



Australian Government

Department of Health

Supporting Living Organ Donors Program

Frequently Asked Questions

Organ and Tissue Policy and Programs Section - Office of Health Technology Assessment – Policy Branch

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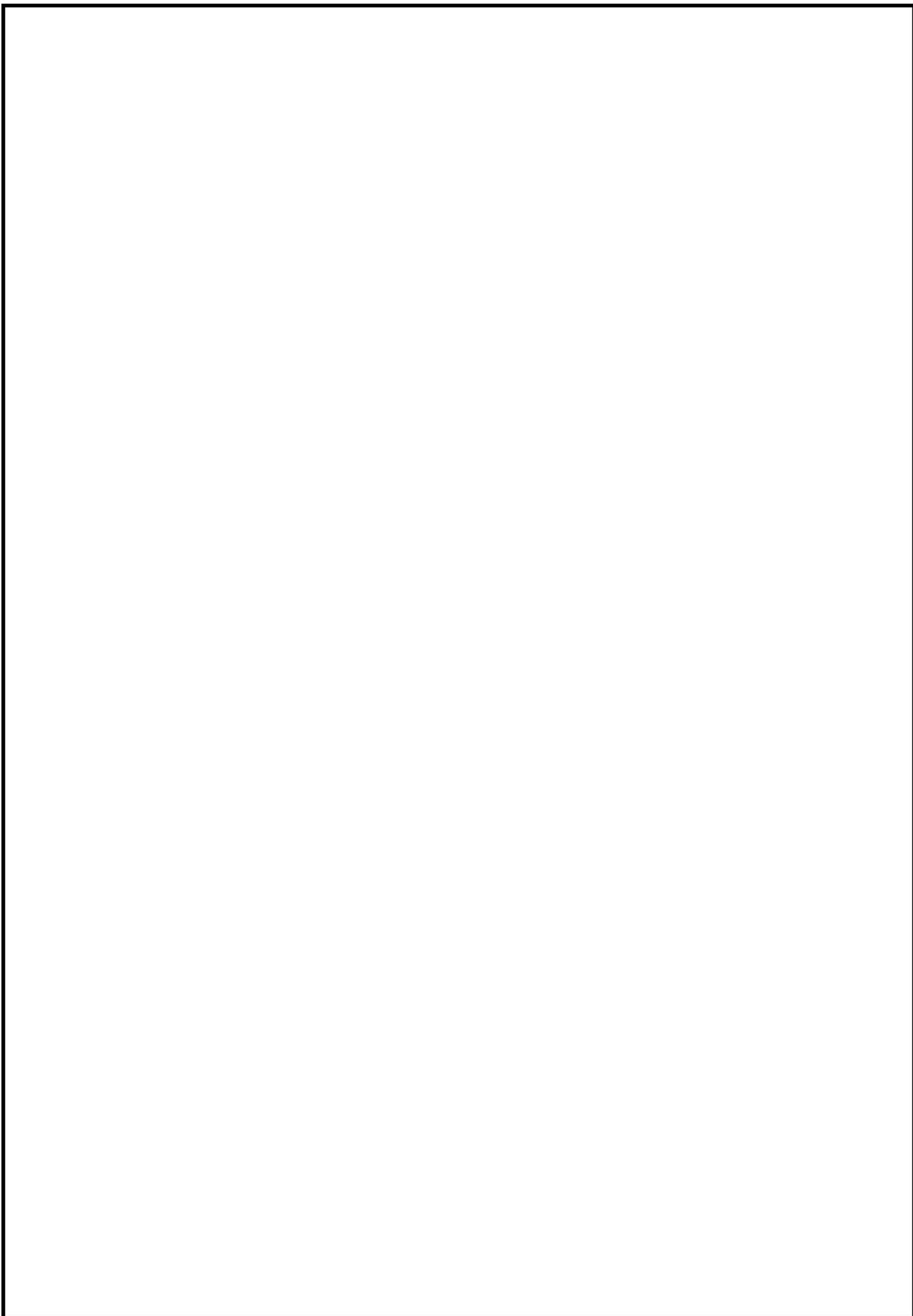


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1. General

1.1 When did the Program start and how long will it run?

The Supporting Living Organ Donors Program (the Program) started as a pilot from 1 July 2013 to 30 June 2015 and was extended for two years from 1 July 2015 to 30 June 2017.

