

**SUBMISSION TO THE JOINT STANDING COMMITTEE ON THE NATIONAL
DISABILITY INSURANCE SCHEME (NDIS) INQUIRY INTO GENERAL ISSUES
AROUND THE IMPLEMENTATION AND PERFORMANCE OF THE NDIS**

Background to submission:

The Multicultural Disability Advocacy Association

The Multicultural Disability Advocacy Association (MDAA) of New South Wales (NSW) is the peak body for all people in NSW with disability and their families and carers, with a focus on those from a Culturally and Linguistically Diverse (CALD) / non-English Speaking (NES) background with disability. MDAA works to:

- Promote the rights of people from NES/CALD background with disability, their families and carers in NSW and make sure their rights are safe and protected;
- Get fair access to, and good results from, government and non-government services for people from NES/CALD background with disability and their families and carers in NSW;
- Improve the quality of life for people from NES/CALD background with disability and their families and carers;
- Increase the participation of people from NES/CALD background with disability and their families and carers in community activities.

MDAA assists people with disability, their families and carers with applying for the National Disability Insurance Scheme (NDIS) and, where relevant, appeal decisions. It is in this role that MDAA makes this submission.

The University of Notre Dame Australia

This submission has been prepared by Dr Louise St Guillaume, Lecturer and Discipline Coordinator of Sociology at The University of Notre Dame Australia and undergraduate Law/ Arts (Sociology) student at The University of Notre Dame Australia, Madeleine Murray. Dr St Guillaume has extensive experience investigating aspects of the NDIS. Dr St Guillaume completed a Doctorate in this field (St Guillaume, [2014](#)). Additionally, she has completed two projects investigating the extent to which people with disability on Job Seeker are eligible for the NDIS. One project was completed as a summer scholar at the Federal Parliamentary Library in 2014 and the other was completed as the E.G. Whitlam Fellow at the Whitlam Institute within Western Sydney University in 2019 (St Guillaume, [2020](#)).

Dr St Guillaume is currently working with MDAA on a project which investigates the experience of people from NES/CALD background with disability with the NDIS application and appeals process. Dr St Guillaume and MDAA hope to have the findings of their project on the NDIS application and appeals process for people from CALD and NES background with disability

by December 2020. We would welcome the opportunity share these findings with the Committee.

It is this project, and Dr St Guillaume's former research projects which sought to understand whether people with disability on Job Seeker are eligible for the NDIS and the Information, Linkages and Capacity Building (ILC) tier of the NDIS that inform this submission.

This submission is based on evidence, as such it seeks to use objective criteria to inform recommendations for the implementation and performance of the NDIS.

PEOPLE WITH DISABILITY ON JOB SEEKER AND THE NATIONAL DISABILITY INSURANCE SCHEME

Whilst it is understood that the NDIS is designed to provide disability supports for people with disability and the Disability Support Pension (DSP) is designed to provide economic support for people with disability, the fact that NDIS participants can be DSP recipients is acknowledged (Australian Federation of Disabled Organisations, 2020). **Less known is whether people with disability on Job Seeker are accessing the NDIS and their experience of navigating both systems.** The reforms made under the Howard government through the *Employment and Workplace Relations Legislation Amendments (Welfare to Work and Other Measures) Act 2005 (Cth)* meant that people with disability assessed as capable of working between 15-29 hours per week are no longer eligible for the DSP. Instead, they have to apply for an alternative social security payment, such as Job Seeker. Subsequent changes to DSP eligibility by various Australian Federal governments since this Act have increased the number of people with disability on the unemployment payment. As of December 2019 there were 311, 797 people with disability on Job Seeker (Australian Government, [2019](#)). Although, these numbers would have been significantly affected by the COVID-19 pandemic and the increased numbers of people applying for and accessing income support.

The fact that there could be people with disability on Job Seeker eligible for the NDIS and the ILC needs to be considered in reporting, data and in promotion of the NDIS. Eligibility for an individualised funding package is dependent on whether people with disability on Job Seeker meet the eligibility criteria. Yet in informal discussions with NDIS providers, providers were adamant that Job Seeker recipients would not be eligible for an individualised funding package. Despite this, recent research conducted as part of the E.G. Whiltam Fellowship found that one of the study participants had an individualised funding package through the NDIS and received Job Seeker. This participant was confused about why she was eligible for disability supports under the NDIS and yet subject to mutual obligation requirements as a Job Seeker recipient and not eligible for the DSP.

It is also difficult to determine who has and will have access to the supports provided under the ILC. While it is important to acknowledge that the ILC is currently being implemented, it is likely that people with disability on Job Seeker would be eligible for these supports. Yet as the ILC currently operates through awarding grants to initiatives and programs, it would depend on which organisations, initiatives and programs were awarded grants, and whether the programs funded had eligibility requirements which must be met as to whether people with disability on Job Seeker would benefit. **Inadvertently, however, the work done through parts of the ILC could assist people with disability on Job Seeker.** For example, community awareness and capacity building endeavours could help people with disability on Job Seeker to meet their mutual obligation requirements with the government (where relevant) and/ or find employment. As such, **it would be worth considering how the programs funded through the ILC could support people with disability on Job Seeker and how the grants could be awarded on this basis for some of the funding rounds.**

Despite this potential **there are no clear guidelines on how the ILC works alongside the expectations placed on people with disability on Job Seeker by Centrelink.** For example, if someone with disability on Job Seeker participates in a program funded through the economic and community building grants round, are they still required to find, search and apply for employment and could the program serve as meeting their program of support requirements as Job Seeker recipients?

