

### **NAME**

This is the Bay of Plenty DHB Paid Family Carer Policy for Home-based Care 2014.

### **COMMENCEMENT**

This policy starts on 21 May 2014.

### **INTRODUCTION**

1. The Bay of Plenty DHB recognises the important role of families and whānau in voluntarily providing care and support to their family/whānau members, including family members with long-term disability support needs.
2. 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.
3. 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.
4. 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.
5. 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 disabled person.
6. The policy identifies that eligibility for paid family care requires the client to have been assessed through usual processes as having very high and complex support needs
7. Client eligibility applies to all funding streams where there may be people 18 years or over with long-term mental health and addictions, chronic health conditions or age-related conditions who can be considered for and may benefit from paid family care.
8. DHB clients with paid family carers who are no longer eligible for payment under this new policy will require reassessment by NASC and transitioning to other DHB contracted services.
9. This Paid Family Carer policy may change from time to time to ensure consistency, so far as is practicable.

## **PRINCIPLES**

10. This policy is based on the following principles:

- a. Act in the best interest of the person needing care;
- b. The client's independence and recovery process is respected and supported;
- c. Recognising that a family member may be, in the unique circumstances, the best person to provide the care in a safe and acceptable manner and achieve the desired outcome for their family member needing care;
- d. Paid family care services will comply with DHB service specifications, guidelines and operational documents as applicable.

This policy is guided by the following values:

- a. The family has the right to accept and manage their responsibilities in their own home;
  - b. Choices in how people live their lives at home are respected;
  - c. The unique dynamics of the home and family/whānau/aiga setting are respected;
  - d. The contribution of family carers is valued whether they are paid or unpaid.
11. In regard to the employment of a DHB-funded paid family carer, the following principles are expected to apply:
- a. This 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;
  - b. 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;
  - c. The paid family care management arrangements will be implemented in a way that respects the specific needs, values and beliefs of Māori, Pasifika and other ethnic groups to ensure culturally specific care. Access to culturally specific care is paramount;
  - d. The paid family carer will receive any contracted required orientation and training and employer will ensure compliance with meeting required competency.

## **BAY OF PLENTY DHB PAID FAMILY CARER POLICY DETAILS**

### **SERVICE COVERAGE AND MANAGEMENT ARRANGEMENTS**

12. 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.

13. The payment for paid family care is for home-based care only. These Services are for people with long term support need for help in their home or community. Services may include personal care such as assistance with showering, medication management, 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.
14. The Bay of Plenty DHB requires that the paid family care arrangement is managed by purchase of Services from a DHB contracted provider, who will employ eligible family carers to deliver Services to eligible adult family member – either solely, or in addition to providing Services through employees who are not family members.
15. A family member who does not permanently reside at the same address as the client is exempt from having to meet the exceptional circumstances criteria in order to be funded to provide DSS funded home-based support, as existing practice for Bay of Plenty DHB currently allows this to occur where appropriate [see clause 16]

### **KEY ROLES AND RELATIONSHIPS**

16. The key roles and relationships that will make the preferred funding or purchasing mechanism for paid family care function efficiently in the [name DHB]s catchment area are as follows:
  - a. Under the management arrangement outlined above, only eligible family members of eligible adult people with high and complex long-term disability support needs will be paid employees.

Under the management arrangements outlined above, the employer(s) of the paid family carer will be DHB-contracted Service provider with approval to employ paid family carers, subject to the nominated family carer meeting required employment criteria.

#### Specific roles and responsibilities of all parties

<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>• Have a written and certified family care policy</li> <li>• Collect information on the policy implementation</li> <li>• Contract with home-based care provider organisations</li> <li>• Monitor and audit delivery, safety and quality of paid family care.</li> <li>• Uses existing service specifications to operationalise this policy</li> </ul>
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**PAID FAMILY CARER POLICY FOR  
HOME-BASED CARE**