In May 2017, Australian Government announced that the Program would continue for a further four years, to 30 June 2021 with some important changes from 1 July 2017.

1.2 What types of living donors are eligible?

Kidney and partial liver donors are eligible for this Program.

Living donors of other tissues, such as blood, bone marrow, or reproductive tissues, are not eligible for this Program.

1.3 How many places are available in the Program?

While the number of people who can apply for the Program is not limited annually, funding for the Program has been set by the Budget process.

To participate, applicants will need to have met all eligibility criteria and can only claim once for the Program in their lifetime.

1.4 Who is eligible for payment?

The Program is for directed donation; where a recipient has been identified and a hospital Transplant Coordinator is facilitating the necessary work-up testing, surgery and recuperation.

To be eligible to participate in the Program the donor must be:

- a. an Australian resident (as defined by the *Health Insurance Act 1973*) with a valid Medicare card;
- b. 18 years of age or older;
- c. intending to donate a kidney or partial liver;
- d. donating in Australia*; and
- e. *[if seeking reimbursement for leave taken]* employed by:
 - i. a registered Australian business with an active ABN; and
 - ii. an employer willing to participate in the Program (or be self-employed with an active ABN).

*If you are an Australian citizen donating in another country, you may be eligible for a similar scheme in that country. For example in New Zealand there is the Live Organ Donor Assistance scheme. You can only receive assistance from one scheme.

1.5 How much will the payment be under this initiative?

1.5.1 Reimbursement of leave

Payments are calculated for up to a maximum nine weeks of leave, based on a 38-hour week, at up to the National Minimum Wage. The current National Minimum Wage can be found on the Fair Work Australia [website](#).

The total payment will depend on how much leave the donor took and how much the employer paid them, to a maximum of 342 hours.

A donor can claim up to 76 hours for work-up testing and must provide a medical certificate verifying the dates of leave taken to attend the testing. These 76 hours contribute to the total 342 hours claimable under this Program.

For part-time and casual employees, payment is based on a prorated 38 hour week and does not include loading.

1.5.2 Reimbursement of out of pocket expenses

A maximum of \$1,000.00 may be reimbursed for out-of-pocket expenses for travel and accommodation incurred as a result of donation. Calculation of this reimbursement will be based on medical certificates that verify the dates of appointments and surgery; and receipts that demonstrate out-of-pocket expenses incurred on and around these dates.

Expenses incurred by others who are not the registered donor under the Program, cannot be claimed.

1.6 Is payment at the National Minimum Wage sufficient?

Employers can choose to “top up” their employee’s leave to a level based on their regular income; however, payment through the Program is set at up to 342 hours at up to the National Minimum Wage, therefore they may be out of pocket for the difference.

1.7 Could this be seen as incentivising organ donation?

Incentivisation of organ donation is illegal. The Program is not an incentive to donate. It is designed to help support those people who wish to donate but may be unable to do so due to a loss of income and the financial stress it would cause for them and their family.

Under the World Health Organization’s Guiding Principles on human cell, tissue and organ transplantation “...prohibition on sale or purchase of cells, tissues and organs does not preclude reimbursing reasonable and verifiable expenses incurred by the donor, including loss of income...”.

The reimbursement of leave and out-of-pocket expenses under the Program meets these conditions.

1.8 What will the impact be on my business?

In 2016, there were 267 living organ donors. Therefore the overall impact on businesses is expected to be minimal. The Program is not legislated so employers are not compelled to participate, but they are strongly encouraged to. There may be some out of pocket administrative costs though these are likely to be minimal, incurred by the employer as a result of participating in the Program (see 3.5).