In response to the above we make the following recommendations:

RECOMMENDATION 1: As the NDIS continues to be implemented, it is important that people with disability on Job Seeker are recognised as potential participants in the NDIS and ILC and that this is reflected in reporting, data, promotion and NDIS/ ILC take up by Job Seekers with disability.

RECOMMENDATION 2: Assertive outreach should be used to ensure that people with disability on Job Seeker are able to access the supports which they require through the NDIS and are supported and assisted with applying for an individualised funding packages.

RECOMMENDATION 3: That careful consideration is given to how the income support and disability support systems intersect and govern people with disability, and how they both seek to enable social and economic participation.

PEOPLE FROM CALD/ NES BACKGROUND WITH DISABILITY APPLYING AND APPEALING

The National Disability Insurance Agency (NDIA) whose role it is to implement the NDIS, have developed a Cultural and Linguistic Diversity Strategy (NDIA, [2018](#)). The Cultural and Linguistic Diversity Strategy “is the NDIA’s public statement of commitment to working

alongside people with disability from CALD backgrounds to achieve access to, and outcomes from, their NDIS Plan on an equal basis with the broader population” (NDIA, [2018](#)).

However, despite the Strategy, **research shows that people from CALD and NES background with disability are experiencing difficulties accessing the NDIS** (Mortimer & McMahon, [2018](#)). Data indicates that the number of people from NES and CALD background with disability accessing the NDIS are well below rates of disability documented (National Ethnic Disability Alliance (NEDA), [2019](#)). Furthermore, NEDA has described the strategy as “ineffective” because “it has no implementation plan or real concrete measures” (NEDA, [2019](#)).

In their experience as an advocacy organisation which works closely with people from CALD backgrounds with disability applying for, managing their plans and appealing decisions made by the NDIA, the Multicultural Disability Advocacy Association (MDAA) has identified several problems with aspects of the NDIS for their clients. One problem they have identified is barriers to applying for the NDIS and appealing NDIA decisions. Based on their work, it is clear that some of these barriers could be related to the medical evidence which is required to be provided. Understanding the barriers that people from CALD and NES background with disability have to applying and appealing is important because MDAA is concerned that people from CALD and NES background with disability may decide not to pursue the appeal or may decide not to apply for support through the NDIS because the experience of going through the appeals process is too difficult.

Medical evidence

In MDAA’s experience, obtaining medical evidence is difficult for people from CALD and NES background with disability. **Attending doctors and specialist appointments to acquire medical evidence is expensive.** An evaluation of the Administrative Appeals Tribunal records appealing NDIA decisions over the last two years indicates how crucial medical evidence is in successful appeals. The difficulties that people from CALD and NES background with disability have to obtaining medical evidence and the cost of this evidence can significantly impact on the number of people from CALD and NES background accessing the NDIS.

Furthermore, often the medical evidence obtained is not comprehensive. While the NDIA provides information for general practitioners on how to complete the paperwork for NDIS

applications and there is a lot of information for participants, an evaluation of this information and its accessibility found that it was difficult to find on the NDIS website. Additionally, the information on *how* general practitioners can provide evidence for appeals is almost non-existent with more comprehensive information on billing and no information on a doctor's role in the appeals process, how to appeal and what supports can be provided to clients if a claim gets rejected.

The information provided to medical professionals should take into consideration how people from CALD and NES background with disability, their family and carers may understand disability differently. Likewise, how the role of family and carers could be understood differently by people from CALD and NES background with disability and their family. If this is the case, then this needs to be accommodated, acknowledged and understood. Including such information on documentation provided to general practitioners could improve the rates of NDIS approvals. It is also crucial to understand that some people may have a fear of medical professionals and their authority. This could impact on access to disability supports and therefore should be taken into consideration in the way that the NDIA and medical professionals work with people from CALD and NES background with disability, their family and carers when applying for the NDIS.

In response to the above we make the following recommendations:

RECOMMENDATION 4: The cost of medical evidence needs to be taken into consideration. This could include an explicit process for paying for further medical evidence, such as meeting at least 2 of the 5 eligibility criteria.

RECOMMENDATION 5: Clear and easy to understand or follow information for general practitioners on *how* to provide evidence for NDIA appeals cases needs to be easily available and accessible on the NDIA website.

RECOMMENDATION 6: The information provided to general practitioners needs to be more comprehensive and not entirely focused on billing information.

RECOMMENDATION 7: The information provided to general practitioners should be designed to accommodate the experiences of people from CALD and NES background with disability, their families and carers.

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