



# Impact of changes to the SCHADS Award for the Home Care Packages Program

## Home Care Provider Factsheet

Last updated 24 June 2022

This fact sheet explains changes to the Social, Community, Home Care and Disability Services Industry Award 2020 (SCHADS Award), its impact on the Home Care Packages Program and provides guidance on implementation and answers some frequently asked questions.

### About the SCHADS Award

Modern awards, including the SCHADS Award, set out minimum terms and conditions of employment on top of the National Employment Standards for employees covered by the Award. The SCHADS Award covers the crisis assistance and supported housing, social and community services and home care industries, and provides protections and entitlements including pay, hours of work, rosters, breaks, allowances, penalty rates and overtime.

The Fair Work Commission recently reviewed the SCHADS Award and concluded that changes were needed to ensure that it, together with the National Employment Standards provide a fair and relevant minimum safety net of terms and conditions.

These changes are an opportunity for the aged care sector to attract more workers to aged care.

### What is changing?

From the first full pay period starting on or after 1 July 2022, a number of provisions of the SCHADS Award are changing.

Changes that may affect home care employees and employers, include:

- **Casual** home care employees must be paid for a minimum of two hours for each shift (increased from one hour).
- **Part-time** home care employees must be paid for a minimum of two-hours for each shift.
- There are two new **broken shift allowances** payable when employees work a broken shift, with a higher payment if there are two breaks.
- When an employee is required to work a broken shift, the minimum payment requirement above applies to each period of work in that [broken shift](#).
- The introduction of a damaged clothing allowance.

- The introduction of minimum payment and other requirements for employees who perform remote work as defined under the SCHADS Award.
- There are also new rules around pay and make-up time that apply where a care recipient [cancels a service](#).

These changes **do not** require employees to spend the entire minimum shift of two hours with one care recipient. All employees can continue to see more than one care recipient, at more than one location, within their minimum two-hour payment time.

The changes will generally not apply to employees covered by a current enterprise agreement.

For the latest information on all changes, please refer to the [1 July 2022 changes to Social, Community, Home Care and Disability Services Award](#) on the Fair Work Ombudsman website and consider subscribing to their [email updates](#).

## Implementing changes to the SCHADS Award

An important reminder about providers' responsibilities with regard to these important changes. All providers must:

- **Gain the consent of care recipients to any changes** that affect them. Under aged care law and Australian Consumer Law, providers cannot make changes to the following documents without informed consent and agreement from care recipients:
  - Home Care Agreements
  - Individualised budgets
  - Care plans
- **Consult with their employees about changes** that might impact their current award or enterprise agreements or contractual arrangements. Providers remain responsible for adhering to current workplace obligations, for example, when making changes to an employee's hours of work or directing employees to perform other work activities.

Providers may need to consider a range of approaches as they implement the SCHADS changes consistent with the Award requirements including in relation to consultation. These include:

- More efficient scheduling and rostering arrangements.
- Including other work activities in the minimum shift.
- Making adjustments to pricing where reasonable and justifiable.

Any changes to Home Care Agreements, care plans and individualised budgets must be discussed and agreed with care recipients and consistent with their assessed care needs and goals with the available subsidy and unspent funds

More information on these approaches is provided below.

## MORE EFFICIENT SCHEDULING AND ROSTERING ARRANGEMENTS

- Providers should consider how they can update their current business practices and staffing models to comply with the SCHADS Award changes. This could include minimising unbillable time by:
  - Scheduling their employees for more than one service type for a care recipient in the same visit, subject to assessed care needs and goals.
  - Providing additional services to a care recipient where a care recipient has assessed care needs and goals that are not being met and the care recipient is not fully utilising their package or has unspent funds.
  - Where services delivered in off-peak times are non-essential, providers may consider negotiating with care recipients about moving services to peak times to increase flexibility with rostering.
  - Scheduling visits to multiple care recipients who live in the same or nearby locality.
  - Scheduling different employees for sun-up and sun-down activities to minimise broken shifts.
- Providers who engage other organisations or individuals to deliver care and services, such as through sub-contracting arrangements should be aware:
  - Regardless of how the services are delivered, providers remain responsible for ensuring services are delivered in a way that meets the requirements of the *Aged Care Act 1997* and the Aged Care Quality Standards. If the sub-contracting arrangements materially affect approved provider suitability, they will need to be disclosed to the [Aged Care Quality and Safety Commission](#).
  - Providers are responsible for negotiating arrangements with sub-contractors that meet their business needs and the needs of their care recipients. Where suitable arrangements cannot be negotiated providers may need to consider alternatives.
  - Providers can only charge separate sub-contracting fees if the sub-contracting arrangement is at the care recipient's request. Any costs associated with provider initiated sub-contracting arrangements must be incorporated into published direct costs or through care management and package management fees and must be reasonable and justifiable.

