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First2Care's Response to NDIS Supports rules

Consultation on Changes to NDIS Rules

Executive Summary

First2Care is an independent, medium to large sized registered Plan Manager whose sole focus is the provision of Plan Management supports. We wish to take this opportunity to respond to the list of NDIS Supports through the lens of plan management and offer our insights from the last 10 months following their implementation.

It is First2Care's position that the list of NDIS Supports and non-NDIS Supports (exclusions) has been somewhat effective in clarifying what can and cannot be funded using NDIS money. The explicit exclusions have allowed plan managers to accurately advise on funds utilisation and where further authorisation from a delegate is required to proceed in place of choice and control alone. Such examples include smart devices, homewares, toys, and thinly veiled holidays as "STA".

However, there remain several problematic areas. This paper will primarily be focused on ways the Lists are unclear. It also examines contradictions between the Lists and the Pricing Arrangements and Price Limits (PAPL), accessibility of clear guidance, and the subsequent negative impacts on participants.

Recommendations

In summary, the following is recommended:

- Policy documents and resources specific to plan management
- Correction of the PAPL-legislation discrepancies
- Expanded examples, case studies, and general clarity surrounding "standard" items and supports
- Expanded resources and guidance on the types of therapies that are included vs excluded
- Correction of Replacement Support and Exclusion list discrepancy regarding apps

Plan Management

It is well-documented that while the percentage of participants electing to have all or part of their plan managed by a PMA continues to rise, the role of PMAs remains unclear. Previous Pricing Reviews have noted that the service delivery of plan managers is so diverse that it is

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not possible to model average costs, and that this is caused by a lack of clarity and consistency in expectations of the role.

Instruments and policy documents such as the PAPL and Operational Guidelines contain very little, if any guidance on how Plan Managers are expected to navigate or interpret a claim prior to submission. This creates friction when plan managers must decide on whether to submit a claim, which is often the case even when the NDIA becomes involved. It is common to hear "it's up to the plan manager" from NCC staff or LACs. Participants have almost no reliable way to obtain "approval" or otherwise from a delegate.

With the above in mind, the NDIA's lack of transparency continues to undermine the role of plan managers. The NDIA have outsourced interpretations of NDIS Supports to intermediaries that have endured 6 years of austerity measures, funded at transaction merchant rates, and therefore have little scope to invest into expertise in supporting participants through supported decision-making.

Most NDIS claims are made by plan managers; therefore, it makes sense for the NDIA to invest heavily into education, guidance, and instruction for plan managers. This should not only be collaborative, but it should also, to an extent, be publicly available. It is important for participants, support coordinators, and other service providers to understand the obligations that plan managers have, as well as the resources available to them. This allows PMAs to cite a dedicated source of information. The Guide to Plan Management (2020) was a useful example of this, though it was not specific to what can or cannot be claimed and is now severely out of date.

Wellbeing

The NDIS Reform Evaluation Summary noted that NDIS staff did not feel supported or confident in the implementation of the support lists. In our business, we face similar challenges. We observed a 10-15% increase in call volume, 5-8% increase in the number of invoices requiring review, and an uptick in the number of clients electing to end services due to a decision not to lodge a particular claim. Similarly, we noted an increase in client complaints associated with non-payments, and an increase in staff engagement with our Employee Assistance Program.

It should be noted that in some instances the participant may have been correct in some assertions that the support was approved in the plan, but the limitations of plan document details and the void between delegates and participants in answering questions meant that there was little to support the purchase, and no way to arbitrate. Even in circumstances where we were confident in our interpretation, it is challenging to ensure that staff are supported, competent, and confident to communicate the details when these communications are often heightened, agitated, and confrontational.

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Problematic Areas

As noted in the "*what we have heard so far"* summary paper, the term "standard" causes significant interpretation challenges.

We note the definition in the transitional rules attempts to clarify interpretation.

It appears several times in the exclusion list, most notably:

Standard home repairs, home improvements, standard renovations and maintenance

Standard home security and maintenance costs, fencing, gates and building repairs

These points interact confusingly with the section in the list of things that are NDIS Supports:

> *"Supports that provide assistance with essential household tasks that a participant is not able to do themselves because of their disability.*
>
> *This includes:*
>
> - *house or yard maintenance"*

It is not immediately clear what differentiates "standard maintenance" from "essential household tasks". Common examples cited by participants include:

- Carpet cleaning when participants have continence or behaviour issues
- Window cleaning when participants can't complete the task themselves
- Air conditioning maintenance when the participant may have temperature regulation needs

In most cases it is reasonably clear to interpret the type of claims that may fall into each category however, participants and some support coordinators are less likely to understand the distinction.

