

Your ref AM2014/250 - Aboriginal Community Controlled Health Services Award 2010
Our ref AUSN117-869617 (JZLB)

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Date

26 April 2018

Dear AMOD Team

**FOUR YEALRY REVIEW OF MODERN AWARDS
ABORIGINAL COMMUNITY CONTROLLED HEALTH SERVICES AWARD 2010
FAIR WORK COMMISSION PROCEEDINGS NUMBER.: AM2014/250**

We refer to the decision of the Full Bench 4 yearly review of modern awards - *Award State - Group 4 Awards* [2018] FWCFB 1548 dated 21 March 2018 and enclose the National Aboriginal and Torres Strait Islander Health Workers Association's submissions dated 26 April 2018.

Should you have any queries in relation to the above, please contact Persephone Forster on +61 2 8215 5908.

Yours sincerely



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Submissions

Matter *4 yearly review of modern awards - award stage - exposure drafts
- Group 4 awards - technical and drafting matters - substantive
matters*
Matter no. AM2014/250
Date 26 April 2018
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OUTLINE OF SUBMISSIONS
NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER HEALTH WORKER ASSOCIATION
(NATSIHWA)
REGARDING THE ABORIGINAL COMMUNITY CONTROLLED HEALTH SERVICES AWARD 2010

1 INTRODUCTION

- 1.1 These submissions are in response to the directions issued by the Full Bench of the Fair Work Commission on 21 March 2018 arising from the Full Bench decision *4 yearly review of modern awards—Award stage—Group 4 awards* [2018] FWCFB 1548 (Decision) insofar as the Decision deals with matters pertaining to the *Aboriginal Community Controlled Health Services Award 2010* (Award).
- 1.2 Further, these submissions are in response to the *Exposure draft - Aboriginal Community Controlled Health Services Award 2016* published by the Fair Work Commission (Commission) on 23 March 2018 (Exposure Draft).

2 SUBSTANTIVE MATTERS NOT AGREED

- 2.1 The following substantive claims raised by NATSIHWA have not, to date, been agreed between the interested parties in AM2014/250:
- (a) changing the coverage of the Award to cover all Aboriginal and/or Torres Strait Islander Health Workers and practitioners¹;
 - (b) introducing a 6 'Grade' classification structure to incentivise education, training and development²;
 - (c) consistent with paragraph 2.1(b) above, proposed movement of persons engaged as "Advanced Health Worker - Practice" and "Health Practitioners" to new Grade 5 (the equivalent of old Award Grade 4 when

¹ Item S3 of the FWC Substantive Issues table 'up to 18 July 2017' (Substantive Issues Summary Table); see also paragraphs 21 to 24 of the Decision.

² Item S2 of the Substantive Issues Summary Table; see also paragraphs 18 to 20 of the Decision.

previously these roles were classified at old Award Grade 3)³ and associated increases remuneration;

- (d) a variation to the ceremonial leave clause (currently clause 26 of the Award)⁴; and
- (e) introduction of the following allowances:
 - (i) occasional interpreting allowance;
 - (ii) heat allowance;
 - (iii) isolation allowance; and
 - (iv) medication administration allowance,⁵(collectively, the Substantive Claims).

2.2 NATSIWHA intends to pursue each of the above Substantive Claims.

2.3 The precise form of each of the variations sought is contained in NATSIWHA's Amended *Draft Determination* dated 1 June 2017.

3 SUBSTANTIVE MATTERS AGREED

Progression and Recognition of Prior Service

3.1 At clause 16.1 of the Exposure Draft, the Commission has requested to be provided with a copy of the progression and recognition of prior service clauses as agreed between the parties for inclusion in the Award.⁶

3.2 A copy of these agreed provisions appear at **Annexure A** to these submissions.

Agreed Allowances

3.3 Introduction of the following allowances was agreed between the interested parties⁷:

- (i) damaged clothing allowance;
- (ii) blood check allowance;
- (iii) telephone allowance; and

³ Item S6 of the Substantive Issues Summary Table.

⁴ Items S17A and S18 of the Substantive Issues Summary Table; see also paragraphs 28 to 30 of the Decision.

⁵ Items S7 and S8 of the Substantive Issues Summary Table; see also paragraphs 26 and 27 of the Decision.

⁶ Item S24 and S11A of the Substantive Issues Summary Table.

⁷ See paragraph 26 of the Decision.

(iv) nauseous work allowance,

(Agreed Allowances).

