Australian
Home Childcare
Association

ORIMA Research
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1 May 2020

ECEC RELIEF PACKAGE FOUR WEEK REVIEW

Dear ORIMA Research,

The Australian Home Childcare Association ('AHCA') represents businesses and not for profit organisations that deliver childcare services in family homes across Australia. We make this submission to provide our feedback in relation to the ECEC Relief Package.

Observations & Concerns

The high level observations and concerns that we have identified with the package are:

- In Home Care should not have been included in the package as we were experiencing an increase in enrolments, which differed from the long day care sector;
- The priority of access direction given to service providers demonstrated the lack of understanding by Government about the clientele that accessed In Home Care;
- The cash flow expectations of providers under the Relief Package was consistent with large providers such as organisations that operated multiple sites and were able to tap into financing facilities to cover the shortfall in operating costs incurred as a result of the Relief Package;
- The Relief payment for In Home Care failed to reflect the high proportion of families accessing the Additional Child Care Subsidy, many of whom have suffered severe detriment as a result of a reduction in care since the ECEC Relief Package was announced;
- Despite regular consultation with the Department in the weeks leading to the announcement of the Relief Package, the Department of Education, Skills and Employment (the 'Department') failed to gather our views in regards to how such a Package would impact our sector; and
- The Supplementary Payment request is a flawed test that could not be met by the majority of providers unless they had access to funds to support increased service delivery, as outlined above.

The above observations and concerns are discussed in further detail below.

Inclusion of In Home Care was detrimental

The purpose of the In Home Care scheme is to support families for whom other forms of childcare are either not available or appropriate for them. This meant that In Home Care was seeing a significant increase in enrolments during the coronavirus pandemic. As a result, In Home Care was not experiencing the reductions in enrolments that the long day care sector was seeking to remedy through any Relief Package.

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The Relief Package effectively capped the number of families who could access In Home Care during the pandemic. Given that In Home Care should have been placed at the forefront of care options for families with compromised immune systems, or those working non-standard hours, the Relief Package inadvertently excluded families from accessing childcare at a time that they needed it most.

Priority of Access Flawed

The Department's direction was that services were expected to prioritise families who met the criteria below:

In return for receiving payments, services are required to:

- stay open unless closed on public health advice or for other health and safety reasons
- ensure families are **not** charged a fee, including an out of pocket or gap* fee
- prioritise care to essential workers, vulnerable and disadvantaged children and previously enrolled children
- continue to record attendance of children
- comply with all other provider obligations including National Quality Framework and other relevant conditions of approval under Family Assistance Law.

The Department failed to recognise that almost all families accessing In Home Care fell into these categories, and therefore failed to provide specific direction to the In Home Care sector about how to further prioritise families that needed care. The types of families accessing In Home Care included those of essential workers, particularly shift workers such as nurses and doctors, vulnerable and disadvantaged members of the community, and remote families with no other options for care. This means that the clientele who seek out In Home Care are already vulnerable and form the minority of Child Care Subsidy recipients.

Some of our members had seen a 150% increase in demand, however with the introduction of the Relief Package, they were forced to reduce care to families with only 48 hours' notice. Providers were therefore placed in an impossible situation, to determine which families to afford care to within their limited pool of funds. Given that the majority of In Home Care families are vulnerable and essential workers, this was an impossible decision for providers with no assistance provided by the Department to make those determinations. As a result of this failure the sector has seen an increase in child protection reports, an increase in incidents requiring medical and mental health support, a reduction in healthcare workers attending their rostered shifts, and a reduction in remote families accessing care.

Cash Flow Expectations

Upon announcing the Relief Package, the Department stated that services were expected to access other Government stimulus measures to maintain appropriate cash flow to manage their businesses until the Relief Package was lifted. These stimulus measures included the Government's cashflow boost in the form of PAYG credits, Jobkeeper payments, payroll tax waivers and deferrals, as well as other smaller packages offered by State and Territory Governments. The major challenge with this presumption was the fact that many of these measures did not result in cash injections into businesses until the end of April or the middle of May. This meant that service providers were expected to find additional funds until that time to maintain their service's operation at the same levels.

As noted above, In Home Care was seeing an increase in demand. The expectation of reliance on uncertain future cash injections was unrealistic for In Home Care providers, who are small businesses or not for profits. These providers were not in a position to find additional funds to pay Educators their fees or salaries until the Government's stimulus measures were paid.

Another complicating factor is the fact that the In Home Care sector operates predominantly with independent contractors and casual staff. This fact is known to the Department, as the hourly cap for In Home Care was calculated at $32.58 per hour based on this presumption[1]. These types of employment and contracting arrangements meant that many In Home Care providers would not be eligible for Jobkeeper payments. This therefore meant that service providers would be unable to operate at the same levels after 6 April due to a shortfall in cash flow.

The inadvertent impact on the Relief Package was that In Home Care providers could not support the increased demand for childcare by essential workers and vulnerable Australians during the pandemic unless they had significant cash reserves or access to external finances. Families who therefore sought out this unique form of childcare in their time of need were being turned away due to the Relief Package.

Additional Child Care Subsidy

The Additional Child Care Subsidy is paid in respect of families who are deemed to be at risk. This includes children in foster care, families with child protection concerns, or families with complex medical needs where appropriate forms of childcare need to be maintained to prevent a child from falling into a state of neglect. The number of families that access the Additional Child Care Subsidy ('ACCS') within the In Home Care sector sits at approximately 80% to 90%. The ACCS rate is 120% of the standard hourly cap. This means that calculation of the Business Continuity Payment at the standard hourly cap failed to take into account the significant proportion of families that access ACCS, meaning that even with additional Government stimulus measures, In Home Care would have a shortfall of income compared to centre based services.