Standard household (including garden) items, appliances, tools and products. For example, a dishwasher, fridge, washing machine, non-modified kitchen utensils and crockery, food processors, electric toothbrushes, floor rugs, beanbags, standard mattresses, and bedding.

Standard furniture, fixtures or fittings. For example, lounges, beds, fire alarms, blinds.

The primary problems with this section are those items which might interact with disability but are themselves standard. For example:

- Furniture raisers
- Over-bed tables
- Noise-cancelling headphones

Groceries including all food, beverage, cleaning, household and health products

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This dot point is exceptionally broad. Participants report confusion when claiming for items that are intended to be used to manage a disability-related need, such as tissues, paper towel, cleaning products etc when managing complex continence issues.

Standard (non-modified and non-adaptive) clothing and footwear

In this section, significant confusion arises from the definition of standard, and where the line gets drawn. Is a shoe no longer standard if it:

- Has zippers instead of laces?
- Has high arches, or extra width?
- Uses Velcro straps?

Our insights indicate that a pain point is associated with the Operational Guidance, which describes orthopaedic footwear as an NDIS Support. In our experience, podiatrists and footwear retailers will describe what appear to be standard footwear as "orthopaedic" and therefore contend it should be funded.

This is akin to how many retailers slap the word "sensory" in front of their product to appeal to an NDIS market (noting that sensory items are typically not NDIS Supports).

Therapies

The NDIA is well-aware that there are contentions in the therapy space, so this section will be brief. Primary issues we experience relate to interactions with mainstream systems (eg Health), and supports that are not necessarily related to disability but are also not explicitly mentioned as an exclusion, such as:

- Osteopathy
- Chiropractic

The line item 15_056_0128_1_3 - Assessment Recommendation Therapy or Training - Other Professional is used by providers seeking to conceal or obfuscate the true nature of the service, and the vague description of this support item allows participants and advocates to seek to claim these types of "grey area" supports.

Conflicts with other documents

In our submission to DSS during the Draft Lists consultation, we noted that the proposed drafts conflict heavily with existing documents, particularly the PAPL.

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Key examples include:

STA

- Food is referred to in the PAPL yet is an excluded support. The NDIS website FAQs page refers to food being not possible to claim in individualised STA, which offers a third perspective, adding to the uncertainty

Community, Social, and Recreational Activities

- Support item 04_210_0125_6_1 is not subject to price limits and is described as usable for "camps, vacation and outside school hours' care, course or membership fees" (page 64).
- This contradicts the stipulated exclusions such as:
    - "Fees and payments for outside school hours care - this includes before school, after school, student free days, vacation care and school holiday programs"
    - "Membership and entry to a recreational club and standard gym equipment"
- The same applies to support item 09_011_0125_6_3 which describes "This could include camps, classes, and vacation activities that have capacity building components"

In our experience, participants use these support items to justify the purchase of adventure camps, boots camps, "autism" camps – all of which are unlikely to be solely disability related and are probably fun, engaging, and beneficial to any attendee regardless of their disability.

Low-Cost AT to support Capacity Building support delivery

- Support item 15_222400911_0124_1_3 was introduced in response to social distancing regulations and the increased demand for online or remote appointments
- It describes, in detail, that participants can purchase smart devices
- These are items excluded under the Act, and require specific approval in the form of a Replacement Support

Replacement Supports

The Replacement Support list refers to "Apps for accessibility and communication purposes", however, apps are not specified on the exclusion list (except for dating apps), unlike the other eligible Replacement items such as smart devices and standard household items.

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Summary

As a sophisticated Plan Manager with an abundance of knowledge and understanding of the legislation we are available to assist the NDIS in finalising the legislative wording to address the grey areas of the current legislation and the current proposed amendments.

It is in all Plan Managers interest to seek to simplify and have clarified the legislation so we don't collectively find ourselves unnecessarily in the middle of claims disputes between a Participant / Support Provider and the NDIA. Nor do we wish to be in dispute with other Plan Managers who may seek to interpret the definitions selectively to endear themselves to their Participant/Support Provider but does not adhere to the overarching intent of the legislation.