accident injury and specifically requested by the owner, such as wear and tear to carpets as a result of wheelchair use.

The LTCS Commissioner will not fund other costs associated with the end of a tenancy that are a condition of the lease, such as advertising costs associated with breaking a lease, steam cleaning of carpets or cleaning a property at the end of a tenancy.

4.3. Modifications to a home owned by the participant or their family

The LTCS Commissioner will fund home modifications where:

- the home to be modified is the primary residence of the participant or their family;
- the participant intends to remain living at that residence for the foreseeable future; and
- relocation to another residence, or a more suitable residence, is not an appropriate option for the participant or their family.

For participants living within the family home or who occupy their own home, the LTCS Commissioner may seek:

- agreement for costs to be cleared at 10% per year over ten years for home modifications above \$111,000; and
- reimbursement from the owner for any costs not fully cleared on a pro rata basis in the case that the home is sold within ten years of installation of a home modification above \$111,000.

Requests for home modifications that do not fall within the situations above will be considered on a case by case basis.

4.4. Transitional accommodation

The LTCS Commissioner will fund the costs of short-term transitional accommodation in limited circumstances when a home modification is in process.

Transitional accommodation is defined by the LTCS Commissioner as accommodation required when:

- a home modification has been approved or is in process;
- the need for accommodation is related to the motor accident injury; and
- the participant's usual place of residence is not accessible due to the motor accident injury and there is no other existing suitable accommodation option.

The LTCS Commissioner will fund transitional accommodation for a maximum duration of 6 months. The LTCS Commissioner will only fund transitional accommodation for the first home modification.

The LTCS Commissioner will consider funding the reasonable and necessary costs of transitional accommodation with regard to the following factors:

- whether discharge from hospital or inpatient rehabilitation is possible without home modification;
- the length of time for completion of home modifications and whether home modifications are able to be staged to allow earlier access to the home;
- whether the home to be modified is able to be occupied during the home modification process;
- the factors (such as building approval) impacting on completion of the home modifications and the length of time that transitional accommodation is required;
- the nature of the participant's injury and whether the participant requires treatment, rehabilitation and care services that would be delivered in the transitional accommodation setting;
- the need for attendant care and the suitability of the transitional accommodation setting in which care would be delivered;
- whether all other alternative accommodation options have been considered and discounted; and
- whether transitional accommodation is the most cost effective option compared to other accommodation options when a home modification is in process.

The LTCS Commissioner will not fund:

- the costs of transitional accommodation for a participant when their accommodation issues existed prior to the motor accident injury (e.g. homelessness);
- accommodation that is not transitional, that is, accommodation when a home modification is not in progress; and
- accommodation where the need is not due to the motor accident injury.

5. Relocation if the home is not suitable for modification

If the home is unable to be modified, or if relocation is considered the most appropriate option, the LTCS Commissioner will fund the reasonable and necessary costs of:

- assistance to locate to an appropriate home. This may include an assessment by an occupational therapist or an appropriately qualified person approved by the LTCS Commissioner;
- real estate agent fees;
- legal fees associated with property purchase;
- stamp duty;
- cleaning costs associated with preparing a home for sale; and
- furniture removal.

5.1. Assistance to locate a suitable home for purchase

If a participant's home is unable to be reasonably modified, or if relocation is the most appropriate option, the LTCS Commissioner may assist the participant to locate a suitable home for purchase by funding the reasonable and necessary costs of services to assist the participant to locate a suitable property. This will be considered where the participant is unable to look for alternative properties by searching the internet or liaising with real estate agents, or does not have family or friends to assist them locate a suitable property.

5.2. Changes of residence

The participant and their family must consider the participant's individual needs as related to the motor accident injury, including current and expected function, prior to any change of residence. The LTCS Commissioner may fund professional assistance in order to identify suitable residential options for the participant and family.

5.3. Assistance when purchasing a new home

When considering purchasing a home, the LTCS Commissioner expects that the participant will locate a property that does not require substantial modification, and the approximate cost of any home modification required will not be greater than \$77,700. The LTCS Commissioner does not consider it reasonable that a participant with significant functional limitations chooses to move to a home where substantial modifications need to be undertaken to allow them to reasonably access the home.

The LTCS Commissioner considers the approximate cost of home modifications will not be greater than \$77,700 to enable the participant to access the following areas of the home:

- one point of access/egress;
- a bathroom and toilet;
- a bedroom;
- a living/dining area; and
- a kitchen (for participants who can fully or partially prepare their own food or beverages).

If the participant indicates a serious interest in purchasing a home and intends making an offer, the LTCS Commissioner requires a current building report or strata report (for units/townhouses) and pest report be provided to the LTCS Commissioner before purchase to ensure that the home is reasonably able to be modified. The cost of the building report or strata report, and pest report, will be reimbursed after the home is purchased.

