

30/03/2018

To: The Standing Committee on Health, Ageing and Social Services

Re: ACT Legislative Assembly Inquiry into the Implementation, Performance and Governance of the National Disability Insurance Scheme in the ACT.

Momentum Sports & Rehabilitation Services is a Canberra-based multidisciplinary Allied Health service provider. Our team includes Musculoskeletal and Neurological Physiotherapists, as well as Prosthetists and Orthotists. Our client group is extremely varied, though most are participants within the National Disability Insurance Scheme.

Momentum was in operation throughout the ACT trial of the NDIS. Our experience during this period was one of overall satisfaction; despite some expected teething troubles, the operation of the scheme at this local level was largely efficient, effective and an improvement on the previous territory-based funding models. Unfortunately, since commencement of the national rollout in July 2016, there has been considerable change and inconsistency in approach. This is causing unnecessary challenges for our clients and placing significant strain on our service's administrative processes.

Understanding the scope of this inquiry, I will focus on issues pertaining to the terms of reference.

## 1. Participant Plans

Observation of many participant plans has revealed an obvious lack of understanding by the NDIA of the needs of clients and their carers. We have witnessed numerous instances in which major assistive technology equipment has been completely overlooked within a participant's plan, despite being the participant's primary or sole mobility device. For example, we regularly witness plans for amputee clients with no allocation of funds for replacement prostheses, despite mention of this requirement within the plan goals. It is also *extremely* uncommon to see any allocation of funding for maintenance or repair of assistive devices and mobility equipment.

One of the primary mantras of the NDIS is the empowerment of the individual with "choice and control" of their plans and funding. Unfortunately, the decision to package plans into 12-month segments severely limits capacity to meet unexpected changes in circumstances or needs. This is particularly challenging for our clients with degenerative conditions such as Multiple Sclerosis, Parkinson's Disease and Muscular Dystrophy, but also affects clients with ill carers or those with unexpected failure of major equipment. Plan budgets are completely inflexible; funding is limited to those services/items explicitly listed on the plan, and it is not possible to reallocate the funding from one budget to meet the shortcomings of another. We often see clients with large budgets for social integration, but insufficient funding to enable community mobility (and therefore use this social integration funding). Other clients of our service will receive adequate funding for new equipment, but inadequate funding for the necessary training to effectively implement that equipment.

We are frequently witnessing participant plans that do not reflect the participant's goals, nor the recommendations of the treating health professionals. Large budgets are allocated to services that a participant does not require, has not requested, and nor have been recommended by a treating health professional. This may include budgets for home maintenance for participants who have been assessed to be perfectly functional in such duties. Such inclusions may seem harmless, but they are a waste of resources and functionally debilitating to the participant through the promotion of dependence on carers and other supports.

Our service works with a number of other insurance-style schemes. These schemes, broadly speaking, take the approach of assessing needs case by case and on an as needs basis. This means that when an individual's needs change, they can promptly have additional funds or changes in supports made. This approach is much more flexible and supportive to the individual's needs while also seeing fewer delays and less risk to the individual. If this were applied to the NDIS there would be reduced administrative load for the NDIA in dealing with questions and complaints, as well as less time spent on plan reviews and service requests once a baseline level of ongoing service requirements has been established.

## **2. Clinical Advice and Input**

Our clinicians regularly provide reports to the NDIA regarding recommendations for implementation of services and equipment. These reports are prepared following comprehensive assessment of a participant, including their abilities, goals and support networks. Within the current NDIS structure, these reports typically are not considered outside of a participant's scheduled plan review. If a report is submitted months prior to a scheduled review, these reports are commonly "misplaced" by the Agency or are simply overlooked by planners at the time of a plan review. Occasionally, feedback is received that a report has been considered but the request deemed unreasonable or unnecessary without consultation with the participant or provider.

This raises serious questions about the capacity of the NDIA to deliver a scheme capable of meeting the needs of participants. It is impossible to expect staff within the NDIA to be well versed in the complexities of every disability type that comes through their doors, and yet planners with little or no clinical knowledge are overruling judgements of treating clinicians without consultation. In the rare case that reasoning is provided for a decision, it is not unusual to see feedback which lies in direct conflict with legislation and assessment guidelines. There is no capacity within the current scheme structure for discussion of a decision, only implementation of a lengthy appeal (or "review of a reviewable decision"). Consequently, participants are being left without appropriate supports for significant lengths of time and the rigidity of the Scheme provides no safety net if alternative measures cannot be found.

