



Submission

FAIR WORK COMMISSION

4 Yearly Review of Modern Awards – Social, Community, Home Care and Disability Services Industry Award 2010 – Substantive Claims
Matter: AM2018/26

Information about the Association of Private Nursing Services:

The Association of Private Nursing Services Inc. (APNS) is a small national membership organisation representing approximately 40 independent companies delivering in-home support in the community, aged care and disability sectors. Member organisations vary in size from those with 10 staff or less, to providers employing up to 400 staff. The APNS was established in 2006 by a group of service providers to network, collaborate, and contribute to raising the standards of in-home care being provided in the community. APNS members employ staff directly, including nurses and community carers, to deliver quality supports to those who need assistance to stay living at home independently.

THE FAIR WORK COMMISSION'S DECISION

It is understood that the Fair Work Commission (the 'Commission') has recently issued a decision in relation to the 4-yearly review of the Social, Community, Home Care and Disability Services Industry Award (the 'decision'). To understand the impacts and related to the Decision, it is necessary to provide an overview of the environment in which APNS members work.

Overview of Funding Arrangement that apply to APNS Members:

In-home services are funded by three main groups: the NDIA/NDIS for people living with a disability; the Commonwealth Department of Health or Department of Veterans' Affairs for those eligible for in-home aged care supports or veterans' home care or nursing; and self-funded by retirees and individuals.

NDIA / NDIS:

1. The NDIS is regulated by the NDIA.
2. The NDIA prescribes limits on prices ('Price Limits') charged by providers to clients for their disability services. Providers of disability services are not permitted to charge in excess of those Price Limits for the delivery of their services. The Price Limits are published by the NDIA, along with a 'Price Guide', which contains additional explanatory material.
3. The Price Limits have been determined by reference to a published NDIS 'Disability Support Worker Cost Model' used by the NDIA to estimate the cost of delivering a billable hour of support taking into account all of the costs associated with each hour delivered.

4. The 'Disability Support Worker Cost Model' does not current include the changes included in the FCW Decision, so the NDIA price guide effective 1 July 2021 does not include the additional costs which will impact on the cost of delivering each hour of service, particularly costs associated with changes to broken shifts, minimum engagement, and remote response.
5. According to the NDIS website (<https://www.ndis.gov.au/providers/pricing-arrangements/pricing-updates#next-annual-pricing-review>) "The next Annual Pricing Review is scheduled from August to December 2021, with changes to come into effect 1 July 2022."

AGED CARE SERVICES:

1. Aged care services are generally funded by one of the following Commonwealth Government Schemes:
 - a. The Commonwealth Home Support Programme ('CHSP');
 - b. Home Care Packages ('HCP'); and
 - c. Veterans Home Care ('VHC').
2. Conditions are connected to each of the funding Schemes including:
 - a. **Commonwealth Home Support Programme** – Providers of CHSP services enter into Contractual agreements with the Australian Government to deliver agreed outputs (usually hours). The number of outputs able to be delivered is based on costs calculated at the time of being allocated a CHSP grant. Current grant agreements and associated outputs have been set.
 - b. **Home Care Packages** – Federal Legislation requires consumers to enter into a Home Care Agreement with their service provider which sets out how services will be provided, who will provide them, and how much they will cost. Home Care Agreements and package budgets can only be varied by agreement with consumers through consultation. Service providers are required to ensure consumers understand the terms of their agreement, including any changes that may be required including changes to cost and individual budgets.
Home Care Package providers are required to operate on a basis of Price Transparency (<https://www.health.gov.au/initiatives-and-programs/home-care-packages-program/managing-home-care-packages/price-transparency-for-home-care-packages#reviewing-home-care-agreements>) including publishing rates annually on MyAgedCare and must give consumers "enough information about any price changes, make sure they understand how the changes may affect them," and only change budgets and rates by agreement.
 - c. **Veterans' Home Care** – Community Nursing and Veterans' Home Care services are delivered by providers approved through a tender process based on contracts set at the time of tender. Currently, contractual requirements and pricing for Veterans' Home Care does not reflect the variations to the Award which will be an outcome of the 4 Yearly Review. Pricing is set by the Department of Veterans' Affairs in January.

IMPACTS OF THE DECISION ON APNS Members

The following feedback has been provided by APNS members in relation to the work that will need to be completed in relation to implementing changes to the Award:

1. Seek information and advice to clearly understand all variations made to the Award to ensure compliance.

2. Work with third party providers of rostering and/or pay roll services to ensure changes are incorporated (including software modifications);
3. Train and instruct rostering, administration, and finance / pay roll staff regarding the changes required so that they can be implemented correctly, including Broken Shift Allowance and Minimum Engagement periods.
4. Consult and advise customers / consumers (including following consultation protocols set by legislation) regarding any changes required eg, to staff delivering services, service delivery times, and/or costs which are required to accommodate the changes to the Award and the working arrangement of their support staff;
5. Consult and work with impacted support staff who may be required to change their work patterns (eg, one hour minimum engagement to two hour minimum engagement) to enable them to arrange appropriate changes in availability if required;
6. Approach funding bodies and individual customers to adjust pricing models as required to accommodate Award changes.

Members providing feedback have advised that this is not possible to complete the logistics outlined required to implement the reviewed Award by the proposed commencement date for the variations of 1 October 2021.

Additional Impediments to implementation of Variations by 1 October 2021:

1. **CLIENT SERVICE AGREEMENTS adjustments:**
 - a. Service agreements are in place with clients that set out the basis of how and when services will be delivered and at what cost. Services delivered under aged care and disability care programs in Australia are required to be delivered on a consumer-directed basis incorporating client choices and control.
 - b. These service agreements set out contractual obligations, as requested by clients such as hours of work and, in some instances, very specific details, such as the person undertaking the work.
 - c. Any variations to these contractual arrangements requires consultation with clients and agreement.
 - d. APNS members who provided feedback indicated that it would not be possible to consult with each individual client that would be impacted by changes by 1 October 2021, particular given the issues related to the COVID-19 pandemic and current public health stay-at-home order. APNS members advised that their usual practice for consultation and review of Service Agreements is through face-to-face appointments which is not possible at this time for these mostly vulnerable clients.

OTHER CHALLENGES CURRENTLY FACED BY APNS Members:

Currently both employees, employers, and consumers are facing the daily challenges of ensuring safe delivery of services and/or modification of services, to ensure compliance with community COVID-19 Health Orders. This substantial impact to operations will be in place for New South Wales (NSW) organisations until at least 28 August 2021 and possibly longer depending on the effectiveness of the current lockdown in place.

OPERATIVE DATE

1 July 2022 would be a more reasonable time frame to implement the proposed variations to allow organisations to:

- a. enable conversion and update of operational systems including pay roll and rostering systems;
- b. factor in the additional costs and wages into next year's financial budget;
- c. consult with consumers regarding any necessary changes to their support workers and/or budgets; and
- d. for Service Providers to request funding bodies include consideration of the Variations in price models, for example, modification of the NDIA 'Disability Support Worker Cost Model'.

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On behalf the volunteer Committee of Management of the Association of Private Nursing Services (APNS)

3 August 2021

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