<p><b>DHB NASC services</b></p>	<ul style="list-style-type: none"> <li>• Determine the person’s eligibility for access to home-based support</li> <li>• Assess the support needs of the person and develops service plan</li> <li>• Determines the family carers eligibility to be paid family carer</li> <li>• Authorises DHB contracted HBSS provider to provide service</li> </ul>
<p><b>Provider organisations</b> <i>(as DHB agent and employer of the paid family carer,)</i></p>	<ul style="list-style-type: none"> <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 required orientation and 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>• Ensure person’s needs are being met and refers concerns to NASC</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)</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 NASC of any problems that affect delivery, safety or quality</li> <li>○ notify the DHB NASC of any change in the disabled person’s circumstances that makes them not eligible for family care.</li> </ul> </li> </ul>
<p><b>Eligible person requiring home-based support services</b> <i>(if family carer is employed by a provider organisation)</i></p>	<ul style="list-style-type: none"> <li>• Agree (in writing unless that is not possible) to a family member providing the service instead of any other employee of the contracted provider</li> <li>• Comply with monitoring and auditing of service</li> </ul>
<p><b>Family Role</b></p>	<ul style="list-style-type: none"> <li>• DHB recognises the importance of the natural support family members provide to one another</li> <li>• Needs assessment will identify the level of support required over and above the natural support</li> <li>• DHB contracted services will only be responsible for support services required over the expected natural support provided by family members.</li> <li>• Voluntarily provides care and support to their family/whānau members as required (in addition to any PFC, individualised funding or contracted services)</li> </ul>

### **CRITERIA FOR THE PAID FAMILY CARER POLICY**

17. Family members (who are not the parents, or step parents, or spouse, or civil union partner, or de facto partner of the DHB client) and who do not live in the same household as the DHB client, may be funded through the DHB's ordinary home based support service funding arrangements. Carers will be employed on merit by the DHB-contracted home-based care provider.
18. A person is eligible to receive home-based care from a paid family member who lives in the same household as the DHB funded client 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).

### **ELIGIBILITY REQUIREMENTS**

19. A person is eligible for paid family care if they are:
  - a. 18 years and older;
  - b. eligible for publicly funded health and disability services;
  - c. eligible for DHB funded high and complex long-term disability support home and community support services or mental health community support services, and;
  - d. assessed as high or very high need.
20. 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:
  - a. aged 18 or over and live in the same household as the person;
  - b. not the disabled person's spouse, civil union or de facto partner.
21. Schedule One details the family relationships that apply under this policy.
22. The assessment criteria to be applied to determine whether those family members who are eligible for employment as paid family carers will be applied by the relevant DHB long-term community support assessment service. Approved assessors will take into account the usual assessment criteria for funded long-term disability supports in addition to:
  - a. the nature of the Services to be provided and;
  - b. the skills and experience needed to undertake it;
  - c. the exceptional circumstances of the disabled family member and their wider family/whanau (refer below);
  - d. the family carer meeting the DHB contracted provider's responsibilities as an employer and provider of contracted services; and appoint carers on merit, consistent with S22 of Human Rights Act 1993;

- e. The person with a high and complex disability support needs preference for a carer to form part of a provider's consideration of merit whether it is clinically advisable for the care to be provided by this family member – ie. the assessment will consider the unique relationship between the client and their support people and the extent to which involvement of family members in providing care for the client might negatively impact on the clients independence and recovery process;
- f. as this is a new policy, consideration will be given to what other resources of similar nature the family carer is receiving from other agencies and that there may be an affect on the level of support available, including respite, carer support.

### **EXCLUSIONS**

23. People are not eligible for DHB paid family care if the person:
- a. is not a New Zealand resident;
  - b. requiring care is under 18 years of age;
  - c. nominated to provide the care is under 18 years of age;
  - d. nominated to provide care is the spouse, de facto or civil union partner;
  - e. will need supports for less than six months (i.e. has a temporary or short-term disability);
  - f. is assessed for home-based supports but does not have high or very high needs – relates to 23a, 23b, 23d but not 23c
  - g. is in long-term residential care;
  - h. is eligible for Ministry Funded Family Care;
  - i. is primarily impaired by an injury whose cover has been accepted by ACC;
  - j. Nominated to provide the care is refused employment on lawful grounds by DHB contracted providers.