The Government should have adjusted the calculation for all providers to take into account ACCS approvals, which was entirely possible given their access to data received as a result of every provider's reporting obligations. We also have information that one of the main software providers for In Home Care notified the Department of the high number of families accessing ACCS under In Home Care, and they urged the Department to take this into account when calculating payments. This advice was obviously disregarded.

As a result of this failure, we have received reports from multiple providers of an increase of risk to families during this period. Many parents with little to no capacity to care for their children due to severe illnesses, physical limitations, or mental health conditions, have been unable to meet the daily needs of their children due to their reduction of care because of the Relief Package. AHCA is of the firm opinion that some vulnerable children may be taken into protective custody during this period, which could otherwise have been prevented by maintaining their regular care schedule.

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[1] https://ministers.dese.gov.au/tehan/helping-more-families-access-home-care - the In Home Care Provider quoted in this media release, "NSW Family Day Care", operates an independent contracting model.

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Consultation Ineffective

AHCA was grateful to be engaged in weekly teleconferences with the Department in the weeks prior to the announcement of the Relief Package. However, even during a teleconference on the day prior to the announcement there was no information shared with AHCA about the Relief Package. This meant that the above impacts of the Relief Package were not foreshadowed, despite numerous opportunities for these issues to be discussed and rectified. Had effective consultation occurred, many families who desperately needed care could have been protected.

AHCA also sent a submission to Treasury's Coronavirus Business Liaison Unit, which was copied to the Department and the Minister, outlining how In Home Care could be maintained during the pandemic, so as to continue to provide childcare to essential workers and vulnerable families who were unable to access other forms of childcare. None of the recommendations from our submission were adopted.

Supplementary Payment Test Flawed

The supplementary payment test was an opportunity for providers to seek additional payments on top of the Business Continuity Payment to reflect the following factors:

Version 2 (12/4/2020)

Under what circumstances can a service seek a higher payment?

Services can only apply to the Department of Education, Skills and Employment to receive a supplementary payment in limited circumstances. These include but are not limited to:

- where the number of enrolments and attendances during the reference period is significantly and demonstratively lower than the current number of enrolments and attendances at the service from 6 April 2020 onwards
- where a service either maintains their previous level of attendances or experiences a significantly higher demand for child care for children of essential workers and/or vulnerable and disadvantaged children during the period 6 April 2020 to 28 June 2020.

Providers seeking a supplementary payment amount should complete the online submission Early Childhood Education and Care Relief Package Payment - Application for Increased Payment' to request a higher payment to outline their circumstances and attach supporting documentation. The application will be available on the department's website from 9 April 2020.

The provider will need to provide rationale and evidence supporting their application for a higher payment.

If you are approved for a supplementary payment, the higher amount will be reflected in the payment advice once the assessment is completed.

The amount and payment are non-reviewable decisions under *section 109A of the A New Tax System (Family Assistance) (Administration) Act 1999.*

Source: https://www.dese.gov.au/document/early-childhood-education-and-care-relief-package-conditions

As explained in respect of cash flow challenges, the requirement to increase care was hampered by the restrictions on cash flow that service providers would experience after the Relief Package was implemented. Therefore, it was almost impossible for providers to satisfy any supplementary payment test until they receive the stimulus measures, which do not come into effect until late April and mid May.

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As noted above, the In Home Care sector attracts high volumes of clients receiving ACCS. We argue that the supplementary payment should have been approved on the basis of clients who accessed care during the reference fortnight that received ACCS, rather than a requirement that future care be provided on this basis. If a Supplementary Payment was made on this basis, providers would have been well placed to increase care and meet the demand of essential workers and vulnerable Australians, rather than reduce care to prevent insolvency. We further argue that the Supplementary Payment application form is irrelevant and that the Department has access to increased hours of care through the reports that providers are required to submit online on a weekly or fortnightly basis.

Another complicating factor in the Supplementary Payment application is the timeframe taken to assess these applications by the Department. At the time of writing we do not know of any In Home Care providers who have received a determination of their application, despite applications being made within 24 hours of the application form becoming available (four weeks ago). If the Department fails to consider these applications promptly, providers are again expected to cover the costs of increased service delivery with no expectation of whether they will receive additional funds, and if approved, when those funds will reach their account.

As recently as 9.42pm last night, providers received a further email regarding the Supplementary Payment conditions. We are concerned that the decision making in respect of these applications may be erroneous given the changing position of the Government on short notice. We therefore request that these decisions be subject to internal review, rather than requiring providers to proceed to the Administrative Appeals Tribunal for consideration of the legality of these decisions.

Recommendations

In light of the above, AHCA makes the following recommendations:

1. That In Home Care be excluded from the current Relief Package to enable increased access by essential workers and vulnerable Australians during the pandemic and that gap fees for these families be covered by the Government where there is a shortfall in fees after considering the service's access to other Government stimulus measures;
2. Failing the above, that we are provided with at least four weeks' notice of the lifting of the Child Care Relief Package;
3. That the Department be provided with access to In Home Care session reports to automatically assess Supplementary Payments based on increased service delivery;
4. That Supplementary Payment applications be assessed based on ACCS clients accessing care during the reference fortnight;
5. That Supplementary Payments be made for all In Home Care Educators who do not meet the eligibility criteria for the JobKeeper program;
6. That the Government be required to prioritise and determine Supplementary Payments for IHC within 7 days of the date of application; and
7. That sector wide consultation is implemented promptly during the remainder of the Childcare Relief Package to ensure that service concerns and issues are heard and promptly remedied where possible.

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We look forward to the results of your research and hope that any recommendations made to the Department enable vulnerable Australian and essential workers to access In Home Care at a time when they need it most.

Kind regards,

Nicole Morgan
President

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