



# Changes to Legislation

## New requirements for Approved Family Day Care Services

The Australian Government has made amendments<sup>1</sup> to the *Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000* (the Eligibility Determination). The Eligibility Determination sets out the eligibility criteria and obligations for child care services to become approved, and continue to be approved, for the purposes of Family Assistance Law (FAL) (that is, among other things, be approved to administer Child Care Benefit (CCB) on behalf of families).

### Who is affected by the changes?

These changes affect approved Family Day Care (FDC) services, the educators who provide care on behalf of approved FDC services, and anyone who wishes to make an application for FDC service approval for the purposes of FAL (for CCB purposes).

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<sup>1</sup> These changes are reflected in the *Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2015 (No. 1)*.

## What are the changes?

Change Number	Description of Changes	Date of Effect for existing approved Family Day Care services <sup>2</sup>
1	<p>Approved FDC services must not provide care in a state or territory other than the state or territory in which the service has a service approval under the Education and Care Services National Law (National Law). Services may apply for an exemption to this rule where there is a good reason to do so, for example, where a service is in a cross-border location.</p> <p>Operators of FDC services that wish to operate in multiple states or territories may apply for service approval to the Regulatory Authority in the relevant state or territory. Once they receive service approval for the new service, they may apply to have this service approved for the purposes of FAL.</p>	3 June 2015
2	<p>Where a Regulatory Authority has imposed a condition as part of the FDC service's service approval under the Education and Care Services National Law (National Law), the service must comply with that condition as a requirement under FAL. An example of such condition is a limit on the number of FDC educators that the service may engage.</p>	4 December 2014
3	<p>Approved FDC services must attribute, in attendance reports submitted via the Child Care Management System, all sessions of care to the specific educator who provided the session(s) of care using the Service Provider Personnel ID assigned to that particular educator in the service's registered software product.</p>	4 December 2014 – if the registered software the service uses can assign a Service Provider Personnel ID to each educator and include the ID for the educator in all reports submitted; OR as soon as this function is available in the services registered software product.

## What are the changes being made and who was consulted?

Explanations of the detail and reasons for the changes are provided below. Peak bodies for the FDC sector and third party software providers were consulted on these changes.

<sup>2</sup> A new applicant for approval for the purposes of the Family Assistance Law as a Family Day Care service must undertake to comply with these requirements on application, and must comply with the requirements on being approved.

## Have forms and documents changed?

The 'CCB Application' forms and other forms that your service submits to the department have not changed. The information that your service must provide in reports of sessions of care to the department has changed. You must now provide in these reports the Service Provider Personnel ID for each educator who provided the session(s) of care that are included in the report.

## What do you need to do?

Operators of approved FDC services and authorised persons should read the attached information to make sure they are fully aware of their obligations under FAL, and that they ensure that educators who provide care on their behalf do so in accordance with the requirements of FAL.

## Changes to the Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000

### **Approved Family Day Care services must only operate in the same state or territory where service approval has been granted**

**These changes mean that:**

- an approved FDC service must not provide care in a state or territory other than a state or territory in which the service has approval under the National Law. For example, a Family Day Care service approved by the Regulatory Authority in Victoria to operate the child care service must not operate to provide care in South Australia (or another state or territory);
- a service may be granted an exemption to this rule where there is a good reason to do so, for example, where a service is in a cross-border location. For example a FDC service that has service approval provided by the Regulatory Authority in New South Wales could apply to the Secretary for an exemption such that educators can also provide care on behalf of that service in Coolangatta (Queensland), if the service provides care in both Tweed Heads (NSW) and Coolangatta;
- operators of FDC services that wish to operate in multiple states or territories may apply to each Regulatory Authority in the relevant state/s or territory/ies to have the new services approved. Once they receive service approval for the new service, they may apply to have this service approved for the purposes of FAL; and
- services that have service approval from a Regulatory Authority in one state or territory, but are currently operating to provide child care in another state or territory in which the approving Regulatory Authority does not reside, have until 3 June 2015 to comply with this requirement.

### **Reason for changes**

These changes will help to ensure that approved FDC services check, train and monitor educators in each state or territory in which they operate and remain compliant with the requirements of the National Law and FAL. These changes will also strengthen the department's capacity to take appropriate compliance action where required.

## **Services must comply with any conditions on the service's approval**

These changes require that where a state or territory Regulatory Authority has imposed any condition on the FDC service in the service's service approval under the Education and Care Services National Law (National Law), the service must also comply with that as a condition under FAL. An example could include the imposition of a limit on the number of educators that a FDC service may engage, contract or employ.

### **Reason for changes**

These changes will help to ensure that the operation of FDC services is compliant with the requirements of the National Law and FAL.

## **Services must provide the Service Provider Personnel ID for the relevant carer that provided the sessions of care when submitting reports of sessions of care to the department**

### **These changes:**

- require approved FDC services to assign a Service Provider Personnel ID to each of its educators listed as 'service personnel' in their registered software;
- require that approved FDC services, whose registered software provides this function, commence attributing all sessions of care to the relevant educator that provided the session of care in reports to the department from 4 December 2014, using the Service Provider Personnel ID assigned to that educator in the services registered software; and
- require that approved FDC services, whose registered software does not allow the service to attribute sessions of care to a specific educator using the Service Provider Personnel ID, must do so as soon as the registered software provider makes this available to the service.

### **Reason for changes:**

These changes will assist the department in monitoring that the care being attributed to a particular educator in reports on sessions of care is the educator who actually provided the session of care. The changes will assist services' compliance with FAL, in particular, in submitting accurate reports.