## INCLUDE OTHER WORK ACTIVITIES IN THE MINIMUM PAYMENT PERIOD

- Providers are not restricted to only delivering care and services during a minimum payment period. The minimum payment period may also include other work activities such as client or general administration (record keeping), care planning documentation, supervision of others, and training and education, provided the employee holds the skills and competency necessary to perform these activities. Noting that the cost of these activities should already be incorporated into existing charges.
- This option may be useful for employees in rural and remote areas who don't have care recipients in close proximity.
- Care recipients can only be charged for agreed services and must not be charged twice for services that are already covered by existing charges such as care and package management.

## MAKING REASONABLE INCREASES TO PRICING TO COVER ADDITIONAL COSTS.

- Any increase in prices should be carefully considered to ensure they are reasonable and justifiable. This may include increases to the price per hour of the relevant direct care services, such as personal care, in-home respite, care management and indirect costs such as package management.
- Providers **should not** set unreasonable minimum service times or charge for time where services are not being delivered (for example, charging a care recipient 2 hours for a 30 minute service). Any change to minimum service times must be reasonable and justifiable.
- Where Home Care Agreement allow for price increases (and provided the Home Care Agreement was entered into via informed consent and with fair terms), you must provide impacted care recipients with advance warning of any increase so they have the option to shop around for a new provider who may be able to offer more competitive pricing.
- **Any changes to pricing must be agreed and documented in the Home Care Agreement of existing care recipients.**
- Providers may consider negotiating with their care recipients to add a rural loading equivalent to the viability supplement if they live in eligible postcodes.
- Rural and remote providers and/or those providers with a low consumer base may consider option to adjustments to off-peak pricing to address any rostering challenges. This should only be considered where other innovations to adjust the provider's business model have been unviable.
- All charges must be transparent in the [monthly statement](#) you provide to a care recipient.
- If a care recipient agrees to an increase in costs and this increase impacts on their ability to meet other costs of living expenses, providers are expected to assist the care recipient to access financial hardship assistance.
- Any increase to direct and indirect pricing needs to be promptly updated on My Aged Care to support prospective care recipients to make an informed choice. For more information visit, [Price transparency for Home Care Packages | Australian Government Department of Health](#) and [Displaying prices | ACCC](#).
- Australian Consumer Law prohibits a business making a false or misleading representation with respect to the price of goods or services and prohibits businesses engaging in misleading or deceptive conduct including in relation to price. Visit the ACCC website for information about [Pricing & surcharging | ACCC](#). It is also illegal for providers to collude on setting prices.

## Frequently asked questions

### What is a broken shift?

A broken shift includes at least two periods of work and one unpaid break (other than a meal break) in a 12-hour period. For example, a home care worker who works from 9am–12pm and 3pm–6pm would be considered to have worked a broken shift with one break. A meal break does not create a break a in the shift.

The changes to the SCHADS Award introduce a broken shift allowance for home care employees, with a higher payment if there are two breaks.

More information is at [1 July 2022 changes to Social, Community, Home Care and Disability Industry Services Award](#)

## Does the minimum payment period need to be worked in one location or with a single care recipient?

All employees continue to be able to see more than one care recipient, at more than one location, and from 1 July 2022 this can be within their minimum two-hour payment period.

See guidance above on [Implementing changes to the SCHADS Award](#).

## Can I change an existing care recipient's service, schedule or charges because of the SCHADS Award changes?

Any changes to a care recipients' services, schedule or charges must be consistent with their assessed care needs and goals and available subsidy and unspent funds. **Any changes to the agreed Home Care Agreement, individualised budget or care plan can only be made with the informed consent of the care recipient.**

Providers are expected to explore alternative options to address the impact of SCHADS changes before negotiating changes to Home Care Agreements with care recipients. See advice above on [Implementing changes to the SCHADS Award](#).

A Home Care Agreement is a legal agreement between the home care provider and care recipient, as per the requirements of the *User Rights Principals 2014* and the *Aged Care Act 1997* and under Australian Consumer Law. Changes to a modern award is not grounds to amend the Home Care Agreement without consent.

The Australian Competition and Consumer Commission (ACCC) outlines the terms and conditions a provider must consider when formulating an agreement such as a Home Care Agreement. This includes considering if a term or condition may be unfair to the care recipient, such as varying the terms of the contract without consent. Providers are encouraged to visit the [Australian Competition and Consumer Commission \(acc.gov.au\)](http://www.accc.gov.au) website to review information on a person's rights when entering a contract. More information is at [Home care services - your business rights & obligations | ACCC](#)

Providers are expected to engage with care recipients in a timely, open and transparent manner about any changes to their Home Care Agreement, individualised budget or care plan. Providers should also take into account a care recipient's circumstances, including how they will receive the information and considering whether the care recipient [may be experiencing vulnerability](#).

## What if I can no longer deliver services to a care recipient for the agreed price, and they won't agree to a price increase?