The donor will be responsible for submitting the application. The employer will need to be aware of, and support the application. Employers are required to sign the Individual Registration Form to indicate their willingness to participate in the Program. The employer **must** pay the donor for their leave, either using paid leave, and/or an ex-gratia payment in lieu of paid leave. Following the donor’s return to work after recovery, both the employer and donor will be required to complete the Claim Form and provide evidence that the employee was paid for their time off (i.e. payslips) and evidence the surgery proceeded and the amount of time off (i.e. medical certificate). The Claim Form can be submitted by either the donor or employer. The process is designed to be as simple as possible so employers and donors are not unduly burdened by administration.

1.9 I want to donate an organ. How do I become a living organ donor?

To make the decision to become a living organ donor requires you to be fully informed of the potential health risks and benefits. It is not usual practice for someone to donate an organ to someone they do not know. Most living organ donors donate because a loved one is very sick, either in end stage kidney disease or liver failure.

Should you wish to consider organ donation further, you will first need to speak to a medical professional such as your GP or make contact with a hospital transplant unit to ensure you are fully informed before making such a decision.

There is no register in Australia for living organ donors.

Further information on living organ donation can be obtained from the [Kidney Health Australia](#) or [DonateLife](#) websites.

1.10 What happens if I attend work-up tests but donation does not proceed?

If your donation does not proceed due to medical ineligibility, but you have attended work-up testing appointments, you may still be able to claim for some leave and out-of-pocket expenses.

To receive payment for leave taken to attend work-up testing, you must have been paid by your employer for this leave. You can only claim up to 76 hours for work-up testing and must provide a medical certificate verifying the dates of leave taken to attend the testing, as well as payslips that confirm you were paid for this time off. If you do not have medical certificates for work-up appointments, you can complete the Work-up Testing Appointment Tracker, available on the Program [website](#).

To receive reimbursement of out-of-pocket expenses, you will need to provide medical certificates and/or an appointment tracker verifying the dates you attended the testing and itemised receipts that demonstrate costs incurred on and around these dates.

It is important to note that donors can only participate in the Program once in their lifetime.

Therefore, donors who make a claim for work-up testing and out-of-pocket costs where donation does not proceed, then consider donation again at a later date, would not be eligible to make any further claims under the Program.

2. Employment, eligibility and review

2.1 Is there any support available for unemployed living organ donors?

From 1 July 2017, unemployed donors may be able to claim for some out-of-pocket expenses related to travel and accommodation, incurred as a result of organ donation. The process for claiming out-of-pocket expenses is outlined in the Program Guidelines.

This part of the Program only applies to costs incurred on or after 1 July 2017, so if you are not employed and underwent testing and had surgery for donation prior to this date, you are not eligible to apply.

2.2 Are retirees eligible?

From 1 July 2017, retirees may be able to claim for some out-of-pocket expenses incurred as a result of organ donation. The process for claiming out-of-pocket expenses is outlined in the Program Guidelines.

This part of the Program only applies to costs incurred on or after 1 July 2017, so if you are a retiree and underwent testing and had surgery for donation prior to this date, you are not eligible to apply.

2.3 I have more than one employer. Can I participate in the Program?

Yes, you must submit an Individual Registration Form for each of your employers. Following your surgery and once you have returned to work, you must complete and submit a Claim Form for each workplace.

Each employer will receive a proportion of the maximum reimbursement based on the hours worked at each place of employment.

2.4 Can I register for the Program after my surgery and associated leave?

No. All Registration forms for the Program should be received prior to the date of surgery for donation. Late Registration forms will only be considered with evidence of extenuating circumstances.

In order to claim for leave under the Program, your employer must agree to participate and must pay you for your leave.

2.5 If my surgery date changes after I have received my eligibility letter, do I need to resubmit a new Individual Registration Form?

You will only be required to resubmit a new Registration form if the new date of the surgery for donation falls on or after 1 July of that year. We ask that you notify us of your new surgery date, either by phone or email, so that we can update our records. The same applies if any of your circumstances change. You will also be required to complete and submit a new *Individual Registration Form* if you change employers.