The LTCS Commissioner will not fund:

- the cost of more than one strata report, building report or pest inspection report;
- costs of any repairs or maintenance issues identified in strata, building or pest inspection reports;
- cost of internet to research suitable properties;
- body corporate/strata fees;
- municipal or water rates;
- repairs to the home; and
- any modifications undertaken that are not approved by the LTCS Commissioner. For example, the LTCS Commissioner is not liable for the costs of modifications to a home if a participant is advised that the home is unsuitable to modify and the participant proceeds to purchase or rent the home.

6. Service providers for home modifications

All home modifications funded by the LTCS Commissioner must be provided by an appropriately qualified licensed builder or tradesperson who holds current registration as a company or as a business/sole trader.

The home modification must be in accordance with the quotation approved by the LTCS Commissioner and in accordance with the plans and job specifications submitted to the value of the approved quotation.

7. Additional work/cost-sharing

Modifications will be approved on an as-needed basis. A quotation is requested for works that are necessary for the proposed modifications. At times, the owner of the property, the participant and/or their legal representative or family member may request additional building works, or higher cost finishes because of aesthetic, architectural or other reasons, which are outside the scope of the LTCS Commissioner's funding. These works need to be quoted separately, agreed upon and the cost borne by the participant and/or property owner. Any additional work should not affect participant access to or within the area being modified, or in any way adversely compromise the impact of any modifications that have been approved.

8. Home modification to a secondary home that is lived in concurrently

The LTCS Commissioner will fund the reasonable cost of basic access, for example, ramps, rails, doorway widening and minor bathroom modifications for a secondary residence which is lived in concurrently by a participant. For example, a participant who is a child may require a second home modification to stay at the residence of the parent who is not the primary carer, has joint custody or agreed regular overnight access visits in an agreement ratified by the Family Court or agreed to by both parents.

If modifications to a secondary residence are requested, the LTCS Commissioner will consider the nature and extent of any previous home modifications approved by the LTCS Commissioner, along with the anticipated amount of time that the participant is expected to spend in the secondary residence and the potential benefit of modifying the secondary residence.

9. Subsequent home modification

The LTCS Commissioner recognises it may be reasonable and necessary to fund more than one home modification as the participant's circumstances change. Such circumstances may include, but are not limited to:

- a participant living with others who becomes able to live independently, such as a young adult leaving home;
- deterioration in the participant's health as a direct result of the motor accident injury; or
- a participant who may need to relocate in order to access employment or services more readily; or
- other significant changes in the participant's personal circumstances such as marriage, separation or having children.

If subsequent home modifications are requested, the LTCS Commissioner will consider:

- the extent of the requested modifications;
- the age of the participant; and
- the likely future circumstances of the participant.

Funding available for subsequent home modifications will be considered in accordance with section 4 above.

10. Repairs and maintenance

The LTCS Commissioner will fund the reasonable and necessary cost of repairs and maintenance on home modifications funded by the LTCS Commissioner that are essential for participant access or safety. The LTCS Commissioner will consider funding the costs of repairs and maintenance for any additional wear and tear to a property that is a result of the motor accident injury, such as damage to floorboards from wheelchair use.

If costs for home modifications were not funded in full by the LTCS Commissioner (for example, shared with the property owner), then the LTCS Commissioner will fund the cost of repairs or maintenance proportional to the original costs paid.

The participant or property owner is responsible for any repairs and maintenance as a result of normal wear and tear (such as replacement of bathroom fittings/fixtures), for the upkeep of a residence (such as house painting) or maintenance of any additional works not funded by the LTCS Commissioner.

The LTCS Commissioner will not fund:

- home modifications that are undertaken without approval from the LTCS Commissioner,
- items that are normal household items (such as furniture or whitegoods, smoke alarms, surge protectors, towel rails, fans, lights, hot water services, security doors and windows) and are not related to the participant's need arising from their motor accident injury;
- other home modifications or renovations intended to add value to an existing property that are not related to the participant's motor accident injury;
- building or construction of in-ground or above-ground pools, spas or other aqua-therapy facilities; home modifications where the owner, body corporate or other responsible LTCS Commissioner has not given permission for the modifications;
- upgrades of any materials required for home modifications;
- items or labour not included in the final contract for modifications agreed to by the LTCS Commissioner, unless prior approval has been obtained from the LTCS Commissioner;
- home modifications required as a result of a condition that existed before a motor accident or that are not a result of a motor accident;
- home modifications that provide no clear benefit to a participant;
- insurance of the modifications or the home in which the modifications have been installed; or
- any loss of value of any home resulting from any modifications to, or removal of modifications from, the home.

