

IN THE FAIR WORK COMMISSION

Matter No: AM2014/250, AM204/251, AM204/285 & AM204/286

Title: s156 – 4 yearly review of modern awards – Aboriginal Community Controlled Health Services; Aged Care; Social, Community, Home Care, & Disability; Supported Employment Services - Exposure Drafts

SUBMISSIONS IN REPLY

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Introduction

1. The Health Services Union [HSU] makes these brief submissions in reply to submissions by other parties on the exposure drafts of the Aboriginal Community Controlled Health Services Award [ACCHS], the Aged Care Award [Aged Care], the Social, Community, Home Care and Disability Services Award [SCHCDS] and the Supported Employment Services Award [SES].
2. The HSU believes there is no facility in it providing detailed submissions in reply to other party submissions concerning the exposure drafts. HSU submits that a conference between the parties will clarify the final differences between the parties and the matters that are really in dispute.
3. These submissions deal with the responses by other parties as follows:
 - a. General matters relating to more than one award
 - b. Award specific matters
4. There is no intent by the HSU to imply agreement or dissent where these submissions make no comment on any specific submission by another party.
5. The HSU relies on its submissions in each of the awards; ACCHS¹; Aged Care²; SCHCDS³ and SES⁴; concerning its position on the exposure drafts.

General matters

6. The HSU notes the general submissions by the Australian Industry Group [AiG]; in most cases it remains unconvinced by the AiG arguments or unclear what, if any of them, relate to the Group

¹ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014250-sub-hsu-300616.pdf>

² <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/an014251-sub-hsu-300616.pdf>

³ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014285-sub-hsu-300616.pdf>

⁴ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014286-sub-hsu-300616.pdf>



4A awards or specifically the ACCHS, Aged Care, SCHCDS and SES awards which are the subject of these submissions.

7. The HSU submits that the AiG needs to further clarify the awards to which it believes the general submissions relate.
8. Further the HSU notes that it does not agree with the underlying premise of several of the AiG objections, that any difference between the current wording and wording in the exposure draft of itself means there is a change in meaning or intent. Even where there has been an unintentional change, the HSU does not accept that the only answer is to revert to the exact wording of the current clause. The HSU believes that in the majority of instances where [if] the parties agree that an unintentional change in meaning has occurred the parties should be capable of finding agreed wording that meets the exposure draft format.

ACCHS award

9. The varied submissions arising from the current definition of Aboriginal Health Worker and the intersection with the national registration scheme stray, as acknowledged by some parties, into substantive matters which nonetheless require resolution during the award review process. The HSU reiterates these matters require significant consultation.

Aged care award

10. The HSU notes, but requires additional information from AiG, regarding the majority of the comments concerning the aged care award; for example while the HSU agrees there are issues for discussions around clauses 22.4(a), 22.4(b), 22.6(d) etc. it does not agree with any of the solutions postulated by AiG. This is true of a range of matters identified by AiG. As indicated earlier the HSU does not concur that the only answer to concerns in the redrafting of a specific clause is a return to the original wording or format.
11. The HSU does not agree with:
 - a. The AiG interpretation of or submissions concerning the laundry, leading hand or the nauseous work allowances;
 - b. The underpinning premise of the AiG submissions concerning the 'Summary of Hourly Rates';
 - c. The Aged Care Employers [AEC] responses to the questions relating to 'fixed term employee' or clause 23.2(a)(ii).
12. If the Commission accepts that clarification is required concerning the term over which 10 weekends is counted for an additional week of annual leave, the HSU concurs with the United Voice submission that 10 weekends are counted during the twelve month period over which the leave is accrued.



13. While preferring the removal of both of the terms 'fixed term/ specific task employees' or 'relieving staff' in the award, the HSU agrees with the United Voice proposed wording as an alternative to removal of either.

SCHCDS award

14. The HSU agrees with the Australian Services Union [ASU] submission concerning the application of sleepover provisions where an employee is on an excursion.
15. The HSU does not agree with:
 - a. The AiG submission that there has been a change of entitlement by the variation regarding 24-hour care;
 - b. Nor the submissions by several parties concerning the entitlements for employees to sleepover provisions when on an excursion; lack of reference to the remaining entitlements means an employee would not be paid if required to perform work of an emergency nature overnight, or even entitled to sleeping facilities;
16. While preferring the removal of the term 'relieving staff' in the award, the HSU agrees with the United Voice proposed wording as an alternative to removal.

SES award

17. The HSU supports the proposals made by National Disability Services [NDS] for the removal of redundant wage assessment tools in the manner proposed. In doing so, the HSU accepts the advice of the NDS that the named tools are no longer used.
18. The HSU opposes the NDS submissions in relation to the award coverage.

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