



IN THE FAIR WORK COMMISSION

Matter No: AM2014/250
Title: Modern Award Review 2014
Aboriginal Community Controlled Health Organisations
Award

SUBMISSIONS AND DRAFT DETERMINATIONS

30 September 2016

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1. HSU provides this brief submission and draft determination in accordance with the Directions issued by the President, Justice Ross, on 26 August 2016 in relation to the Group 4 Awards.¹
2. The Directions require parties to submit a short submission confirming the substantive claims being pursued, including draft variation determinations.

Types of employment and classifications

Engagement

3. HSU seeks to vary minimum engagement to 4 hours for all employees, regardless of classification, work performed or workplace.
4. Minimum engagement is being considered as part of Casual and Part Time Employees common matters claims (AM2014/196 and AM2014/197)

Classifications

5. HSU will seek to vary the classifications and grades to include classifications for registered aboriginal health workers, standardised nomenclature and current terminology.
6. The HSU has not included a proposed clause in its draft determination in relation to this claim. As the HSU has stated in its past submissions, there have been varied submissions arising from the current definition of Aboriginal Health Worker and the intersection with the national registration scheme, and any changes require significant consultation with parties concerned, including NATSIHWA.

Hours of work and rostering

Roster change

7. The HSU will seek to include a minimum shift length of 4 hours for all rostered shifts including provisions for sleepovers and broken shifts.

Breaks

8. The HSU will seek to improve the unpaid meal break provisions.
9. The ACCHO Award does not provide for tea breaks and HSU will seek to include them in the award.

Minimum wages and allowances

Allowances

10. HSU will seek a new entitlement for replacement of damaged clothing.
11. HSU will seek variations and additions to Clause 19.6 - On call and recall allowances as follows:

¹ [2016] FWC 6062



- a. Provisions for telephone attendance/work for an employee who is on call but not required to physically attend work
- b. Recall to work for an employee not receiving an on-call allowance at overtime rates for the minimum shift length/ engagement

Rachel Liebhaber
National Industrial Officer

ATTACHMENT A

<<FileNo>> <<PrintNo>>

FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

Aboriginal Community Controlled Health Services Award 2010

(ODN AM2014/250) MA000115

Indigenous organisations and services

PRESIDENT ROSS

MELBOURNE, XX YYY 2016

Review of modern awards to be conducted.

[1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Aboriginal Community Controlled Health Services Award 2010* be varied as follows.

[2] Insert a new subclause 14.3 as follows:

“14.3 Minimum engagement

The minimum period of engagement for all employees will be four hours per day or shift. This applies to all shifts, including broken shifts and sleepovers.”

[3] Delete existing clause 15 and insert a new clause as follows:

“15. Breaks

15.1 Unpaid Meal Breaks

- (a) An employee who works in excess of five hours will be entitled to an unpaid meal break of between 30 minutes and 60 minutes. Such meal breaks will be taken between the fourth and the sixth hour after beginning work, unless otherwise agreed by the majority of employees affected. Provided that, by agreement of individual employees, employees who work shifts of six hours or less may forfeit the meal break.

- (b) Where an employee is required to be on duty during a meal break, the employee will be paid overtime for all time worked until the meal break is taken.
- (c) Where an employee is required by the employer to remain available during the meal break, but is free from duty, the employee will be paid at ordinary rates for a 30-minute meal break. If the employee is recalled to perform duty during this period, the employee will be paid overtime for all time worked until the balance of the meal break is taken.

15.2 Tea breaks

- (a) Every employee will be entitled to a paid 10 minute tea break in each four hours worked at a time to be agreed between the employee and employer.
- (b) Subject to agreement between the employer and employee, such breaks may alternatively be taken as one 20 minute tea break.
- (c) Tea breaks will count as time worked.”

[4] Insert a new subclause 17.3(a)(vi) as follows:

“(vi) Damaged clothing allowance

- Where an employee, in the course of their employment suffers any damage to or soiling of clothing or other personal effects (excluding female hosiery), the employer will be liable for the replacement, repair or cleaning of such clothing or personal effects provided immediate notification is given of such damage or soiling.
- This clause will not apply where the damage or soiling is caused by the negligence of the employee.

[5] Insert a new subclause 19.6(f) as follows:

“19.6(f) Remote response

(i) An employee who is in receipt of an on call allowance and available to immediately:

- respond to phone calls or messages;
- provide advice (‘phone fixes’);
- arrange call out/rosters of other employees; and
- remotely monitor and/or address issues by remote telephone and/or computer access,

will be paid the applicable overtime rate for the time actually taken in dealing with each particular matter.

(ii) An employee remotely responding will be required to maintain and provide to the employer a time sheet of the length of time taken in dealing with each matter remotely for each day commencing from the first remote response. The total overtime paid to an employee for all time remotely responding in any day commencing from the first response will be rounded up to the nearest 15 minutes.”

[6] Insert a new subclause 19.6(g) as follows:

“19.6(g)

Where an employee is recalled to work but is not in receipt of an on-call allowance, the employee who is called back to work will be paid for a minimum of four hours’ work at the appropriate overtime rate for each time so recalled. The employee will be paid the appropriate overtime rate from the time that such employee departs for work.”

[5] The determination shall operate on and from XX YYY 2016.

PRESIDENT