2.6 I was found not eligible for the Program. Can I request a review of the decision?

If you are not satisfied with the decision about your eligibility, you may request a review.

After receiving the eligibility decision letter, you have 28 days to request a review. You can contact the Department of Health and make this request by telephone or in writing. The request must state the reasons why you are asking for the decision to be reviewed.

Your eligibility will be reviewed by a departmental officer who was not involved in the original decision and you will be advised of the outcome within 21 days.

2.7 I am not satisfied with the outcome of my review. What next?

The Commonwealth Ombudsman can investigate complaints about the actions and decisions of Australian Government agencies to see if they are wrong, unjust, unlawful, discriminatory or unfair.

If you are not satisfied with the outcome of the review of your eligibility, you can contact the Ombudsman's office through the Commonwealth Ombudsman [website](#) or by phoning 1300 362 072.

2.8 If my employer changes after I have received my eligibility letter, do I need to resubmit a new Individual Registration Form?

Yes. You will need to submit a new registration form that demonstrates that your new employer is willing to participate in the Program.

Your new employer will receive a letter confirming that you are eligible to participate in the Program as well as the Claim Form to be submitted once you return to work.

2.9 I am participating in the Australian Paired Kidney Exchange Program. Can I participate in the Program?

Yes, providing you meet all eligibility requirements.

2.10 I am donating to someone overseas. Can I participate in the Program?

No. The Program is for eligible individuals donating in Australia only.

You should check to see if the country you are donating in has a similar Program you may be eligible for.

3. Leave and employer payments

3.1 I do not have any sick leave entitlements. Am I eligible for the Program?

Donors who are employed casually or those who do not have sufficient sick leave credits are eligible to participate in the Program providing their employer pays them for their time off and they meet all other eligibility requirements.

In this situation, where a donor does not have leave entitlements, employers can pay an ex-gratia payment.

Your employer may choose to pay you at your normal wage for the period of leave taken following surgery, however they may be out of pocket if your normal wage is above the National Minimum Wage. Alternatively, your employer may choose to pay you at the National Minimum Wage for your time off, for which they would be fully reimbursed under the Program (for a maximum of 342 hours).

3.2 Can I use a combination of sick leave and annual?

Yes. This would be subject to agreement with your employer, who would need to take this into account when calculating the amount of each leave entitlement to be re-credited.

3.3 If my employer doesn't want to be part of the Program, can I still receive the support?

You will not be able to claim for reimbursement of leave if your employer does not agree to participate. The cooperation of your employer is necessary to participate in this part of the Program. We encourage all donors to have a conversation with their employer to discuss the Program prior to registration. The Department of Health can assist in explaining the Program to employers.

If your employer does not wish to participate, you may be able to claim for some out-of-pocket expenses. The process for claiming out-of-pocket expenses is outlined in the Program Guidelines and Part 4 of these FAQs.

3.4 My employer has agreed for me to take leave without pay. Can I receive payments from the Program directly while I am on leave?

No. Your employer **must** pay you for your leave in order to receive payment under the Program.

The payment is to either replenish an employee's leave or contribute towards reimbursing the employer, where they have made a payment to their employee in place of income lost due to organ donation. No payments will be made directly to donors, with the exception of self-employed donors and reimbursement for out-of-pocket expenses.

No payments will be made until the donor has been paid for their leave, returned to work and all paperwork has been submitted.

Claim Forms **must** be received within 90 calendar days of the surgery date. Claims received after this date will not be accepted. If you cannot return the Claim Form within 90 days due to complications or unforeseen circumstances, please contact the Program Administrator to discuss whether an exemption is possible.

3.5 Is the payment considered taxable income?

Yes, the payment is subject to all taxation and superannuation arrangements that apply to income paid to an employee.

3.6 I am donating to a family member. Can the payment be used to re-credit leave taken to care for my family member?

No. The payment should be used to re-credit leave taken for the purposes of attending work-up testing, or to recover from donation surgery. The Program does not cover carer's leave, or time off work to care for a family member, even where that family member is the transplant recipient.