If a more consultative approach was adopted there would be capacity for detail to be discussed that may assist with decision making and reduce administrative pressures associated with reassessment of requests. It would also provide planners with the opportunity to provide further supportive evidence or clarification of details contained within requests. Above all, an increase in communication and assessment transparency would enable more efficient delivery of necessary supports to participants.

### 3. Administrative Processes and Feedback

The current NDIS framework does not support efficient, effective administrative processing or decision making. Momentum Sports & Rehabilitation Services employs only four clinicians, yet the high administrative burden associated with processing NDIS clients has necessitated the employment of a part-time staff member specifically for NDIS-related duties. These include report tracking, payment processing, portal administration, and managing NDIA process failures. This level of administrative burden is not seen with any other funding provider.

The NDIA's Provider Portal administration system has been a constant source of frustration for our business. Payment system faults have resulted in the inability to access approved funds and unnecessary delays to payments. We have found that what appears within the Portal often does not accurately reflect what is being billed. For example, we have been directed by Agency staff to request six of an item instead of one due to capped pricing amounts within the Portal. Clients of our service have found their plan budgets to mysteriously change mid-plan, with some budgets being displayed as "overspent". Participants and providers are unable to remove funds beyond budget limits, demonstrating the severity of payment system "glitches". This leaves participants without access to necessary services – services they had planned on accessing with their initial plan budgets. Our service frequently experiences lengthy delays in payments due to reported "glitches" or malfunctions of the portal, and we are unable to contact the appropriate members of the NDIA by phone in order to deal with the issues efficiently. One of our payment issues has been outstanding since October 2017 despite 7 hours of time wasted on the phone and nearing 10 unanswered emails to the address which we have been directed by NDIA to use.

As alluded to earlier, perhaps the largest source of inefficiency in dealing with NDIA is the poor communication and inability to contact members of the Agency. Our service spends large portions of each week managing calls from clients unsure of the progress of their treatment applications. Unfortunately, decision outcomes are not given to service provided and Agency feedback regarding the status of unassessed requests is typically limited to acknowledgement of receipt of the request.

The current Scheme structure requires any request for services greater than a certain dollar figure be assessed by a national clinical review panel. This process takes many months, and decisions on complex cases are reached without consultation between the NDIA, participant or service provider. If a participant disagrees with the decision reached by the NDIA, a formal request for review must be submitted in writing. This review process can, once again, take many months to complete. All the while the participant is without supports. The implications of these delays are twofold: firstly, the client is without supports and potentially at risk of harm; secondly, increased burden is placed on ancillary services and carers to meet these shortcomings in client function.

The most alarming issue facing our service is that Agency guidelines no longer promote the maximising of participant independence and community participation, nor do they meet standards of best practice. We have observed in the assessment of prosthetic limbs that decisions are no longer assessed against what is "reasonable" and "necessary", but rather what might be considered "standard grade or entry level" for the "mobility needs for an ordinary life" (terms not defined nor used outside of the NDIS

Assistive Technologies framework). We have received multiple instances of feedback to treatment requests that appear to clearly breach the *National Disability Insurance Scheme Act 2013*. One such example provided by the NDIA on 23/11/2016 reads: *“The recommended prosthetic limb does not meet reasonable and necessary criteria (as per section 34 of the NDIS Act) as it is not considered value for money to provide mobility needs for an ordinary life.”* This is not isolated; similar feedback (dated 08/12/2017) was received by a client of our service that a requested prosthetic limb *“is not considered value for money fo [sic] provide mobility needs for an ordinary life”*, despite being the only prosthetic limb that would meet the functional goals as identified on their NDIS plan. It appears what the NDIA considers the “mobility needs of an ordinary life” for an amputee is inconsistent with other population groups, contravening anti-discrimination legislation as set out in the National Disability Act, 1992.

