***Confidential to Members of the Home & Community Health Association***

**Support Worker - Meal & Rest Breaks**

Dear Member,

Please find attached copy of a communication that has been agreed by the Ministry of Health and District Health Boards to be forwarded to all DHB/MoH Funders concerning rest breaks.

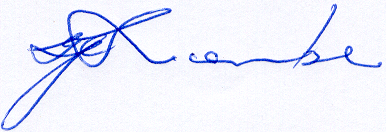
In this communication it is agreed that *“DHB’s and MOH acknowledge that on occasion such breaks may need to be taken within the scheduled time period of the client visit to meet the requirements of the rest and meal break legislation”.*

Please note that all providers are still required by legislation to reach agreement with employees as to the timing of such breaks and there is an ongoing need to ensure the health and safety of the client and the employee.

You will note that this communication is silent in regard to the circumstances that will arise in the situation where a client cannot be left alone during such breaks due to health and safety reasons. Individual circumstances and potential solutions will vary in each of these cases. In accordance with the clause “*DHBs and the Ministry of Health who will enable local flexibility in the scheduling of rest breaks*”, these cases should be discussed with your funder, where necessary, to reach an agreement as to approach.

Should you fail to reach an agreement with your funder in regard to such breaks, please refer to your contract to ascertain whether it contains a clause a to your ability to seek a variation negotiation due to a legislative change. It should be noted that such clauses exist within the Ministry of Health Disability contract on Page 13 (defines Variation event, which includes any change in law) and page 43, Appendix 11, clause 5.0 (which sets out the process for a “variation event”).

Discussions with ACC are ongoing, and I anticipate having a response in this regard late this week; I will advise as soon as ACC’s approach to this issue has been clarified.

Regards

Graeme Titcombe

Chief Executive Officer

***{Communication to District Health Boards & Ministry of Health}***

**Home and Community Support Services (HCSS) – Rest and Meal Breaks**

**Employee Relations Act - changes in effect on 6 May 2019**

Since 2015, there has been no prescription around timing and duration for employee rest and meal breaks. However, changes to the Employment Relations Act 2000 will come into effect on 6 May 2019 and will require set rest and meal breaks to be agreed.

These requirements can be summarised as follows:

* work period 2-4 hours: 10 minute paid rest break
* work period 4-6 hours; 10 minute paid rest break and 30 minute meal break
* work period 6-8 hours: 2 x 10 minute paid rest breaks and 30 minute meal break
* work period over 8 hours: entitlements for 8 hours + same entitlements as 2-4 hours, 4-6 hours and 6-8 hours for periods above
* rest breaks must be paid but meal breaks can be unpaid.

The employer and employee can agree on the times for the rest and meal breaks to be taken during the employee’s work period. Where there is no agreement, the employer must, so far as is reasonable and practicable, provide the employee with breaks at times specified in the legislation (for example mid-way through a 4 hour work period).

**Managing rest and meal breaks for HCSS support workers**

HCSS Providers are expected to manage the introduction of this legislation but may require support from DHBs and the Ministry of Health who will enable local flexibility in the scheduling of rest breaks as part of HCSS provider rostering systems.

DHBs and MOH acknowledge that on occasion such breaks may need to be taken within the scheduled time period of the client visit to meet the requirements of the rest and meal break legislation.

It is not intended that that the providers or funders will bear additional costs as a result of these legislative changes.

HCSS providers, with support from the DHB’s and MoH, will continue to ensure clients’ assessed needs are met and services are delivered as per their current DHB/Ministry of Health Agreements.