11. Room temperature control equipment

The LTCS Commissioner will fund the reasonable and necessary cost of room temperature control equipment if the participant is unable to self regulate their body temperature as a result of a motor accident injury, or if the lack of room temperature control causes secondary care complications.

11.1. Information required by the LTCS Commissioner

For a participant with a complete spinal cord lesion at or above the level of T6, the LTCS Commissioner will fund the reasonable and necessary cost of the provision and installation of a reverse cycle air conditioner to provide heating and cooling. This does not require the certification of a medical specialist.

For participants other than those who have sustained a complete spinal cord lesion at or above the level of T6, the LTCS Commissioner requires documentation that the participant has an impaired or absent ability to regulate their body temperature which will not resolve, or secondary care complications, including any clinical evidence such as documented changes in the participant's function in extremes of temperature. This must be certified by a suitably qualified medical specialist.

11.2. Areas of the home the LTCS Commissioner will fund room temperature control equipment

Where the medical need for room temperature control equipment has been established, the LTCS Commissioner will determine the areas of the participant's home that it is reasonable and necessary to heat or cool, having regard to the following factors:

- the main areas of the house that the participant is required to access for substantial periods of time;
- the structure and layout of the participant's home, e.g. a house with a second storey that the participant cannot access; and
- the amount of time that the participant spends or is likely to spend at home as part of their regular weekly routine.

In considering any requests to fund room temperature control equipment for areas other than the participant's home, the LTCS Commissioner will consider the following factors:

- the participant's family situation (e.g. a participant who is a child whose parents are separated, and spends time at both parents' homes);
- frequency of visits and length of time spent per visit to the area that room temperature control equipment is requested;
- benefit to the participant from funding room temperature control equipment as requested; and
- alternatives and any consequences of the service not being provided.

The LTCS Commissioner will not fund:

- room temperature control equipment where there is no clinical evidence that the participant is unable to self regulate their body temperature as a result of the motor accident injury;
- room temperature control equipment for a condition that is not related to or caused by the motor accident injury; or
- room temperature control equipment for areas of a participant's home that the participant is unable to access or is not required to access on a daily basis, such as a second bathroom or second lounge room.

11.3. Contribution to operating costs

The LTCS Commissioner may contribute to the costs associated with the operation of room temperature control equipment. Operating costs may include the cost of electricity or gas and consumable items such as lubricating oil and filters. The LTCS Commissioner will only consider a contribution to the cost of electricity or gas where an increase in the total consumption can be shown to relate directly to the running of the room temperature control equipment whether the equipment was purchased by the LTCS Commissioner or previously owned by the participant. For example, the participant is required to use the room temperature control equipment more frequently as a result of the injuries from the motor accident.

The production of accounts or account summaries will be required to be provided for the LTCS Commissioner to identify the difference in pre- and post-accident electricity

or gas costs, and to calculate payment for the amount of electricity or gas for which the LTCS Commissioner is liable. The LTCS Commissioner will calculate additional electricity or gas costs based on the increase in kilowatt hours or cubic metres multiplied by the cost per unit, rather than the gross dollar increase, which may be related to increases in other costs for which the LTCS Commissioner is not liable.

The LTCS Commissioner will calculate the costs associated with the operation of room temperature control equipment by considering the following factors:

- the equipment to be operated, e.g. air-conditioner or heater;
- the number and size of rooms to be heated/cooled;
- whether the room temperature control equipment is used by the participant alone and whether there is a mutual benefit for other household members;
- the proportion of the pre-accident utility accounts related to the participant's usage; and
- eligibility for energy concessions such as the pensioner concession card.

Any change of domestic circumstances or prolonged absence from home will require a reassessment of the LTCS Commissioner's contribution rate to the operating costs.

11.4. Contribution to maintenance and repair costs

The LTCS Commissioner may contribute to the costs associated with the maintenance and repair of room temperature control equipment. Maintenance and repair costs may include servicing, preventative maintenance and repairs. The LTCS Commissioner will fund a contribution to the reasonable costs of servicing, preventative maintenance and repairs of room temperature control equipment.

The LTCS Commissioner will negotiate this contribution having regard to the equipment to be operated, e.g. air-conditioner or heater and the number and size of rooms to be heated or cooled.

Any change of domestic circumstances or prolonged absence from home will require a reassessment of contribution rate. To reimburse the approved contribution to gas or electricity costs, the LTCS Commissioner requires a copy of the gas or electricity account showing the calculation of cost for utility consumption and evidence of payment of the account.

The LTCS Commissioner will not fund:

- electricity service and supply charges;
- the entire costs of electricity bills; or
- prospective payments for electricity costs in advance.

Monetary amounts referred to in these LTCS Guidelines will be adjusted in accordance with movements in the determinations in force from time to time made by the New South Wales Treasurer applicable to non-economic loss payments under the NSW Motor Accidents Compensation Act 1999.