#### 4. ACT-Specific Challenges

Many of our clients with long-term disabilities are not yet enrolled onto the NDIS and are unaware of changes to Territory-based funding schemes since the implementation of the NDIS. For example, artificial limbs for those under 65 years of age were previously funded directly through the ACT Government without need for formal enrolment or application to the ACT Artificial Limb Scheme. This funding no longer exists for those under 65 years of age, and they *must* enrol onto the NDIS to receive funding for repairs, maintenance and replacement of artificial limbs. These long-term clients typically only contact a service provider when their artificial limb needs repair or replacement, but unfortunately the urgency of their needs cannot be met. On average, clients of our service applying to access the NDIS are currently waiting 6-8 months before receiving funding for commencement of services. We as a service provider are unfairly picking up the cost of servicing these clients as they have no alternative means of mobility.

A further issue of delay in assessment has been highlighted by several of our clients who are viewed as ineligible for the NDIS due to “impermanence” of their disability. Within the ACT, clients with a disability that is not considered “permanent” but is expected to last longer than two years may be eligible to apply for equipment funding through the ACT Equipment Scheme (ACTES). New rules put into place by ACTES following the completion of the ACT rollout of the NDIS require all clients under the age of 65 to provide a letter from the NDIA with their ACTES funding request stating their ineligibility for the NDIS. This is even required by those clients who clearly do not meet the NDIS eligibility criteria. Clients can only receive this letter by going through the entire NDIS application process which, at present, is approaching 8 months, whereas assessment times for ACTES requests can be as little as 1 day. This has placed many of our clients directly and avoidably at risk while awaiting new equipment.

The current administrative arrangements for NDIS plans require formal assessment and development of a new plan to allow delivery of most complex supports. This results in months of waiting prior to the formal receipt of a decision and commencement of service delivery. The challenges of this inflexible structure are being frequently encountered by children with severe developmental impairments; surgeries and other medical therapies may occur with only a matter of one or two weeks’ notice. This results in key supportive treatment milestones being missed through lack of appropriate Agency responsiveness to formal treatment requests. Further, children with limb deficiencies are missing out on appropriate and necessary prosthetic supports due to poorly worded and inadequately justified NDIA

policies that are inconsistent with current best practice and governing legislation. These challenges were not seen with previous state- and territory-based funding models. Indeed, it is worth noting the Intergovernmental Agreement signed by COAG on 07/12/2012 that people receiving supports before becoming participants of the NDIS should:

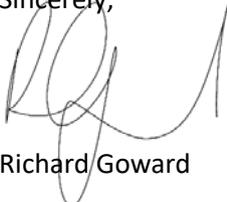
- not be disadvantaged by the transition to the NDIS; and
- be able to achieve at least the same outcomes (i.e. achieve at least the same level of social or economic participation or maintain the ability to undertake the same range of activities) in the NDIS as compared to those expected to be achieved by their previously provided support.

We are consistently seeing clients disadvantaged by the NDIS through inability to access timely or best-practice service and an inability to access services equal to what was previously provided through ACT-Government funding schemes.

**Recommendations:**

- Enforcement of the 2012 COAG agreement on the NDIS, ensuring:
  - ACT participants are no longer disadvantaged by their transition on to the NDIS, and;
  - ACT participants are able to achieve at least the same outcomes in the NDIS as compared to those expected to be achieved by their previously provided support.
- Implementation of formal timeframes for completion of all NDIA processes, including:
  - Responding to consumer enquiries;
  - Assessment of provider treatment requests; and
  - Processing of formal requests for review of reviewable decisions.
- Correction of current NDIA policies, guidelines and frameworks that do not comply with governing legislation (particularly in relation to the assessment of Assistive Technologies).
- Transition from an annual plan structure to ongoing plan structure with capacity for assessment of requests for new services as necessary. Such a structure will:
  - Reduce long-term administrative burden; and
  - Improve responsiveness of requests for services.
- Amendment ACT Equipment Scheme policy regarding applications for those under 65 years of age to allow applications to be made for those with temporary/non-permanent disabilities without the necessity for NDIS assessment.
- Increased consultation with participants and providers regarding proposed alterations to delivery of the NDIS.

Sincerely,



Richard Goward

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