

OPAN

submission on

Higher Everyday Living Fees (HELFF)

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About OPAN

The Older Persons Advocacy Network (OPAN) is the national peak body for individual aged care advocacy support. OPAN contains a network comprised of nine state and territory organisations that have been successfully delivering advocacy, information and education services to older people across Australia for over 30 years. Our members are:

ACT	ACT Disability, Aged and Carer Advocacy Services	SA	Aged Rights Advocacy Service (ARAS)
NSW	Seniors Rights Service (SRS)	TAS	Advocacy Tasmania
NT	Darwin Community Legal Service	VIC	Elder Rights Australia (ERA)
NT	CatholicCare NT (Central Australia)	WA	Advocare
QLD	Aged and Disability Advocacy Australia (ADA Australia)		

OPAN receives funding from the Australian Government to deliver the National Aged Care Advocacy Program (NACAP). OPAN aims to provide a national voice for aged care advocacy and promote excellence and national consistency in the delivery of advocacy services under the NACAP.

OPAN’s free services support older people and their supporters to understand and address issues related to Commonwealth funded aged care services. We achieve this through the delivery of education, information and individual advocacy support. In 2024-25 OPAN provided 52,206 instances of advocacy and information support, an increase of 18 percent since 2023-24.

OPAN is always on the side of the older person we are supporting. It is an independent body with no membership beyond the nine members. This independence is a key strength both for individual advocacy and for our systemic advocacy.

OPAN works to amplify the voices of older people seeking and using aged care services and to build human rights into all aspects of aged care service delivery. OPAN acknowledges the knowledge, lived experience, wisdom and guidance provided by older people and advocates in preparing this submission.

Introduction

OPAN welcomes the opportunity to provide a brief submission on the implementation of higher everyday living fees (HELFF) under the *Aged Care Act 2024*. OPAN, together with other organisations focused on the rights of older people, strongly supported the increased consumer protections offered under HELFF. In our advocacy case work, we saw many cases under the *Aged Care Act 1997* of older people being locked into contracts for extra services places or for additional services they did not want, could not use or could not afford.

Important consumer protections for HELFF include:

- A HELFF agreement can only be entered into after an older person enters into a residential aged care service agreement. This means that, unlike in some current cases, older people or their families cannot be forced to agree to extra services as a part of condition of entry to the home or to a particular room within the home.
- HELFF services can still be provided as a bundle or package, but they must also be available separately, and the older person cannot be worse off than if they paid separately for the services they can use.
- A 28-day cooling-off period after entering residential aged care, to cancel or vary their HELFF agreement without incurring a cancellation fee.
- The provider is required to review the HELFF agreement with the older person at least annually.

However, the introduction of HELFF to date has presented additional concerns that highlight an ongoing tendency by some aged care providers to comply with the letter rather than the spirit of this rights-based legislation. It also highlights that what is considered 'standard' in aged care service delivery and what is considered a 'higher' level of services must be continually reviewed based on contemporary living standards, advances in communication technology and community expectations.

As the sector transitions to choosing whether to offer HELFF or not, some providers are technically adhering to departmental guidance while undermining its intent. This includes reclassifying previously standard amenities as "extras", introducing new fees under the guise of HELFF, and compelling older people and their families to sign up for these now optional offerings. How providers approach implementing HELFF can lead to unfair charges, limited consumer choice, and barriers to equitable access for older people.

“A provider operating multiple homes across the state has introduced a HELF model that now requires residents to pay \$5 a day for use of in-room TVs. TVs were previously included at no extra cost. While the TV remains on the wall, access to the TV remote control is now included under HELF.

One older person’s son removed the provider’s TV and installed a personally purchased TV after securing written confirmation that no additional charges would apply. Another resident was offered an internal hardship fee waiver but had to sign a confidentiality agreement to access the waiver.

The same provider now also charges an extra \$1.70 per day for butter. Otherwise, it will be replaced with margarine.”

–Advocate

Some provider’s approach to HELF has not been principled, strategic or justifiable, nor consistent with the intent of the Statement of Rights. While HELF is not a funded aged care service, OPAN considers that providers should be held to account by the system governor and the system regulator for unconscionable HELF practices.

