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22 December 2017

By Email: chambers.hatcher.vp@fwc.gov.au

Associate to Vice President Hatcher
Fair Work Commission
Level 10, Tower Terrace
80 William Street
EAST SYDNEY NSW 2011

Dear Associate

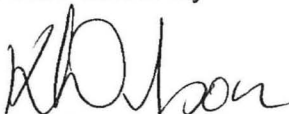
**Re: AM2014/286 – Supported Employment Services Award 2010
Amended Draft Determination**

We refer to the above.

We seek to amend our Draft Determination in the terms stated in the attached proposal. The amendments are intended to better reflect Schedule D of the Award as amended by the Commission on 10 October 2017. This is reflected in amendments to proposed cl. 14.4(b), which reflect the language of Schedule D in describing the rate of pay referred to in cl. D.4, and the amendments to proposed cl. 14.4(c). These amendments would apply the rate of pay to change, up or down, as determined by an assessment undertaken under Schedule D, subject to the disputes and review processes provided for in Schedule D, and cl. 9 of the Award.

If you have any queries in relation to the above, please email us at noni.lord@aed.org.au or leave a voicemail message on (03) 9639 4333 with some convenient times for us to return your call.

Yours sincerely



Kairsty Wilson
Principal Legal Practitioner
AED Legal Centre
Enc. (1)

***Our office will be closed for the Christmas break from
midday 22 December 2017 until Wednesday 10 January 2018***

FAIR WORK COMMISSION

AMENDED DRAFT DETERMINATION

Fair Work Act 2009

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

(AM2014/286)

Supported Employment Services Award 2010

[MA000103]

Health and Welfare

[A] Clause 14.4 of the *Supported Employment Services Award 2010* is varied as follows:

[1] By deleting clause 14.4(a) and in lieu thereof inserting what follows:

An employee with a disability may ~~from time to time~~ be required by an employer to undergo assessment under and in accordance with the Supported Wage System referred to in ~~Appendix D1~~ of Schedule D.

[2] By deleting clauses 14.4(b)-(e) and in lieu thereof inserting a clause, numbered as clause 14.4(b), as follows:

If an employee with a disability is assessed under clause 14.4(a), the employer may, subject to clause 14.4(c), pay the employee the applicable percentage, as determined by that assessment, of the minimum hourly rate of pay prescribed by clause 14.2 for the grade that applies to the employee's work. ~~pay the employee a rate of pay that accords with the most recent Supported Wage System assessment undertaken under clause 14.4(a), provided that this rate of pay is a pro rata amount (which may be 100% or less) of the minimum rate prescribed by clause 14.2 for the grade that applies to the work performed by the employee.~~

[3] By deleting 14.4(f) and in lieu thereof inserting a clause, numbered as clause 14.4(c), as follows:

If the most recent Supported Wage System assessment undertaken under clause 14.4(a) discloses a reduction in the employee's productivity when compared with the immediately prior assessment for the same work and the reduction in productivity is solely due to a regression in the employee's disability, the employer must not reduce the employee's rate of pay wage unless:

~~(i) the reduction in productivity is solely due to a regression in the employee's disability; and~~

(i) ~~(ii)~~ the employer has first exhausted all reasonable training options and options to allocate the employee work that would avoid the reduction in the employee's rate of pay; and

(ii) ~~(iii) if (i) and (ii) apply,~~ any reduction occurs in accordance with any method prescribed by the Supported Wages System in Appendix D1 of Schedule D.

[5] By deleting clause 14.4(g).

[6] By deleting clause 14.4(h) and inserting a clause in the same terms but numbered as clause 14.4(d).

[7] By deleting clause 14.6.

[B] The determination shall operate on and from xxx 2018