

Dr Wayne Ngata  
Acting Chair  
Tertiary Education Commission  
PO Box 27-048  
Wellington 6141

Dear Wayne,

## Updated delegation to fund Fees Free tertiary education and training in 2024 and 2025

I am writing to advise you of an updated delegation to administer funding for Fees Free tertiary education and training, effective immediately, in accordance with section 409(1)(j) of the Education and Training Act 2020 (the Act). This replaces the delegation to fund Fees Free tertiary education and training in 2024 in respect of the Fees Free tertiary education and training policy.

I note the following changes to the Fees Free policy [CAB-MIN-0216 refers]:

- a. new eligible enrolments for the first-year Fees Free scheme end on 31 December 2024, and
- b. a one-year transition period will be in effect from 1 January 2025 until 31 December 2025. The transition period covers eligible learners who used first-year Fees Free in 2024, have remaining entitlement, and continue in the same qualification or micro-credential in 2025.

In this delegation, the reference to "first-year Fees Free" means the Fees Free policy that was implemented in 2018 and described in each of the delegations to fund Fees Free tertiary education and training from 2018 to 2024.

## Fees Free Tertiary Education and Training Policy (the Fees Free policy)

### *Purpose*

1. The purpose of the first-year Fees Free policy is to make the first year of provider-based tertiary education, or the first two years of work-based learning, fees-free for provision that is funded through the following:
  - a. *Delivery at Levels 3-7 (non-degree) on the New Zealand Qualifications and Credentials Framework (NZQCF) and all industry training (DQ3-7) Fund;*
  - b. *Delivery at Levels 7 (degree) to 10 on the NZQCF (DQ7+) Fund;*
  - c. *Grants under section 556 of the Act for tertiary provision towards a qualification on the NZQCF at Level 3 or above, or towards a micro-*

*credential at Level 3 or above approved by the New Zealand Qualifications Authority (NZQA).*

2. The first-year Fees Free policy intent is to make tertiary education and training affordable for all by:
  - a. improving affordability and reducing debt levels;
  - b. expanding access and participation, especially for those who have not previously studied or those for whom finance has been a real barrier to participation;
  - c. supporting lifelong learning; and
  - d. ensuring the benefits of tertiary education for New Zealanders, including residents with an ongoing commitment to New Zealand, are shared through a highly skilled population contributing to a strong society and thriving economy.

***Definition of provider-based and work-based learner***

3. For the purposes of this funding delegation:
  - a. Provider-based learner means a learner who is enrolled in a course or micro-credential that is funded through:
    - i. the DQ3-7 Fund, but excludes provision that would previously have been funded through the Industry Training Fund (ITF); or
    - ii. the DQ7+ Fund; or
    - iii. grants under section 556 of the Act for tertiary provision towards a qualification on the NZQCF at Level 3 or above, or towards a micro-credential at Level 3 or above approved by NZQA.
  - b. Work-based learner means a learner who is enrolled in a programme that is funded through the DQ3-7 Fund that would previously have been funded through the ITF;
  - c. Learner means both a provider-based learner and a work-based learner as defined above.

***Delegation to determine eligibility***

4. I delegate to the TEC, in accordance with section 409(1)(j) of the Act, the authority to determine whether a learner is eligible for Fees Free tertiary education provision by applying the criteria set out below.

***Citizenship or residency criteria – provider-based learner***

5. For a provider-based learner to be eligible for first-year Fees Free tertiary education, they must be one of the following:
  - a. a New Zealand citizen; or

