

BEFORE THE FAIR WORK COMMISSION

**AGED CARE AWARD 2010
(MA000018)**

4 yearly review of modern awards –Aged Care Award 2010

AM2014/251

**SUBMISSION BY
AGED CARE EMPLOYERS**

28 July 2017

Contacts:

Mr David Reid, Senior Advisor, Employee Relations Advisor
Aged and Community Services Australia
PO Box 3124 RHODES NSW 2138
Email: david.reid@acsa.asn.au
Phone: 02 8754 0400

Mr Keiran Brown, Senior Advisor- Employment Relations
Leading Age Services Australia Ltd
PO BOX 7 STRAWBERRY HILLS NSW 2012
Email: keiran.brown@nswact.lasa.asn.au
Phone: 02 9212 6922

Overview

- [1] Aged Care Employers¹ (ACE) make this submission in accordance with the Directions issued by President Ross dated 9 June 2017.
- [2] ACE intend to run a merits based case.
- [3] Variations sought by ACE in relation to the Exposure Draft (Appendix 1):

a) **Clause 14.4 - Rosters**

ACE specifically seeks a variation to clause 14.4(c) of the Rosters of the Aged Care Award, which allows a roster to be altered at any time by way of agreement between the employer and employee/s.

b) **Clause 18.3 – Allowances**

ACE seeks to amend clause 18.3 by inserting additional sub-clauses (e) and (f) to:

- i) provide an on-call allowance to employees who are required to be on-call for the purposes of holding themselves in readiness to be recalled to work;
 - ii) provide for an additional monetary entitlement to employees who are required to make themselves available and participate in an approved roster for the purposes of receiving telephone calls or other communications outside their normal rostered hours of work; and
 - iii) clarify the difference between undertaking work remotely and being required physically to return to work.
- [3] In relation to clause 18.3(e) contained in ACE's Draft Determination, no monetary figures have been inserted. ACE intends to:
- i) Continue discussions with the unions in relation to the quantum of the allowance, as preliminary discussions suggest there may be scope to reach an agreed position.
 - ii) ACE intends to continue discussions at and prior to the Conference listed for 23 August 2017, as per Commissioner Lee's Statement on 26 July 2017.
 - iii) In the event that no agreement is reached between parties, ACE reserves the right to file an amended Draft Determination specifying the quantum of our proposed allowance.

¹ Aged Care Employers: Aged and Community Services Australia, Leading Age Services Australia Ltd

Aged Care Employers

28 July 2017

Appendix 1

FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

s. 156 - 4 Yearly reviews of modern awards

(AM2014/251)

Aged Care Award 2010

[MA000018]

Health and Welfare

XXXXXXX Commissioner

SYDNEY [XX YYY 2017]

4 yearly review of modern awards.

A. Further to the Decision of the Fair Work Commission on [XX YYY 2017], the Aged Care Award 2010 is varied as follows:

[1] By deleting subclause 14.4(c) and inserting the following:

Seven days' notice will be given of a change in a roster. However, a roster may be altered at any time with the agreement of the employer and employee/s, or to enable the service of the organisation to be carried on where another employee is absent from duty on account of illness or in an emergency.

[2] By inserting a new subclause 18.3(e) as follows:

(e) **On call allowance**

- (i) An employee required by an employer to be on call (i.e. available for recall to duty at the employer's or client's premises and/or for remote response duties) will be paid an allowance of:

- (a) \$xx.xx for any 24-hour period or part thereof during the period from the time of finishing ordinary duty on Monday to the time of finishing ordinary duty on Friday; or
- (b) \$xx.xx in respect of any other 24-hour period or part thereof, or any public holiday or part thereof.

[3] By inserting a new subclause 18.3(f) as follows:

(f) Remote response

- (i) In this award, unless the contrary intention appears, remote response duties include:
 - (a) responding to phone calls, messages or emails;
 - (b) providing advice ('phone fixes')
 - (c) arranging call out/rosters of other employees; and
 - (d) remotely monitoring and/or addressing issues by remote telephone and/or computer access
- (ii) If an employee is required to perform remote response duties between 6.00am and 10.00pm in any day, the employee will be paid at the prescribed rate for the time worked, rounded up to the nearest 15 minutes.
- (iii) If an employee is required to perform remote response duties between 10.00pm and 6.00am in any day the employee will be paid at the prescribed rate for the time worked, with a minimum payment as for one hour. Where such work exceeds one hour, payment will be made at the prescribed rate for the duration of the work.
- (iv) 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
- (v) Any work performed pursuant to this clause will not be considered overtime for the purpose of Clause 22.4.

[4] This determination will operate from [XX YYY 2017].

28 July 2017