

Submission in relation to the Government's proposed changes to the NDIS Act and Rules.

I am a parent (child representative) of a young child with permanent disability who is an NDIS participant.

Firstly, while I appreciate the opportunity to review the proposed changes, the four week consultation period for public review is inadequate. I personally only heard about the proposed changes just a few days ago and this was not from the Government or via media channels. Participants (and their representatives) should be directly notified (for example via email, or the NDIS My Portal) of the proposal and at the time of first release, especially given the changes directly impact them.

Given the short time to review a significantly large number of complex documents, my ability to provide feedback on all the proposed changes is unfortunately limited to some key areas of concern:

Proposed changes to the Becoming a Participant Rules:

There are several terms like “appropriate treatment”, “other treatment”, “reasonably available”, etc. in Rule 8 and/or Rule 9 that are not defined. These need to be defined in the Rules to provide clarity so that we can properly interpret what the proposed changes to these Rules mean.

The changes to the early intervention requirements of the Becoming a Participant Rules are concerning:

The deletion of current Rules 6.10 and 6.11 (and Rule 6.8) of Part 6 from the new proposed Rules suggests that current participants who previously satisfied 25(1)(b) and 25(1)(c) of the NDIS Act without further assessment, would now have to undertake that further assessment and have their eligibility reassessed, unless they have impairments that are ‘Prescribed impairments’ (as defined in new Rule 14, of Part 3). It is not clear what this means in practice for impairments or conditions that currently qualify under the current Rules 6.10 or 6.11 (for both prospective and current participants.) The Government should explain what this change means in practice for both prospective and current participants, in particular, specify which conditions will be impacted as a result of the proposed changes and will no longer automatically satisfy 25(1)(b) and 25(1)(c) of the Act under current Rules 6.10 and/or 6.11.

In any case, if an assessment (for prospective participants) or reassessment (for current participants) on the benefit of early interventions supports is required, the CEO will have new power under Rule 13(2)(c) and (d) of Part 3 (compared with the current Rule 6.9(c)) to only consider information from families and/or expert opinion that the **CEO deems relevant**. What is to stop the CEO from deeming evidence from the participant’s family, carers, or expert opinion from the participant’s medical professionals as irrelevant, and only accepting an ‘independent’ assessment, or an assessment conducted by NDIS as being relevant? The CEO should not have this power.

In regard to the proposed changes to the disability requirements of the Becoming a Participant Rules:

The introduction of Rule 9(2)(b) in Part 2 is concerning. This rule could act to deny participants from accessing capacity building supports under the NDIS for treatments that can improve their functional capacity. Why should this not be funded by the NDIS?

Proposed section 47A: It is concerning that the CEO can vary a plan at their discretion without consultation or consent by the participant under proposed section 47A. Furthermore, the list of considerations the CEO must regard when deciding to vary or reassess a plan is broad, and also unlimited. Consequently, my understanding is that variations, such as changes to funding amounts or conditions placed on how funding is used, can be made without consulting participants. This is incredibly concerning and CEO (and its delegates) should not have such broad and unlimited powers.

Proposed changes to the Plan Management Rules:

Proposed changes to Rule 8 (of Part 2) and Rule 9 (of Part 3) will limit the choice and control of participants. Under 2(8), the NDIA could potentially limit a participant’s access to only registered NDIS providers. But, participants should be able to choose from a registered or non-registered NDIS provider. In my experience, the most highly regarded service providers recommended by my child’s GP and paediatricians have been health professionals/service providers that are not registered. Under 3(9), the matter specified at subsection 2(a) “the

possibility that the participant may receive supports from a person or entity that is not a registered provider of supports” could be used by the NDIS to determine there is an “unreasonable risk” to prevent a plan nominee or child representative from self-managing where the participant would receive supports from an unregistered service provider. This again limits the choice and control of participants.

Proposed changes to the payment of supports (section 45 of the Act): The introduction of a ‘tap and go’ smartphone app for self-managed participants to make payments to service providers should be optional. Self-managed participants should be able to choose their preferred payment method, and should be able to retain the option of using any of the current payment methods, including paying out of pocket first and seeking reimbursement. Further, my understanding is that the new direct payment system will only be available to registered providers, but it should be available to both registered and unregistered NDIS providers.