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1 March 2024

National Disability Insurance Agency  
Annual Price Review

Email: [APR@ndis.gov.au](mailto:APR@ndis.gov.au)

**Re: 2023-24 Annual Price Review**

The Australian Services Union ('ASU') is a union of 135,000 workers, and we are the union for workers in the social, community and disability services sectors.

We note our previous submissions to the NDIA: *Annual Pricing Review 2022-23 Consultation Paper*, *Annual Pricing Review 2021-22 Consultation Paper* and *Annual Pricing Review 2019-2020*<sup>1</sup>. We refer to those submissions and recommendations contained within and summarise as follows.

The National Disability Insurance Scheme (NDIS) requires targeted investment to support people with disability and to build a more equitable and supportive nation. Recent Final Reports by the Disability Royal Commission and the NDIS Review have recognised urgent workforce action is needed to build a highly skilled and qualified workforce that can deliver high-quality and individualised services.

The introduction of the NDIS has entrenched minimum rates of pay as the standard for wages in the sector. This is because employers cannot charge participants more than the National Disability Insurance Agency price-cap, which is calculated based on minimum wage rate assumptions.

Under clause 29.4 of the Social, Community, Home Care and Disability Services Industry Award, a sleepover does not break a shift. This means that night shift rates (15%) apply in the morning when work is performed before and after a sleepover<sup>2</sup>. Current price limits are unclear about what supports should be charged by Providers for work performed before and after a Night-time Sleepover Support. The price limits publication must be updated to provide clear details that leave no room for confusion or doubt.

**Recommendation:** NDIS pricing assumptions should be reformed so that the NDIS pricing arrangements:

- a) encourages permanent employment, including full-time employment;
- b) ensures disability support workers are not misclassified as home care employees;
- c) ensures disability support workers are not under classified at Level 1 of the SCHADS Award or under Schedule E;
- d) holds providers accountable to passing on the correct award wage;

<sup>1</sup> Australian Services Union, Submissions [Online] <http://www.asu.asn.au/resources/submissions>

Annual Pricing Review 2022-23 Consultation Paper, Annual Pricing Review 2021-22 Consultation Paper and Annual Pricing Review 2019-2020

<sup>2</sup> Fair Work Ombudsman, Sleepovers in the Social, Community, Home Care and Disability Services Award [Online] <https://library.fairwork.gov.au/viewer/?krm=K600551>

- e) reflects the true cost of disability support work (including appropriate classifications for the work performed, the intensity of support, adequate time allocated for tasks, administration, supervision, training etc.),
- f) can meet minimum Award entitlements and the National Employment Standards.
- g) provide portable entitlements to paid leave entitlements such as long service leave, personal/carers leave, annual leave and sick leave; and
- h) includes funding for the new entitlement to paid time delegates leave under s 350C of the Fair Work Act.

**Recommendation:** The temporary loading of 1% needs to continue to recognise the variable costs and challenges of 'COVID Normal' as well as ensuring providers can cover the costs of any new SCHADS Award provisions.

**Recommendation:** The NDIS Pricing Arrangements and Price Limits must be updated to explicitly detail the night shift penalty that is applicable for supports that are provided before and after a Night-time Sleepover.

Full explanatory information on the above can be found in our previous submissions made to the NDIA<sup>3</sup>.

Until the NDIA addresses the impacts of the current pricing arrangements for disability support work and until pricing provides well remunerated, quality secure jobs, the NDIS will be at risk.

The Disability Royal Commission's Final Report made some key recommendations for the disability workforce including: portable training and leave entitlements; continuing professional development; as well as recommending service providers ensure workers have sufficient paid time built into their rosters for training, as well as for handovers and completing essential administrative tasks like record keeping and making and reviewing daily notes as well as effective supervisory arrangements for workers<sup>4</sup>.

These findings were supported by the recent NDIS Review Final Report with recommendations focusing on trialling a portable training and a portable personal leave scheme. The Review also recommended the NDIS pricing and payments framework should be reformed to improve incentives for providers to deliver quality supports to participants including price caps to reflect the market price for delivering supports including costs associated with training and other indirect labour costs<sup>5</sup>.

The NDIA must now act and immediately start implementing workforce recommendations from the Disability Royal Commission and the NDIS Review.

Yours faithfully



**Emeline Gaske**  
**ASSISTANT NATIONAL SECRETARY**

<sup>3</sup> Australian Services Union, Submissions [Online] <http://www.asu.asn.au/resources/submissions>  
Annual Pricing Review 2022-23 Consultation Paper, Annual Pricing Review 2021-22 Consultation Paper and Annual Pricing Review 2019-2020

<sup>4</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report  
<https://disability.royalcommission.gov.au/publications/final-report>

<sup>5</sup> Australian Government, NDIS Review Final Report <https://www.ndisreview.gov.au/resources/reports/working-together-deliver-ndis>