

National Disability Services

Submission to the Victorian Parliamentary Scrutiny of Acts and Regulations Committee: Portable Long Service Benefits Scheme Draft Regulations and Regulatory Impact Statement

25 June 2020

Introduction

National Disability Services (NDS) is the peak body in Victoria and Australia for non-government disability service providers. NDS has more than 270 members in Victoria and over 1,200 members nationally. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Commonwealth governments. We have a diverse and vibrant membership, comprised of small, medium and larger service providers, supporting thousands of people with disability. Our members collectively provide the full range of disability services, from supported independent living and specialist disability accommodation, respite and therapy to community access and employment. Our members employ over 8,000 people in Victoria in delivering vital services.

NDS is committed to improving the disability service system to ensure it better supports people with disability and their families and carers, and to building a more inclusive community.

NDS welcomes the opportunity to comment on the draft Long Service Benefits Portability Regulations and the Regulatory Impact Statement (RIS). This submission is informed by extensive consultation with NDS members, who have provided examples of the impact and costs of the Long Service Benefits Scheme on their organisations, along with any issues, which may arise if the scope of the Scheme is related to award coverage.

Portable Long Service Scheme

NDS has previously argued that the Scheme is costly and onerous for employers, and not a cost effective strategy to address acknowledged challenges facing the disability workforce. While NDS supports measures that contribute to the availability, quality, skills and satisfaction of staff

employed in the disability services sector, there is a lack of evidence to suggest that portable long service leave is an effective workforce intervention. The Scheme is costly, complex administratively to implement, and is affecting the financial sustainability of disability services. The bulk of disability funding in Victoria is now provided via the National Disability Insurance Scheme. This uses a national lean pricing model that does not account for state based cost variations. Therefore, any additional state based employment costs operate as a financial penalty and unreasonably disadvantage Victorian providers.

Feedback received from NDS members has affirmed these points, particularly emphasising the negative cash-flow impact of the Scheme on organisations. For example, one provider comments that the Scheme is not only costing the equivalent to an additional two FTE's per annum, but is also reducing the organisation's ability to invest, thus further impacting on a significant source of their income generation. Other NDS members have cited the Scheme is costing an additional \$35,000 to \$100,000 per annum and have strongly opposed the need to pay into the Scheme from the first day of a worker's employment, given they may or may not be eligible for a long service benefits payment in the future. In the words of one disability provider, the Scheme adversely affects the balance sheets of organisations that already work on thin margins, adding an additional burden on Victorian providers in a national market.

Draft regulations

NDS notes that the Scheme has now been operating since 2019. Over recent months, NDS has been working with the Portable Long Service Authority to support disability services to understand requirements and implement the Scheme. Despite good quality communication and assistance from the Authority, it has been evident that implementation of the Scheme has been fraught. It has been complex and confusing, and created a substantial administrative burden for services. There have been many questions around the scope of the scheme, with some NDS members spending hours and hours analysing job roles and descriptions to determine eligibility.

Within this context, NDS acknowledges amendments made within the draft regulations to ensure greater clarity around the coverage and operational aspects of the portable long service benefits scheme. NDS supports the proposed regulations, particularly the abolishment of the employee predominance test in favour of a test based on award coverage. In general, the award coverage method is simpler, providing better clarity and equity; this includes removing

disincentives to career paths for workers who move to roles that are more senior. It is expected that there will be an increase in the number of eligible employees as administrative and managerial staff become covered, although we note that the cost of this is somewhat offset by improved clarity and equity. NDS also welcomes changes to the regulations that appear to clarify that double dipping cannot occur.

Conclusion

NDS continues to request that disability services be exempted from this state legislation. This scheme is not a cost efficient and effective strategy to address the range of challenges facing the disability workforce. Rather it is a cumbersome and administratively complex initiative, which adds to the cost and administrative burden of disability services. Its impact on cash flow is undermining the financial strength of services under substantial pressure due to NDIS transition, COVID-19 restrictions, and lean nationally based pricing.

That said the specific proposed changes to the regulations are supported by NDS. Defining the scope of the scheme based on award coverage is a welcome change that provides greater clarity as to who is considered an employee for the purposes of the community services sector. Whilst the cost impost of the scheme will continue to negatively impact disability services providers, simplifying the scheme's coverage test and making amendments, which indicate double dipping, cannot occur may go some way to lessen the administrative burden of the scheme's operationalisation.

A handwritten signature in black ink, appearing to read 'Fiona Still', is positioned above the typed name.

Fiona Still

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