- b. a holder of the Christchurch Response (2019) Permanent Resident Visa; or
- c. a holder of a residence class visa who would have been eligible for the Christchurch Response (2019) Permanent Resident Visa; or
- d. a holder of a residence class visa who is a family member<sup>1</sup> of a living person, where that living person is:
  - i. the holder of a Christchurch Response Visa residing in or outside of New Zealand; or
  - ii. a New Zealand citizen residing in or outside of New Zealand, who:
    - 1. was a resident visa holder under the Immigration Act 2009 on 15 March 2019 and was eligible for a Christchurch Response Visa; or
    - 2. would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009 on 15 March 2019; or
    - 3. would have been eligible for a Christchurch Response Visa had they not already been a New Zealand citizen on 15 March 2019; or
    - 4. was granted New Zealand citizenship after holding a Christchurch Response Visa; or
  - iii. the holder of a permanent resident visa under the Immigration Act 2009 residing in or outside of New Zealand, who:
    - 1. was a resident visa holder under the Immigration Act 2009 on 15 March 2019 and was eligible for a Christchurch Response Visa;
    - 2. would have been eligible for a Christchurch Response Visa had they not already been the holder of a permanent resident visa under the Immigration Act 2009 or on 15 March 2019;
  - iv. is the holder of a resident visa under the Immigration Act 2009 residing in or outside of New Zealand, who held the resident visa on 15 March 2019 and who was eligible for a Christchurch Response Visa; or
- e. a holder of the Afghan Emergency Resettlement Resident Visa; or
- f. a holder of a residence class visa and:
  - i. ordinarily resident in New Zealand and have held a residence class visa for at least three years while living in New Zealand; or

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<sup>1</sup> For family members to be eligible, their residence class visa must be granted between 15 March 2019 and 31 December 2024. Family member, for the purpose of paragraph 5(d) is defined as partners, children (both dependent and non-dependent), grandchildren, parents, grandparents, siblings, aunts, uncles, nieces, nephews, first cousins (i.e., a child of an aunt or uncle), parents-in-law, siblings-in-law, children-in-law, as well as step-children, step-parents and step-siblings.

- ii. a person granted refugee or protected person status, or a family member granted a residence visa with the person granted refugee or protected person status<sup>2</sup>; or
  - iii. sponsored into New Zealand by someone in their family who, at the time of sponsorship, was a refugee or protected person; or
- g. a person granted refugee or protected person status, prior to gaining a residence visa; or
- h. an immediate family member, without a residence visa and residing in New Zealand, of a person granted refugee or protected person status, as defined as:
- i. the partner and any child in New Zealand, of a person under paragraph 5(g)
  - ii. the parent and any sibling in New Zealand, of a person under paragraph 5(g) who is a dependent child.

*Eligibility criteria – work-based learner*

6. For a work-based learner to be eligible for first-year Fees Free tertiary education, they must be one of the following:
- a. one of the persons specified in paragraphs 5(a-e) or 5(g-h) above; or
  - b. a holder of a residence class visa and:
    - i. ordinarily resident in New Zealand; or
    - ii. a person granted refugee or protected person status, or a family member granted a residence visa with the person granted refugee or protected person status<sup>3</sup>; or
    - iii. sponsored into New Zealand by someone in their family who, at the time of sponsorship, was a refugee or protected person; or
  - c. employed in a role specified on the Green List or within a Sector Agreement<sup>4</sup> and meets the criteria specified in clause 2(g) of the [Tertiary Education \(Domestic Students\) Notice 2024](#) or the equivalent clause of a subsequent notice; or

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<sup>2</sup> This includes family members of a person with refugee or protected person status who are granted residency together, with the person who holds refugee or protected person status. This would be a residence visa through the refugee and protection category for people who are granted refugee or protected person status while residing in New Zealand.

<sup>3</sup> This includes family members of a person with refugee or protected person status who are granted residency together, with the person who holds refugee or protected person status. This would be a residence visa through the refugee and protection category for people who are granted refugee or protected person status while residing in New Zealand.

<sup>4</sup> The green list provides a straight to residence and residence pathway to attract migrants into highly skilled, hard to fill positions in global demand. Sector agreements for the care, construction and infrastructure, meat processing, seafood, and the seasonal snow and adventure tourism sectors allow for limited exceptions to the median wage requirement when employing migrant workers, in exchange for ongoing improvements within these sectors.

- d. a learner who:
  - i. would have been eligible under previous Fees Free delegations for Fees Free industry training; and
  - ii. will no longer be eligible as they do not meet the eligibility criteria set out in paragraphs 6(a-c); and
  - iii. who has a training agreement in place and commenced training before 1 January 2023.

