

2003 Direction of the Minister of Health

Relating to Eligibility for Publicly-Funded Health and Disability Services in New Zealand¹

Pursuant to section 32 of the New Zealand Public Health and Disability Act 2000, the Minister of Health, after consulting with boards as required by that section, hereby gives the following direction to District Health Boards (DHBs) established under section 32 of that Act.

1. Title and commencement—(1) This direction may be cited as the Health and Disability Services Eligibility Direction 2003.

(2) This direction comes into force on 30 October 2003.

2. Interpretation—In this direction, unless the context otherwise requires:

“Commonwealth Scholarship” means a postgraduate university scholarship awarded to a member of the Commonwealth under the Commonwealth Scholarship and Fellowship Plan;

“Crown Funding Agreement” means an agreement within the meaning of section 10 of the NZPHD Act entered into by a DHB, and for the purposes of clause 4(12) may include a service agreement entered into under section 301 of the IPRAC Act;

“DHB” means a District Health Board established under section 19 of the NZPHD Act, and for the purposes of this direction includes the Ministry of Health where the Ministry is acting as purchasing agent for a DHB pursuant to an agency agreement;

“disability support services” has the same meaning as in section 6 of the NZPHD Act;

“eligibility” means the right to be considered for receipt of publicly-funded services, but does not equate to an entitlement to receive those services, and eligibility is assessed at the time services are sought (it may not operate retrospectively);

“eligibility criteria” means the criteria set out in clause 4 of this direction, any of which, as a minimum, must be satisfied before any person may receive any publicly-funded service;

“guardian” has the same meaning as in section 3 of the Guardianship Act 1968 or any successors to that Act;

“health care facility” means a hospital, or other facility for the provision of services operated by a DHB (whether or not located in a hospital);

“IPRAC Act” means the Injury Prevention, Rehabilitation and Compensation Act 2001, and includes any successor to that Act and any Regulations made under that Act;

“Minister” means the Minister of Health;

“New Zealand” includes all waters within the outer limits of the territorial sea of New Zealand as defined in section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977, but does not include the Cook Islands, Niue, Tokelau or the Ross Dependency;

“New Zealand citizen” means a person who has New Zealand citizenship under the Citizenship Act 1977 or the Citizenship (Western Samoa) Act 1982;

“NZIS” means the New Zealand Immigration Service;

“NZPHD Act” means the New Zealand Public Health and Disability Act 2000;

“Ordinarily resident in New Zealand” refers to a person who is lawfully present in New Zealand at the time of seeking services and who—

(a) holds a residence permit issued under the Immigration Act 1987, and

(i) holds a current returning resident’s visa issued under the Immigration Act 1987; or

(ii) immediately prior to seeking services, has remained in New Zealand for a period that equals or exceeds two years; or

(b) is a person exempted, by virtue of being a citizen of the Commonwealth of Australia or by virtue of holding a current resident return visa issued by the Government of Australia, from holding a residence permit issued under the Immigration Act 1987, and can demonstrate an intention, on reasonable grounds, to remain in New Zealand for a period that, together with the time that person has already been in New Zealand immediately prior to seeking the services, equals or exceeds two years; or

(c) is a Work Permit Holder;

“partner” means—

(a) where the parties are legally married, either the husband or the wife, as the case requires; or

(b) a “de facto partner” within the meaning of that term in section 2C of the Property (Relationships) Act 1976;

“prison” includes a Gazetted police jail, or corrective training institution;

“publicly-funded services” means personal health, mental health and disability support services funded by a DHB using funds provided by the Crown under a Crown Funding Agreement or section 88 notice and, except in relation to public health acute services, does not include services funded by a DHB using funds provided by any person or agency other than the Crown, whether or not the purchasing of those services results in a part charge to the person receiving the services;

“public health acute services” has the same meaning as in section 6 of the IPRAC Act;

“services” means personal health services, mental health or disability support services;

“Work Permit Holder” means a person who:

(a) holds a work permit issued under section 26 of the Immigration Act 1987:

(i) entitling that person to remain in New Zealand for a period that equals or exceeds two years; or

(ii) entitling that person to remain in New Zealand for a specified period of time which, together with the period of time that person has already been lawfully in New Zealand immediately prior to obtaining the permit, equals or exceeds two years; and

(b) includes a dependent child aged 19 years or under, of any such person.