3.7 Who receives the payment?

The payment is made to employers of living organ donors to either re-credit an employee's leave or contribute towards reimbursing the employer, where they have made a payment to their employee in place of income lost due to organ donation.

No payments relating to reimbursement of leave will be made directly to donors, with the exception of self-employed donors.

Payments to reimburse out-of-pocket expenses will be made directly to the donor.

3.8 I used my leave to cover my time off. How does my employer work out how much leave to re-credit to me once they receive payment?

To calculate the amount of leave to re-credit, your employer should divide the total payment amount by your regular hourly rate. For example:

Total payment amount = \$6,054.30

Donor's regular hourly rate = \$29.35

$\$6,054.30 / \$29.35 = 206.28$ hours of leave to be re-credited.

Please note that because the payment is calculated at the National Minimum Wage, you will not receive an hour for hour reimbursement of leave credits. Your employer may be willing to top up your leave to the full number of hours taken, however this is at their discretion, and they are not legally obligated to do so under the Program.

3.9 I work part time. My doctor has recommended I take more than 9 weeks of leave following my surgery due to complications with my recovery. Can I only claim 9 weeks of leave under the Program?

The maximum number of hours that can be reimbursed under the Program is 342. This equates to 9 weeks of leave, based on a 38 hour week and is not based on calendar weeks. If a donor works part time, they may be able to claim for longer than 9 calendar weeks of leave. For example, if a donor works 25 hours a week, under the Program, they may be able to claim for over 13 weeks of leave ($342/25 = 13.68$ weeks), providing:

- they have supporting documentation from a medical professional that verifies that this length of leave was required following surgery;
- they have been paid by their employer for the duration of that leave (either using leave credits, and/or an ex-gratia payment); and
- the total number of hours claimed does not exceed 342.

3.10 I am using income protection insurance to cover my leave following surgery. Can I claim this under the Program?

No. You must be paid by your employer for your leave, either using leave entitlements, or an ex-gratia payment in order to be eligible to make a claim under the Program.

4. Out-of-pocket expenses

4.1 Who can claim for out-of-pocket expenses?

All living organ donors, as defined in the Program Guidelines, can claim for out of pocket expenses.

Only expenses incurred by the donor registered under the Program can be claimed under the Program. A donors carer or spouse are not able to claim under the Program.

This part of the Program only applies to expenses incurred on or after 1 July 2017 and within a reasonable time of the medical certificate dates.

4.2 How much reimbursement can I claim?

The maximum reimbursement available is \$1,000.00 per donor.

4.3 What out-of-pocket expenses can I claim?

Under the Program, donors can make a claim for the following out-of-pocket expenses:

- Accommodation (Based on reasonable amounts as per *Taxation Determination - TD 2016/13*)
- Economy airfares
- Public transport including bus, train and taxi fares
- Car hire
- Parking
- Petrol
- Road tolls

Other expenses such as meals, childcare, pet care and medical expenses cannot be claimed under the Program.

You must provide itemised receipts which correspond with the dates on a medical certificate to support the amount of reimbursement you are claiming.

4.4 I am applying for a state travel assistance scheme. Can I still claim under this Program?

The Program will not reimburse costs that you have claimed through your state scheme.

4.5 I am travelling with a friend/family member. Can they claim costs?

No. Reimbursement of out-of-pocket costs only applies to costs incurred by the donor. The Program will not pay for costs related to anyone travelling with you.

4.6 I lost my receipt. Can I still be reimbursed?

If you have misplaced a receipt, a statutory declaration describing the cost and date it was incurred will need to be provided to support your claim.

Calculation of reimbursement of out-of-pocket costs will only be based on receipts/statutory declarations that align with an appointment tracker/medical certificates for appointments and surgery.

5. More information

5.1 Where can I find more information about the Program?

Visit www.health.gov.au/support-for-living-organ-donors

Email livingorgandonation@health.gov.au

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