*Prior study or training criteria*

- 7. To be eligible for first-year Fees Free tertiary education or training, a learner must have either:
  - a. been enrolled in a school in 2024, 2023 or 2022<sup>5</sup> other than as an adult student; or
  - b. not undertaken more than half a year of equivalent full-time tertiary education (0.5 equivalent full-time student (EFTS) units or 60 credits) at Level 3 or above on the NZQCF, including tertiary education or training at an equivalent level undertaken in any country.
- 8. The following must not be included in measures of prior tertiary education or training when determining eligibility for first-year Fees Free:
  - a. any tertiary education undertaken while enrolled in school prior to 1 January 2019 (except for tertiary education undertaken as an adult student);
  - b. any tertiary courses undertaken as part of a school learning programme, or secondary-tertiary programme on or after 1 January 2019;
  - c. any credits achieved as part of any industry training programme of fewer than 120 credits that were reported after 1 January 2018;
  - d. any courses or micro-credentials funded by the TEC undertaken after 1 January 2023 that had zero tuition fees and zero compulsory course costs;
  - e. any tertiary study or training in respect of which fees support is or was provided through the Targeted Training and Apprenticeship Fund (TTAF) Fund;
  - f. any tertiary study or training that is or was funded through the Youth Guarantee (YG) Fund after 1 July 2020;
  - g. any tertiary study or training that is or was funded through the Māori and Pasifika Trades Training (MPTT) Fund after 1 July 2020; and
  - h. any tertiary study or training that is or was funded through the Refugee English Fund.

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<sup>5</sup> This includes those enrolled in a school who have a certificate of exemption under section 38 of the Act.

9. For the purposes of paragraphs 7(a) and 8(a), an adult student, under the Act, is any student whose 19th birthday occurred before 1 January 2024. This definition does not apply to students deemed to require special education under section 37 of the Act.

*Eligible courses, micro-credentials or programmes*

10. For a provider-based learner to be eligible for first-year Fees Free tertiary education, they must be enrolled in an eligible course or micro-credential.
11. An eligible course or micro-credential for a provider-based learner is a course that is:
- a. funded by the TEC from:
    - i. the DQ3-7 Fund, but excludes provision that would previously have been funded through the ITF; or
    - ii. the DQ7+ Fund; or
    - iii. grants under section 556 of the Act for tertiary provision towards a qualification on the NZQCF at Level 3 or above, or towards a micro-credential at Level 3 or above approved by the NZQA; and
  - b. not part of a school learning programme or secondary-tertiary programme.
12. The TEC must not pay any amount in respect of fees where the fees are met under another funding arrangement (including YG or MPTT Funds).
13. For a work-based learner to be eligible for first-year Fees Free they must be enrolled in a programme that is:
- a. at NZQCF Level 3 or above;
  - b. approved by the NZQA;
  - c. funded by the TEC through the DQ3-7 Fund and would previously have been funded through the ITF;
  - d. comprised of at least 120 credits (which includes all New Zealand Apprenticeships); and
  - e. not part of a school learning programme or secondary-tertiary programme.

***Delegation to make payments***

14. Subject to paragraphs 43 to 45, I delegate to the TEC, in accordance with section 409(1)(j) of the Act, the authority to make payments in respect of eligible first-year Fees Free learners as set out below in paragraphs 15 to 27.

*First-year Fees Free entitlement limits*

15. The TEC will pay no more than \$12,000 (GST inclusive) total to all tertiary education organisations (TEOs) in respect of any individual learner eligible for first-year Fees Free tertiary education.

16. Individual provider-based learners who received any first-year Fees Free support in prior calendar years are to receive no more than 1 EFTS unit of first-year Fees Free support in total.
17. Individual work-based learners are to receive no more than 24 months of first-year Fees Free work-based learning.
18. The TEC must calculate a work-based learner's 24-month entitlement:
  - a. from the start date of the first eligible programme in which the eligible learner was enrolled; and
  - b. by only including the months in which the learner received work-based learning in an eligible programme or programmes.
19. The TEC must develop operational rules to assess entitlement limits and consumption by individuals who combine both work-based learning and provider-based study, taking into account the intent of the first-year Fees Free policy.