### **EXCEPTIONAL CIRCUMSTANCES CRITERIA**

24. 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.
- a. The level of the person's assessed support needs is very high and complex so that without their able and willing resident family/whānau carer(s) being paid to support these needs, the person would be unable to remain living in their chosen living environment. The DHB's funding to support a person to remain living in their chosen living environment is limited, and service planning will

consider what support is needed for the client to be safe as defined in the NASC Support Plan Allocation guidelines;

- b. 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;
  - c. No alternative non-family/whānau carer is available (eg, the person and their family/whānau live in an isolated rural locality);
  - d. 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;
  - e. The high support needs of the client are such that there is no alternative available within current DHB funding mechanisms to enable the DHB to safely provide care in the person's individual circumstances.
25. 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.

### ***ACCESSING PAID FAMILY CARER HOME-BASED SUPPORT***

26. 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.
27. If the person is already receiving home-based care from a contracted provider and seeks access to paid family care through another contracted provider (resulting in two agencies being funded to provide the care), the person may request a NASC review of allocated services from one provider to the other.

### ***DECISION REVIEW PROCESS***

28. If the 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 from the DHB Needs Assessment and Service Coordination service.
29. The process for the review is as follows:
  - a. The process to review a decision made by the DHB NASC is as detailed in the NASC Managers Operational Manual;

- b. Reviews are limited to decisions around eligibility for paid family care and service allocation and exclude any employment-related issues between the paid family carer and the employing DHB contracted provider.

### ***AGREEMENTS TO PROVIDE PAID FAMILY CARE***

30. The following conditions must be met before paid family care Services can be implemented:
  - a. An eligible person who is eligible under this policy must first agree that they want an approved family carer to provide the Service. The person may be supported to make this decision;
  - b. 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 the eligible person has been assessed as requiring;
  - c. The family carer must be capable of providing the Service and will only be approved if they are so capable;
  - d. The family carer must have an employment offer from a DHB contracted provider;
  - e. 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;
  - f. All the parties agree to provisions for replacement care for when the family carer is unable or unavailable to provide Services;
  - g. 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);
  - h. 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:
    - i. Expect that contracted providers are required to appoint family carers on merit, consistent with section 22 of the Human Rights Act 1993;
    - ii. 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;
    - iii. ensuring that the family carer complies with required training, and competency assessment processes;
    - iv. complying with monitoring or auditing processes, and with any requirements following those processes;



- v. any other conditions that apply to the care situation, including for replacement care;
- vi. service allocation.

### **PAYMENT RATE**

- 31. 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 and DHB contractual requirements.

### **LIMITS ON HOURS OF PAID FAMILY CARE**

- 32. The provider may employ one or more family carers within the maximum service requisition allocation.
- 33. There is no obligation on the DHB to fund services over the assessed service allocation solely for purposes of enabling paid family care.
- 34. DHB may limit the maximum hours of paid home based support services to not exceed the DHB cost of residential care.
- 35. DHB Planning and Funding will consider applications from NASC services for an allocation beyond DHB cost of residential care on a case by case basis.

### **INDIVIDUAL SERVICE PLAN**

- 36. The delivery of the Service by the family member to the eligible person will be recorded in the person's individual service plan.
- 37. 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.
- 38. The plan will be reviewed not less than annually.
- 39. The parties also acknowledge that they must meet their obligations that:
  - a. services are delivered as planned and agreed;
  - b. services are delivered as per the relevant service specification for that level of care;
  - c. arrangements for replacement care are in place if the family carer is unavailable to provide PFC;
  - d. they comply with monitoring and auditing;
  - e. they provide information to the DHB.

40. Bay of Plenty DHB will collect the following additional quarterly information from the contracted provider on PFC arrangements:
- a. Person and carer details, including relationship of the paid family carer to the Person;
  - b. Number of Paid Family Carers employed;
  - c. Total hours of Paid Family Carers delivered by month services being provided by family carer;
  - d. Notification through narrative report of any problems, changes or issues related to employment of Paid Family Carers.

## ***MONITORING, AUDIT AND REVIEW***

### ***MONITORING AND AUDITING***

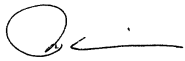
41. Bay of Plenty DHB may undertake monitoring and auditing to:
- a. ensure the home-based services are being provided by the paid family carer as agreed.
42. All the parties must co-operate with monitoring or auditing as set out in their contract for service provision with the DHB.