3.4 A copy of these agreed provisions appear at **Annexure B** to these submissions.

3.5 Accordingly, NATSIHWA intends to pursue the incorporation of the Agreed Allowances.⁸

4 EXPOSURE DRAFT

New Definitions

4.1 Clause 2 of the Exposure Draft includes the following definitions:

- (a) "*Aboriginal and/or Torres Strait Islander Health Worker*";
- (b) "*Advanced Health Worker - Care*";
- (c) "*Advanced Health Worker - Practice*";
- (d) "*Coordinator Care*";
- (e) "*Community Controlled Health Services Employees*";
- (f) "*Generalist Health Worker*";
- (g) "*Health Practitioner*";
- (h) "*Health Worker Trainee*"
- (i) "*Senior Health Care Workers - Care*";
- (j) "*Senior Health Practitioner*"; and
- (k) "*Senior Health Worker*",

(collectively, **New Definitions**).

4.2 NATSIWAH has sought the inclusion of the New Definitions because these definitions are utilised in the re-drafted classification structure sought by NATSIHWA (Item S2 of the Substantive Issues Summary Table).

4.3 Whilst NATSIHWA understands that the inclusion of these definitions is not opposed by other interested parties, these definitions have no '*work to do*' unless the Commission varies the Award to include NATSIHWA's proposed classification structure (as summarised in Item S2 of the Substantive Issues Summary Table).

⁸ This is notwithstanding paragraph 27 of the Decision.

Ceremonial Leave

- 4.4 Clause 26 of the Exposure Draft includes the words “*including for bereavement related ceremonies and obligations*”. Whilst NATSIWHA supports the inclusion of these words (and intends to pursue this substantive variation⁹) as a consequence of disagreement between interested parties, the Commission has declined to make this variation at this stage.¹⁰

5 OTHER MATTERS - AWARD TITLE

- 5.1 If NATSIWHA's substantive claim to change the coverage of the Award is successful, in NATSIWHA's submission it will be necessary to vary the title of the Award.

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⁹ See paragraph 2.1(d) above.

¹⁰ See paragraph 31 of the Decision.

Annexure A

The Award be amended to include the following new clauses:

13.3 Progression

- (a) At the end of each 12 months' continuous employment, an employee will be eligible for progression from one level to the next within a grade if the employee has demonstrated competency and satisfactory performance over a minimum period of 12 months at each level within the level and:
 - (i) the employee has acquired and satisfactorily used new or enhanced skills within the ambit of the classification, if required by the employer; or
 - (ii) where an employer has adopted a staff development and performance appraisal scheme and has determined that the employee has, demonstrated satisfactory performance for the prior 12 months' employment.
- (b) Movement to a higher classification will occur by way of promotion or re-classification.

13.4 Recognition of previous service

- (a) On appointment, an employee will be classified and placed on the appropriate level on the salary scale in clause 14 - Minimum Salary, according to their qualifications and experience as an Aboriginal and/or Torres Strait Islander Health Worker.¹¹
- (b) Service as a part-time Aboriginal and/or Torres Strait Islander Health Worker¹² will normally accrue on a pro rata basis according to the percentage of a full-time Aboriginal and/or Torres Strait Islander Health Worker¹³ load undertaken in any year; provided that where the hours are more than 90% of a full-time load, service will count as a full-time year.
- (c) In the case of a casual employee, the equivalent of a full-time year of service is 200 full casual days.

13.5 Evidence of qualifications

On Engagement, the employer may require that employee provide documentary evidence of qualifications and experience. If an employer considers that the employee has not provided satisfactory evidence, and advises the employee in writing of this effect, then the employer may decline to recognise the relevant qualification or experience until such evidence is

¹¹ For the reasons stated in paragraphs 4.2 and 4.3 above, in the event that NATSIWAH's new classification structure, is not adopted, this reference would need to be changed.

¹² Ibid.

¹³ Ibid.

provided. Provided that the employer will not unreasonably refuse to recognise the qualifications or experience of an employee.

Annexure B

15.5 Damaged Clothing Allowance

Where an employee, in the course of their employment suffers any damage to or soiling of clothing or other personal effects, the employer will be liable for the replacement, repair or cleaning of such clothing or personal effects provided, where practicable, immediate notification is given to the employer of such damage or soiling as soon as possible.

This clause will not apply where the damage or soiling is caused by the negligence of the employee.

15.6 Blood Check Allowance

Any employee exposed to radiation hazards in the course of their work will be entitled to a blood count as often as is considered necessary and will be reimbursed for any out of pocket expenses arising from such test.

15.5 Telephone Allowance

Where the employer requires an employee to install and/or maintain a telephone for the purpose of being on call, the employer will refund the installation costs and subsequent rental charges on production of receipted accounts.

This clause will not apply where the employer provides the employee with a mobile telephone for the purposes of being on call.

15.5 Nauseous Work Allowance

An allowance of 0.05% of the standard rate per hour or part thereof will be paid to an employee in any classification if they are engaged in handling linen of a nauseous nature other than linen sealed in airtight containers and/or for work which is of and unusually dirty or offensive nature having regard to the duty normally performed by such an employee in such classification. Any employee who is entitled to be paid this allowance will be paid a minimum sum of 0.27% of the standard rate performed for work in any week.