*Payments for provider-based learners*

20. I delegate to the TEC the authority to:
  - a. if the TEO is not a private training establishment (PTE), pay the TEO in respect of fees on behalf of an eligible learner in accordance with paragraphs 14-19; or
  - b. if the TEO is a PTE, compensate the PTE in respect of an eligible learner in accordance with paragraphs 14-19 for fees forgone as the result of a condition imposed on the PTE's funding.
21. Fees for provider-based tertiary education are defined as:
  - a. compulsory tuition fees;
  - b. compulsory course costs that are charged to all learners enrolled in a course, which includes (but are not limited to) the following:
    - i. any compulsory costs associated with enrolment;
    - ii. examinations (including reporting of credits to the NZQA);
    - iii. field trips; and
    - iv. any compulsory purchase of equipment or books through the TEO; and
  - c. student services fees; but
  - d. excluding any administrative fees or charges (other than tuition fees or compulsory course costs) for additional services that are payable as a result of the specific circumstances of a learner, which includes (but are not limited to) the following:
    - i. reassessment or remarking of examination results;

- ii. examination relocation fees;
  - iii. fees associated with recognition of prior learning; or iv. fees associated with an application for selected entry programmes.
22. The TEC must only make a payment to a TEO in respect of an eligible learner's compulsory tuition fees and compulsory course costs if:
- a. the fee charged by the TEO is equal to, or less than, the fee that is recorded in Services for Tertiary Education Organisations (STEO);
  - b. the TEO charges that fee to every learner in the same circumstances (whether or not they are eligible for Fees Free tertiary education) who is enrolled in the same course; and
  - c. the fees comply with all fee regulation requirements imposed as conditions on the TEO's funding.
23. The TEC must only make a payment to a TEO in respect of an eligible learner's student services fees if that fee is consistent with any requirements on student services fees in effect as a condition of funding issued under section 419 of the Act.

*Payments for work-based learners*

24. I delegate to the TEC the authority to make fee payments to TEOs on behalf of an eligible work-based learner (or their employer) in accordance with paragraphs 14-19.
25. Fees for work-based learning are defined as fees:
- a. for training and assessment;
  - b. paid to TEOs that receive funding from the DQ3-7 Fund, or directly to training and assessment providers;
  - c. paid by learners (including trainees or apprentices) or employers; and
  - d. are directly related to individual learners that are first-year Fees Free eligible.

*Payments relating to eligible learners from previous calendar years*

26. The TEC has discretion to make retrospective payments relating to the fees paid by learners or their employers, who, despite meeting the first-year Fees Free tertiary education and training eligibility criteria since 1 January 2018, were not determined by the TEC to be eligible for first-year Fees Free tertiary education and training. This discretion should be exercised in a manner that is consistent with the policy intent of first-year Fees Free.
27. For the avoidance of doubt, if a learner did not benefit from first-year Fees Free payments they were entitled to from an enrolment in the preceding year, they could still be eligible to retrospectively receive first-year Fees Free tertiary education and training if they seek to access first-year Fees Free tertiary education and training payments the following year. It is the expectation that the TEC will work with TEOs to identify these learners.



## **Consumption**

28. For the avoidance of doubt, if an eligible learner was enrolled in an eligible course or eligible programme in or after 2018, then the eligible learner has received (consumed) all or part of their first-year Fees Free entitlement (whether or not the TEC made payments to a TEO in respect of that learner).
29. The following credits must not count towards an eligible learner's first-year Fees Free consumption:
  - a. any tertiary study or training for which fees support was provided through the TTAF;
  - b. any tertiary study or training funded through the YG or MPTT funds from 1 July 2020;
  - c. any tertiary study funded through the Refugee English Fund; and
  - d. any courses or micro-credentials undertaken after 1 January 2023 by a provider-based learner that are funded by the TEC through the DQ3-7 Fund, the DQ7+ Fund or a grant under section 556 of the Act that have zero tuition fees and zero compulsory course costs.
30. The TEC must develop processes to determine the amount of each eligible learner's first-year Fees Free entitlement that each eligible learner has consumed.
31. The TEC has discretion to exempt study or training from counting towards a learner's consumption where the study or training was funded through either the YG fund or MPTT fund and relates to courses that started before 1 July 2020 and continued beyond 1 July 2020. The TEC must exercise this discretion in line with the intent of the first-year Fees Free policy.

