

Tuesday, 21 April, 2020

- Media Release –

The NDIA recently answered an important question about who can ask for a review for an NDIS participant. They said that independent advocates, support coordinators, providers or any other person who supports you can contact the NDIA to explain any changes you need in your plan.

This is important because VALID advocates for a lot of people with intellectual disability who do not have family or anyone else to help with decision-making and need someone else to ask for a review on their behalf. Sometimes people need full assistance with simple NDIS decisions but do not have a Plan Nominee because they have no-one to nominate, and they do not have a guardian because there are no major legal decisions to be made.

The Independent Advisory Committee to the National Disability Insurance Agency (NDIA) answered the question asked by Ms Belinda Epstein-Frisch, on behalf of the Council's Intellectual Disability Reference Group. Ms Epstein-Frisch used a case study from VALID to emphasise the importance of allowing people to assist participants with plan reviews.

Please see the full report on the next page.

Independent Advisory Council to the National Disability Insurance Scheme

31 March 2020

ANSWER TO QUESTION ON NOTICE

National Disability Insurance Agency

Topic: COVID - 19

Question reference number: NDIA IAC-0002

Date set by the Council for the return of answer: 14 April 2020

Question asked by: Ms Belinda Epstein-Frisch, on behalf of the Council's Intellectual Disability Reference Group

Question:

"Currently, only participants and plan nominees can seek a plan review, leaving those participants with complex needs and without informal support unable to seek a review (in the past advocates were able to seek a review on behalf of a participant). How is the NDIA supporting these participants? Case study: VALID, the peak disability organisation in Victoria representing people with intellectual disability and their families, provides advocacy and support to participants who live in State Government Specialist Disability Accommodation (SDA) who do not have family, unpaid supporters or legal guardians to assist with decision-making. These participants do not have a Plan Nominee because they have no-one to nominate and do not have guardians because there are no major decisions required for which the Victorian Tribunal would appoint one. They cannot however make simple NDIS decisions without full assistance and are therefore unable to seek a review due to change of circumstances."

Answer:

Section 48(1) of the National Disability Insurance Scheme Act 2013 (NDIS Act) enables a participant to request a review of the participant plan at any time. Section 48(4) states that the NDIA Chief Executive Officer (CEO) may, on the CEO's initiative, conduct a review of the participant's plan at any time.

Where a plan nominee is appointed (and where the instrument of appointment allows), any actions a participant may take may be done by the participant's plan nominee (s78(1)).

The legislation does not specifically provide for how the NDIA should address requests for unscheduled plan reviews where the participant is unable to make the request independently (or supported) and no plan nominee has been appointed.

How is the NDIA supporting these participants?

The NDIA's policy in the circumstances outlined would be to undertake a plan review at the initiative of the CEO using the powers at s48(4).

An independent advocate, support coordinator, provider or other support person may advise the NDIA of changes in the participant's circumstances that identify the need to review the participant's supports to ensure they are meeting the participant's needs.

Considerations when receiving information that the plan is not meeting the participant's needs would include:

- Can the immediate needs of the participant be met by the supports in the current plan, considering the ability to flexibly use supports?
- What additional information is available about the participant's functional impairment and support needs?
- Have barriers to plan utilisation been identified and is support in place to address the barriers.
- Risks to the participant if the unscheduled plan review was not undertaken.

At times of crisis, the NDIA has procedures in place to address participants' plan review needs to ensure that participants have the necessary supports in place and issues are escalated where required.

All requests for unscheduled plan reviews can be submitted:

- In writing to:
Chief Executive Officer
National Disability Insurance Agency
GPO Box 700
Canberra ACT 2601
- Talking to someone at an NDIA/LAC office
- Calling 1800 800 110
- Sending an email to: enquiries@ndis.gov.au.

The requests are then submitted to the National Review Team for triage and action.

When a request for an unscheduled Plan Review is received through the Plan Review Request form, the National Review Team is required to make a decision regarding this request within 14 days.

When the decision is to approve a review request, legislation states facilitation of the review must commence within 14 days of the decision.

Where the Council has specific concerns that these processes are not working as intended for participants, the NDIA would welcome notification so that these issues can be followed up as appropriate.

In response to the Australian Government's enacted Coronavirus Emergency Response Plan, the NDIA have commenced contacting participants who we have identified as vulnerable. This is to discuss whether their current plan is meeting their needs, including whether they are able to access the supports in their plan and to link them with mainstream services. This also enables us to complete an unscheduled plan review if the participant's plan is not meeting their needs.



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Unscheduled reviews which are COVID-19 related will be escalated to the relevant states for actioning within 72 hours and to a specialist team if the review is critical and will be actioned within 24 hours.

All other unscheduled reviews will continue to be managed by the NRT including if the participant wants to change the way their plan is managed