3. Scope of this Direction—(1) This direction covers all publicly-funded services funded by DHBs, whether in or outside a health care facility, and without limitation includes primary health services;

(2) Except as provided in clause 3(3) below, this direction does not operate retrospectively²;

(3) An individual on a student or visitor permit who as at 29 October 2003 would have been eligible under clauses 2(e) and (f) of the 2000 Direction had it not been revoked, will retain eligibility under the 2000 Direction if he or she is:

(a) a visitor permit holder and is granted consecutive permits to remain in or re-enter New Zealand;

(b) a student permit holder and is granted consecutive permits to remain in or re-enter New Zealand, even

where the individual leaves New Zealand for short periods (of up to four months).

4. Eligibility Criteria—A person is eligible for publicly-funded services if he or she is in New Zealand at the time of seeking services and falls into any one or more of the following categories:

- (1) A New Zealand citizen³;
- (2) Ordinarily resident in New Zealand;
- (3) A person who has refugee status in New Zealand or is in the process of having an application for refugee status determined by NZIS, or a person who is in the process of having an appeal against refusal of refugee status determined by the Refugee Status Appeal Authority;
- (4) A student receiving funding under the New Zealand Agency for International Development Official Development Assistance Programme, or is the partner, or dependent child under the age of 18 years, of such a student;
- (5) A participant in the Ministry of Education's Foreign Language Teaching Assistantship Scheme;
- (6) The holder of a Commonwealth Scholarship;
- (7) In respect only of eligibility for services required to be provided under the agreement referred to in the Schedule to the Health Benefits (Reciprocity with Australia) Act 1986 or any of its successors, a resident of Australia who is in New Zealand on a temporary basis;
- (8) In respect only of eligibility for services required to be provided under the agreement set out in the Schedule to the Health Benefits (Reciprocity with the United Kingdom) Act 1982 or any of its successors, a person recognised by the Government of the United Kingdom as a national, who has his or her usual place of abode in the United Kingdom, and is in New Zealand on a temporary basis; or
- (9) A child under the age of 18 years who is for the time being in the care and control of:
 - (a) his or her parent or guardian, and his or her parent or guardian meets either of the eligibility criteria specified in clauses 4 (1) or (2) or is a person referred to in clause 3 (3); or
 - (b) a person who is in the process of legally adopting that child and that person meets either of the eligibility criteria specified in clauses 4(1) or (2) or is a person referred to in clause 3 (3);
- (10) In respect only of eligibility for compulsory services under the Tuberculosis Act 1948, the Health Act 1956, the Alcoholism and Drug Addiction Act 1966, the Mental Health (Compulsory Assessment and Treatment) Act 1992, or any Regulations made under any of those enactments (together the "enactments"), a person receiving or eligible to receive services under the enactments;
- (11) In respect only of eligibility for services not available through the prison health services, a prison inmate (including an individual on remand in prison custody);
- (12) A person who:
 - (a) in respect only of eligibility for public health acute services required by that person for a personal injury for which that person has cover and entitlement⁴ to treatment under the IPRAC Act, is seeking services covered by a Crown Funding Agreement; or
 - (b) in respect of eligibility for disability support services, requires those services for a personal injury for which the person has cover and entitlement under the IPRAC Act, but has been disentitled to any of those services under any of sections 118-122 of the IPRAC Act; or

(c) has cover and entitlement under the IPRAC Act, and seeks primary-referred pharmaceutical and laboratory services⁵.

5. Disputes and payments—If any question or dispute arises as to whether or not a person satisfies any of the eligibility criteria, that question or dispute shall be determined by the Ministry of Health.

6. Amendment, Revocation and term of direction—

(1) The Minister may from time to time, by notice under section 32 of the NZPHD Act, amend or revoke this direction.

(2) The Health and Disability Services Eligibility Direction 2000 is revoked by this direction.

(3) This direction (together with any amendments to it made under clause (1) of this section) will remain in force until it is revoked by the Minister.

Dated at Wellington this 19th day of September 2003.

ANNETTE KING, Minister of Health.

¹ *The Eligibility Direction sets out who is entitled to publicly funded health services in New Zealand. If you do not meet one of the criteria set out in this direction, you are not entitled to free or subsidised services and are liable to be charged for any health services accessed.*

² *Eligibility is assessed at the time of seeking services and cannot be backdated, therefore eligibility changes made by this revised direction apply only to persons seeking services after this direction comes into force.*

³ *This category includes New Zealand citizens living in the Cook Islands, Niue or Tokelau who visit New Zealand on a temporary basis.*

⁴ *"Entitlement" in clause 4(12)(a) means a person who has statutory entitlements in terms of section 69 of the IPRAC Act, and who has not been disentitled under sections 118-122 of the IPRAC Act.*

⁵ *The services covered by subclause 4(12)(c) are outlined in the 2000/2001 Crown-ACC funding agreement for primary-referred pharmaceutical and laboratory services between ACC and the Minister of Health.*