## **Carry-over**

32. Subject to paragraphs 43 to 45, if an eligible learner was enrolled in an eligible course, micro-credential or programme in or after 2018 but did not consume their maximum first-year Fees Free entitlement within the first calendar year of commencing an eligible course or programme, the TEC must develop a mechanism to enable that learner to carry over the remaining portion of their first-year Fees Free entitlement in 2024 or, if they meet the criteria, in the transition period (2025).
33. An eligible learner's maximum first-year Fees Free entitlement that may be carried over is any amount payable until one of the following occurs:
  - a. the TEC has paid \$12,000 (GST inclusive) to TEOs in respect of the learner's fees; or
  - b. the provider-based learner has consumed 1 EFTS unit; or
  - c. the work-based learner has been enrolled in 24 months of an eligible work-based learning programme or apprenticeship (as determined in accordance with paragraph 18); or

- d. the learner (if combining both work-based learning and provider-based study) has consumed their first-year Fees Free entitlement in accordance with the operational rules developed under paragraph 19.

### ***Exceptional circumstances***

34. The TEC may use discretion to determine that a learner who does not meet all of the criteria is eligible for first-year Fees Free tertiary education and training after considering the learner's exceptional personal circumstances.
35. The TEC may use discretion to write off all, or a portion of, an eligible learner's consumption of their first-year Fees Free entitlement after considering the learner's exceptional personal circumstances.
36. The TEC may use the discretion set out in paragraph 35 to determine that a learner has exceptional personal circumstances where, after 1 January 2020:
  - a. the learner has withdrawn from study or training due to the impact of COVID-19; or
  - b. a learner's study or training has been adversely affected due to the impact of COVID-19.
37. In determining cases of exceptional personal circumstances, the TEC must take into account the intent of the first-year Fees Free policy.
38. I expect the TEC to publish guidance on the Fees Free website so that both the option and process for exceptional personal circumstances are clear to learners.

### ***Learners affected by TEO closing***

39. The TEC may use its discretion to make a payment, or write-off all, or a portion of, an eligible learner's consumption of their first-year Fees Free entitlement in the following circumstances:
  - a. the learner is or was enrolled at a TEO, and was eligible for first-year Fees Free;
  - b. the learner was not reported as being eligible for first-year Fees Free because the TEO did not include the learner in the first-year Fees Free enrolment reports that it was or is required to provide to the TEC under the first-year Fees Free funding agreement it has with the TEC;
  - c. the learner or a third party has paid the learner's fees for an eligible course, credential or programme; and
  - d. the TEO in which the learner was enrolled closes down or goes into liquidation.
40. The TEC may make a payment to the learner, or to another party that has paid the learner's fees, up to the value of the fees paid by the learner or that third party, provided that the payment does not exceed \$12,000 (GST inclusive).

### ***Transition period – eligibility and payments in 2025***

41. In paragraphs 42 to 45, a learner having "consumed their maximum first-year Fees Free entitlement" means the point at which one of the following occurs:
- a. the TEC has paid \$12,000 (GST inclusive) to TEOs in respect of the learner's fees; or
  - b. the provider-based learner has consumed 1 EFTS unit; or
  - c. the work-based learner has been enrolled in 24 months of an eligible work-based learning programme or apprenticeship (as determined in accordance with paragraph 18); or
  - d. the learner (if combining both work-based learning and provider-based study) has consumed their first-year Fees Free entitlement in accordance with the operational rules developed under paragraph 19.

### ***Eligibility for first-year Fees Free tertiary education and training delivered in 2025***

42. In addition to meeting the eligibility criteria set out in paragraphs 5 to 13, for a learner to be eligible for first-year Fees Free tertiary education and training delivered in 2025, they must:
- a. have consumed part of their first-year Fees Free entitlement in 2024, and
  - b. either
    - i. be enrolled in the same qualification<sup>6</sup> in 2025 as they were in 2024 and at the same TEO (unless the TEC is satisfied, based on evidence provided by the TEO, that the learner is enrolled in the same qualification at another TEO in 2025); or
    - ii. be enrolled in the same micro-credential in 2025 as they were in 2024 and at the same TEO; and
  - c. have not consumed their maximum first-year Fees Free entitlement

### ***Delegation to make payments***

43. I delegate to the TEC the authority to make payments in respect of eligible first-year Fees Free learners as set out in paragraph 44 and 45 below.
44. The TEC may only make payments in respect of eligible first-year Fees Free learners for first-year Fees Free tertiary education delivered in 2025 as follows:
- a. for eligible provider-based learners enrolled in an eligible course that commenced on or before 31 December 2024 (including where a course will finish after 31 December 2025), the TEC may make payments in respect of the learner's fees (as defined in paragraph 21) for that eligible course or micro-credential until the learner has consumed their maximum first-year Fees Free entitlement; and

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<sup>6</sup> Qualification has the same meaning as set out in section 10(1) of the Act.

