



17 May 2024

Submission to Community Affairs Legislation Committee Inquiry into the 'Getting the NDIS Back on Track No. 1 Bill 2024

Dear Community Affairs Legislation Committee,

On behalf of the Self Manager Hub, the leading national peer-led organisation promoting and supporting the practice of self-management and self direction in the National Disability Insurance Scheme (NDIS), we would like to express our significant concerns regarding the proposed amendments outlined in the National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024.

The Self Manager Hub believes that self-management is a crucial component of the NDIS. Self management empowers people with disability to lead the lives we choose, drives innovation within the sector and promotes community inclusion.

However, the proposed changes to the structure of the NDIS, particularly the shift from "Reasonable and Necessary Supports" to a "Reasonable and Necessary Budget" and defined "NDIS Supports" threaten to undermine the core principles that the NDIS was founded upon. Maintaining the core principles of choice and control and access to a diverse market of innovative and quality supports is vital to the success of NDIS.

We welcome the move towards greater budget flexibility in the legislation. Flexible budgets can empower participants to make informed choices about the supports we require, enabling us to plan and tailor supports to our unique needs and circumstances. This aligns with the NDIS principles of choice and control, promoting greater independence and self-determination for people with disability.

However for flexible budgets to be truly effective they must be accompanied by genuine flexibility in how the funds can be utilised. The proposed constraints - such as defined funding periods, restrictions on support types, and stringent monitoring and approval processes - risk undermining the intended flexibility and imposing unnecessary barriers to accessing the support participants require.

Our primary concerns with the proposed amendments are as follows:

1. **Restriction on types of supports:** The introduction of defined "NDIS Supports" and prohibited lists could significantly limit the types of supports available to participants. This change could restrict access to broader and currently covered supports under the more flexible "reasonable and necessary" criteria, which are tailored to individual needs and often more cost-effective.
2. **Impact on participant autonomy, choice, and control:** By moving to a predefined budget model and defined supports, participants' choice and control over our support plans will be significantly reduced. The flexibility to adapt supports based on changing needs or preferences would be constrained, affecting the ability to effectively address unique and evolving participant requirements.
3. **Potential reduction in support quality:** The proposed framework prioritises budget constraints over the quality of support, potentially leading to participants receiving supports that are specifically defined on the list of permitted "NDIS Supports" rather than truly beneficial or suited to their specific disability needs and circumstances.
4. **Limits on innovation and access to new technologies:** A defined list of "NDIS Supports" prevents participants from accessing new and emerging technologies and assistive devices that could dramatically increase their independence and quality of life at a lower cost.
5. **Funding period restrictions:** The introduction of funding periods and the proposed distribution of funding in segments throughout the plan's duration could limit participants' immediate access to necessary funds, depending on their immediate needs. This poses a significant risk, particularly for individuals with complex, episodic, or degenerative disability requiring flexibility in funding allocation.
6. **Increased bureaucracy and oversight:** The proposed monitoring and approval processes for the use of flexible funding could further complicate an already over-complicated system, adding another layer of bureaucracy and potentially hindering participants' ability to access supports in a timely and efficient manner.

In light of these concerns, we would like to propose the following amendments to the Bill:

1. Amend the Bill to include a requirement for the needs assessment tool(s) to be:
 - Meaningfully and transparently co-designed and tested by people with disability from diverse backgrounds, families and carers, disability representative organisations, academics and health professionals, advocates and service providers.
 - Developed using evidence from Australian and international peer-reviewed research on assessing the support needs of people with disability and considerate of the impact of assessments on people with disability.
2. Amend Section 10 of the bill to ensure that "Reasonable and Necessary Supports" continue to be the fundamental core of the NDIS, replacing the introduction of narrowly defined "NDIS Supports".
3. Remove Section 32H so that a flexible budget can be truly flexible. The provisions outlined in this section can be achieved, if necessary, by allocating funding as a "stated support".
4. Remove reference to using the APTOS principles to determine "NDIS Supports" as an interim measure until Rules are created.

5. Require the NDIA to provide draft budgets to participants for review before they are finalised.
6. Introduce a new provision or amend existing sections to make “needs assessments” a reviewable decision, allowing participants to appeal or review these assessments and related plan decisions. This would involve changes to Section 99 to include needs assessments as reviewable decisions.
7. Address the extensive use of delegated legislation by amending relevant sections, such as those giving rule-making powers to the Minister (e.g., Sections 27, 32J, and 43(2C)(c)). These amendments should require more substantial public scrutiny and include key decisions about NDIS support and access criteria in the primary legislation rather than allowing them to be determined solely by ministerial rules or determinations.
8. Amend Section 43 to include clear parameters around when and how the NDIA can override a participant's preferred plan management type.
9. Amend the Bill to fully embrace the comprehensive framework of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

The Self Manager Hub strongly believes that self-management is key to the success of the NDIS, as it empowers individuals with disabilities to exercise choice and control over our lives, drives innovation within the sector and promotes the inclusion of people with disability in the life of the community. We urge the Community Affairs Legislation Committee to carefully consider our concerns and proposed amendments to ensure that the NDIS continues to uphold its core principles of choice, control, flexibility and community inclusion of participants.

We would welcome the opportunity to engage further with the Committee and provide additional insights and recommendations to ensure that the NDIS continues to empower people with disabilities and promote self-management as a cornerstone of the scheme.

Thank you for your consideration.

Sincerely,

Linda Hughes

President, Self Manager Hub

selfmanagerhub.org.au

admin@selfmanagerhub.org.au