### ***REVIEW OF SERVICE***

43. The service plan being delivered to the person in their home will be reviewed by the DHB through usual Needs Assessment and Service Coordination process. If following review and/or reassessment by the Needs Assessment and Service Coordination agency there are changes to allocated services and levels of support indicated, all parties must agree the changes within requirements for maximum service hours to be delivered by the paid family carer.

***CERTIFICATION***

This policy was certified on 21 May 2014.



**PHIL CAMMISH**  
Chief Executive

## **DEFINITIONS/CONSTRUCTION**

### **DEFINITIONS**

44. 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;

**Family members** – as defined by legislation includes:

- (a) spouse, civil union partner, or de facto partner; or
- (b) parent, step-parent, or grandparent; or
- (c) child, stepchild, or grandchild; or
- (d) sister, half-sister, stepsister, brother, half-brother, or stepbrother; or
- (e) aunt or uncle; or
- (f) nephew or niece; or
- (g) first cousin.

In addition, the policy includes

- (h) Guardian
- (i) Family member (as detailed above)-in-law

See Schedule One for full list of family members eligible under this Policy.

**Employer** – DHB contracted Home Based care Provider or Provider

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

**Home-based care** – provision of DHB-funded long-term disability support services including personal care, medication oversight, household management.

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

**Mental Health and Addictions community support services** - is a person centred, flexible mobile community-based support services for people living with mental illness who are living independently, but not necessarily alone, in their community and who require support in relation to family/whānau, community living, education, employment and self-management of their wellbeing. The Service may be provided to individual service users or delivered as a group programme, or a combination of both individual and group activity.

**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.

**Non family member living in the same home** - is not eligible for payment for providing home support services through DHB contracted provider.

**Paid family care** – home-based care or Services.

**Paid family carer policy (PFC)** – this policy made under Part 4A of the New Zealand Public Health and Disability Act 2000; and

**Person** - a person who is receiving the Services; includes person with an age related, long term support chronic health condition or mental health need).

**Services** – home-based care or paid family care

**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)**

45. Parts of this Policy are called clauses.
46. The Policy should be read as a whole, and in the context of Part 4A of the Act, to help with the meaning of any clause.
47. The singular includes the plural, and vice versa.
48. 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

**SCHEDULE ONE: SUMMARY OF FAMILY RELATIONSHIPS ABLE TO BE PAID TO PROVIDE CARE**

This policy requires both the person and the nominated family carer to be over the age of 18 years

	<b>Eligible for Payment as Family Member if over 18 years or age</b>	<b>Employment Practice</b>	<b>Not Eligible for Payment as a Family Member</b>
<p><b>If living with the person</b></p> <p><b>eg. in the same residence or on the same property</b></p>	<ul style="list-style-type: none"> <li>• parent, step-parent, or grandparent; or</li> <li>• child, stepchild, or grandchild; or</li> <li>• sister, half-sister, stepsister, brother, half-brother, or stepbrother; or</li> <li>• aunt or uncle; or</li> <li>• nephew or niece; or</li> <li>• first cousin.</li> <li>• Guardian</li> <li>• Family member (as detailed above)-in-law</li> </ul>	<p>NASC approves eligibility under Paid Family Care policy and authorises DHB contracted home based support provider to employ family member</p>	<p>Spouse, de facto or civil union partners Parent of client under 18 years old</p>
<p><b>If not living with the person</b></p>	<ul style="list-style-type: none"> <li>• parent, step-parent, or grandparent; or</li> <li>• child, stepchild, or grandchild; or</li> <li>• sister, half-sister, stepsister, brother, half-brother, or stepbrother; or</li> <li>• aunt or uncle; or</li> <li>• nephew or niece; or</li> <li>• first cousin.</li> <li>• Guardian</li> <li>• Family member (as detailed above)-in-law</li> </ul>	<p>NASC eligibility not required and home based support providers may choose to employ family member</p>	<p>Spouse, de facto or civil union partners Parent of client under 18 years old</p>