- b. for eligible provider-based learners enrolled in an eligible course or micro-credential that commences on or after 1 January 2025, the TEC may make payments in respect of a proportion of fees (as defined in paragraph 21) equivalent to the proportion of the course or micro-credential delivered in 2025 until the earlier of the following:
  - i. the learner has consumed their maximum first-year Fees Free entitlement; or
  - ii. 31 December 2025.
- c. for eligible work-based learners enrolled in an eligible programme, the TEC may make payments in respect of a proportion of fees (as defined in paragraph 25) equivalent to the proportion of the programme delivered in 2025 until the earlier of the following:
  - i. the learner has consumed their maximum first-year Fees Free entitlement; or
  - ii. 31 December 2025.

#### *Payments relating to eligible learners from 2024*

- 45. If a learner did not benefit from first-year Fees Free payments they were entitled to from an enrolment in 2024, they could still be eligible to retrospectively receive first-year Fees Free tertiary education and training if they seek to access first-year Fees Free tertiary education and training within 12 months after the date on which they commenced their eligible programme or micro-credential.

#### **Operationalising this delegation**

- 46. The TEC will work with the sector and other government agencies to support the implementation of the first-year Fees Free policy and to advise me of any significant issues that arise.
- 47. The TEC must determine arrangements with TEOs for the operation of the first-year Fees Free policy for provider-based learners.
- 48. The TEC must determine arrangements with TEOs for the operation of the first-year Fees Free policy for work-based learners based on the following principles:
  - a. eligible work-based learners and their employers will not be charged by TEOs or any provider contracted by the TEOs for training and assessment costs; and
  - b. the TEC will pay TEOs the identified actual and reasonable cost, as determined by the TEC, of the fees (or fees foregone for PTEs). The TEC will establish processes to ensure that the fees and charges for work-based learners are reasonable and are assessed based on fees and charges that have been paid by or on behalf of learners, or in compensation for fees foregone, in previous calendar years. The TEC will also consider alignment with fee rates for comparable courses or programmes across the tertiary education system; and

- c. TEOs will be required to ensure that work-based learners fully benefit from the first-year Fees Free policy – ensuring that employers and training/assessment providers do not charge learners for costs already covered by the first-year Fees Free payment to TEOs (whether as explicit training and assessment fees, or as part of a broader fee, or by deductions from wages).

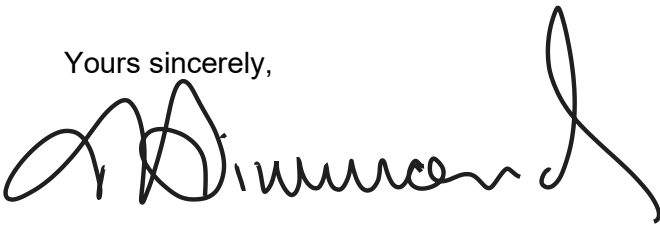
*Privacy statement*

49. The TEC must attach to funding a condition that a TEO that receives funding under this funding delegation must provide eligible learners, prior to or during the enrolment process, with a privacy statement that meets criteria set by the TEC about the collection and use of their personal information, and that advises learners that their personal information may be disclosed to the TEC, NZQA, the Ministry of Education, the Ministry of Social Development and Inland Revenue, as appropriate.

***Time period for this delegation***

50. This delegation is effective immediately and applies until 31 December 2025, unless otherwise indicated. The TEC may exercise any of its administrative functions as required to give effect to this delegation outside of these dates.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Penny Simmonds', with a long, sweeping flourish extending to the right.

**Hon Penny Simmonds**

Minister for Tertiary Education and Skills