Providers are expected to manage the implementation of the SCHADS Award changes holistically across their business. Providers are strongly discouraged from using security of tenure conditions (where a provider states that the care recipient cannot be cared for in the community with the resources available) to cancel a Home Care Agreement where a care recipient does not consent to change. Cancelling a Home Care Agreement on security of tenure basis should only ever be used as a last resort and would raise concerns about provider sustainability if used.

Care recipients continue to have the right to ask the provider for a copy of a clear and simple presentation of the financial position of the home care service, including the costs of home care and/or the provider's audited accounts. If asked, you must provide this to the care recipient within seven days.

Where service provision is no longer viable, providers are expected to assist their care recipients to find a new provider, local to the region.

- Providers who are struggling financially should let their state office of the Department of Health and Aged Care know immediately. The state office can support you to exit from the industry.
- To search for providers in your area, you can visit the My Aged Care website at: [www.myagedcare.gov.au](http://www.myagedcare.gov.au) and search for 'Find a provider' or call the My Aged Care contact centre on 1800 200 422 for assistance.

## What are my employer obligations if the care recipient cancels a service?

Where a care recipient cancels a service within seven days of a scheduled home care or disability service, an employer may either direct the employee to perform alternative duties or cancel the rostered shift or affected part of the shift.

If an employer elects to cancel the rostered shift (or the affected part of the shift), they must either provide the employee with payment for that shift or provide the employee with make-up time. An employer can only elect to provide an employee with make-up time if they have given the employee at least 12 hours' notice of the cancelled shift and at least seven days notice of the make-up time shift.

More information is at [1 July 2022 changes to Social, Community, Home Care and Disability Services Award](#)

## Can I charge a care recipient for cancelling a service?

Providers may charge a care recipient if a service is cancelled at short notice, this may equate to all or part of a workers' shift depending on the service. Cancellation terms need to be reasonable and agreed with the care recipient and documented in the Home Care Agreement.

## Can I charge for travel time that was not previously being charged to the care recipient(s)?

As per pricing transparency rules, providers may charge care recipients a per kilometre cost for a care worker to travel to the care recipient's location; or absorb travel into the hourly rate of the worker but should not charge the care recipient twice. Travel costs need to be reasonable and agreed with the care recipient and documented in the Home Care Agreement.

## Is there a grace period to update our scheduling and billing software to reflect these changes?

These changes to the SCHADS Award come into effect on 1 July 2022, and providers will need to comply with the new requirements from that date. Home care providers should consult with their scheduling and billing software providers to ensure that their systems will be updated in time to take into account the SCHADS Award changes.

Providers waiting on updates to their software to reflect the SCHADS Award changes are encouraged to be open and honest with their care recipients and employees on any issues this may cause and how these issues will be addressed and may wish to seek advice on how to ensure they comply with the new award requirements. For more information visit the [Fair Work Ombudsman website](#).

You may also wish to alert your state office if this is a matter of concern and advise what communications you have had with care recipients and their families.

## Managing non-compliance

The Fair Work Ombudsman is responsible for promoting compliance with Australian workplace laws and providing education about rights and responsibilities at work. The Fair Work Ombudsman can also help to resolve workplace issues including by using its range of compliance powers.

The Aged Care Quality and Safety Commission's current statistics on complaints data shows that the top two categories of complaints made to the Commission about home services were 'lack of consultation or communication' and 'fees and charges'.

Where providers are found non-compliant with their provider responsibilities, the Aged Care Quality and Safety Commission will take proportionate regulatory action. Depending on the level of assessed risk, the Commission may issue a Direction, a Non-Compliance Notice or take other escalating enforceable regulatory action/s such as issuing a Sanction. In all circumstances, the Aged Care Quality and Safety Commission's response to non-compliance will be informed by the risk posed to the safety, health, well-being and quality of life of care recipients.

## Where can I find more information?

For the latest information see [1 July 2022 changes to Social, Community, Home Care and Disability Services Award - Fair Work Ombudsman](#) and consider subscribing to their [email updates service](#).

For assistance navigating these changes you may wish to revisit:

- [Home care agreements for Home Care Packages | Australian Government Department of Health](#)
- [Home care services - your business rights & obligations | ACCC](#)
- [Aged Care Act 1997](#)
- [User Rights Principals 2014](#)

Should your care recipient need assistance with their aged care services, the Australia-wide Older Persons Advocacy Network (OPAN) provides advocacy services. OPAN can be contacted on 1800 700 600 between 8am to 8pm, Monday to Friday and 10am - 4pm Saturday. Details about OPAN can also be found at: [www.opan.org.au](http://www.opan.org.au). OPAN provides free, independent and confidential information and advocacy support to assist them to understand the SCHADS changes and negotiate variations to their Home Care Agreements and care plans.

Obtain a [Hardship Application Form](#) online using the search term 'financial hardship assistance eligibility' or call Services Australia on 1800 227 475.