



## Submission

### **Exposure Draft – National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Amendments) Bill 2021**

#### **Introduction**

Mental Health Carers Australia (MHCA) is the national peak body for families and carers supporting someone with mental ill health. We are made up of seven state and territory organisations, including one national. Our aim is to work constructively with governments to improve policies and programs that directly and indirectly impact mental health families and carers. More information about our organisation is accessible at: [mentalhealthcarersaustralia.org.au](http://mentalhealthcarersaustralia.org.au)

MHCA acknowledges the significant effort and consultations that have taken place to refine the NDIS legislation and associated rules to better support participants, their families and carers. This submission focusses on those areas that we believe require further refinement, particularly the proposed Becoming a Participant Rule, which will impact how people with psychosocial disability can access the Scheme. How participants with psychosocial disability can access the Scheme has a direct and correlating impact on their carer, who may be a family member, relative or close friend.

#### **Becoming a Participant Rule**

MHCA supports the change in definition that recognises the fluctuating and episodic nature of psychosocial disability; however, the proposed rule changes do not clearly set out the circumstances under which psychosocial disability may be considered permanent.

The term “appropriate treatment” is not clearly defined. Treatment is term often used in relation to clinical or medical services. There is also no reference to the social determinants of mental health that contribute to poor outcomes for people and impact functional impairment.

For example it is not clear how this rule would be interpreted when a person receives some form of clinical treatment as well as low levels of psychosocial supports, where the low levels of psychosocial supports they currently receive are insufficient for the person to reduce the impacts of functional impairment. In this case it would be difficult to determine whether the likelihood of permanent disability was due to the clinical treatment or the inadequate levels of psychosocial support.

MHCA recommends that this proposed change is tested extensively with people with psychosocial disability, their families and carers through further targeted consultations to ensure no unintended harm is caused.



The word 'condition' should also be replaced with a more contemporary term, developed in consultation with consumers of mental health.

MHCA supports the concerns as raised by the Public Interest Advocacy Centre as follows: "It would assist if the Rules provided guidance on these terms, especially given the highly personal decisions involved in medical treatment, and the subjective nature of these thresholds. 'Appropriate treatment' for instance, should take into account matters like a participant's risk appetite for treatments and personal choices over medical procedures. 'Substantial improvement' should include subjective assessments of a person's functional capacity. The absence of these considerations would reduce a person's choice and control over their own health."

### Schedule 2 of the proposed changes

Subsection 4 (12): MHCA supports the amendment to subsection 4 (12) of the proposed bill that brings the wording "The relationship between people with disability and their families and carers is to be recognised and respected" in line with the Carer Recognition Act 2010.

Subsection 4 (9) proposed change states: 'People with disability are central to the National Disability Insurance Scheme and should be included in a co-design capacity'. This should be amended to include "people with disability, their families and carers" in recognition that the financial sustainability of the scheme is largely dependent upon the informal supports provided by families and carers. Families and carers are directly impacted by Scheme decisions, including providing direct supports when this is not adequately funded in a plan. The legislation should acknowledge these impacts and include families and carers in co-design processes.

### NDIS Participant Service Guarantee Rule

Item 1 (Transparency) does not include principles relating to transparency for family members and carers. It ignores that families and carers play a significant (and quite often) leading role in supporting a NDIS participant or prospective participant to effectively access the Scheme.

Item 2 (Responsiveness) – this principle incorporates recognition that the system needs to be responsive to changing needs. MHCA would like to see this better operationalised under the Scheme i.e. transparent information about how the needs of families and carers are assessed and considered as part of decision-making processes.

### Contact

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