OPAN continues to recommend that the Residential Aged Care Service List is updated so that it includes provision of a free-to-air connected TV in each older person’s bedroom, unless a person specifically requests that they do not want this. This is especially important for older people who are no longer mobile, or who want to watch programs in their preferred language or their own choice of programming rather than what is on TV in communal areas.

The right to communication and connection

The new Statement of Rights embedded in the Aged Care Act includes the right for older people to stay connected with people that are important to them, such as family, friends and carers. Older people also have the right to stay connected with their communities, through leisure, spiritual or cultural activities, and pets.

The Aged Care Rules 2025 state that older people must have telecommunications access in the residential aged care home (and in their room if requested), via telephone, internet or Wi-Fi services, but not including any usage charges or device costs. Providers are supposed to set the price of HELF services in line with market conditions. Given most internet plans now offer unlimited data, any usage charges should reflect the cost to the provider of providing the service within each home. Most older people living in residential aged care are not high data users, so a minimum consumer protection should be that older people are not charged any more under HELF than for an equivalent basic home internet service plan.

Given that telecommunications access is a required service under the aged care rules and access is necessary for most people to realise their right to stay connected, under the 'bundling' HELF consumer protections, Wi-Fi and TV streaming services should be required to be offered and priced separately. OPAN considers that older people living in residential aged care should also not be prevented from accessing their own streaming service account, rather than being required to enter a HELF agreement.

OPAN recommends that the rules are amended so that older people who are supported residents, and/or receiving financial hardship assistance are not charged telecommunications usage or device costs. This will allow them to maintain contact with the people who are important to them. This is especially important if the person has had to move a significant distance from their community, as many people living in rural, remote and very remote areas must do to access residential aged care.

Access to HELF services and substitute decision-making

Under the Statement of Rights, older people have the right to make their own decisions and have control over which aged care services they use, and their money and belongings. However, appointed, active substitute decision-makers may prevent people from exercising these rights.

An emerging issue is restrictions by substitute decision-makers on the rights of older people to be informed about and to choose to commence or cease HELF. These situations include public trustees:

- delaying signing resident agreements, resulting in older people not being able to access ad-hoc HELF services e.g. haircuts, escorted medical appointments

- declining to sign ongoing HELF agreements, only signing individual purchase forms
- advising the provider that they will not approve or pay for any HELF services that an older person requests or uses.

While we recognise the financial responsibilities of substitute decision-makers, they should not unnecessarily restrict an older person's lifestyle choices, affecting their quality of life in residential aged care. Older people should not be prevented by substitute decision-makers from exercising choice and making day-to-day decisions such as being able to enjoy a barista coffee or an occasional additional outing.

OPAN recommends that the Australian Guardianship and Administration Council issue clear guidance to members on their responsibilities towards promoting the decision-making rights of older people accessing aged care services under the new Act. OPAN's Supported Decision-Making Working Group, a sub-committee of our Human Rights Advisory Group, will also continue to monitor decisions made about the consumer choices of older people living in residential aged care, to ensure that substitute decision-makers are only making decisions within the scope of their authority.

OPAN urges the system governor and system regulator to closely monitor provider practice in implementing HELF so that it can provide genuine consumer choice for older people, not just an additional revenue stream for providers. We leave the last word to a provider, echoing OPAN's ongoing concerns about the prospect of HELF contributing to unfair and inequitable treatment of diverse older people living together in residential aged care.

"Then the final one and probably the most important one really, is the fact that we would create a two-tier society within the home where you have the haves and the have-nots – the people who are paying for it and getting it... versus the people who are deciding not to.

You're giving a glass of wine to someone and someone sitting next to them, you're not. We felt that was probably indefensible for us as an organisation."

-Paul O'Mahony, For Purpose Aged Care Australia

Mirus Australia HELF webinar 26/03/26

OPAN member organisations by state or territory:



OPAN is funded by the Department of Health, Disability and Ageing through the National Aged Care Advocacy Program (NACAP).