



AAT Case Management Guide

Access for Chronic Health Conditions

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Field	Content	Reference Documents
Title	Access for Chronic Health Conditions	
Purpose	This document is part of a suite of guidance documents for case managers to use in formulating their approach to managing individual cases before the Administrative Appeals Tribunal (AAT).	
Scope	For the purposes of this guidance document, chronic health conditions refer to a broad range of chronic and complex health conditions across the spectrum of illnesses. The eight major chronic conditions identified by the Australian Institute of Health and Welfare are arthritis, asthma, back pain, cancer, cardiovascular disease, chronic obstructive pulmonary disease, diabetes, and mental health conditions.	National Strategic Framework for Chronic Conditions About chronic conditions Australian Government Department of Health and Aged Care
Escalation to Hearing Oversight Committee (HOC)	If a matter is within the parameters of this document, the AAT Case Management Branch Manager may approve proceeding to hearing. Where there is substantial risk or the matter is outside the parameters of this document, the matter should be referred to HOC.	
Current National Disability Insurance Agency (NDIA) policy on the subject	<p>The AAT process is often seen as stressful and adversarial by the participants and our focus should be on resolving issues as practicably and quickly as possible. The role of the NDIA is to assist the AAT and the participant in reaching the best possible resolution for the participant by agreement.</p> <p>To be eligible for access to the Scheme on the basis of a chronic health condition, an applicant's chronic health condition must satisfy the disability requirements. A chronic health condition satisfies the disability requirements if:</p> <ul style="list-style-type: none"> it is caused by an intellectual, cognitive, neurological, sensory, psychological, or physical impairment; and it is likely to be permanent; and it substantially reduces an applicant's functional capacity; and 	NDIA Dispute Resolution Policy Appendix B to the Legal Services Directions 2017 Sections 24 and 25 of the National Disability Insurance Scheme Act 2013 Rules 5, 6 and 7 of the National Disability Insurance Scheme (Becoming a Participant) Rules 2016



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	<ul style="list-style-type: none"> it affects an applicant’s ability to work, study or take part in their social life; and an applicant will likely need the support of the Scheme for the remainder of their life. <p>Alternatively, an applicant will be eligible for access to the Scheme if they satisfy the early intervention requirements on the basis of their chronic health condition, meaning:</p> <ul style="list-style-type: none"> the chronic health condition is likely to be permanent; early intervention supports are likely to reduce the need for need future supports; the early intervention needed is most appropriately funded by the NDIA. 	<p>Operational Guideline – Applying to the NDIS</p> <p>Eligibility and medical conditions FAQ NDIS</p>
<p>NDIA Posture in relation to this subject</p>	<p>It is important that each matter is determined on its own merit, based on the available evidence. There is not a blanket ‘yes’ or ‘no’ response to the question of whether individuals with chronic health conditions should be permitted access to the Scheme. The response will primarily rely on whether the Scheme is the most appropriate system to fund an individual’s disability support needs.</p>	<p>Inquiry report - Disability Care and Support Productivity Commission</p> <p>Council of Australian Governments (COAG) – Principles to determine responsibilities of the NDIS and other service systems</p>
<p>Evidence recommended to inform NDIA position in a specific matter before the Administrative Appeals Tribunal (AAT)</p>	<p>To consider an applicant’s eligibility to access the Scheme, the NDIA requires recent evidence from a health care professional which confirms an applicant’s disability, its impacts on the applicant’s functional capacity, previous treatments, and outcomes, as well as future treatment options and expected outcomes.</p> <p>It is important that the health care professional giving evidence is the most appropriate person to provide that evidence, and that they have treated the applicant for a significant period of time.</p>	<p>Providing evidence of your disability NDIS</p> <p>Types of disability evidence NDIS</p> <p>Persons Giving Expert and Opinion Evidence Guideline Administrative Appeals Tribunal</p>
<p>Other considerations</p>	<p>To satisfy the access requirements, a participant’s chronic health condition must be evidenced to substantially reduce their functional capacity.</p>	<p>Section 24(1)(c) of the National Disability Insurance Scheme Act 2013</p>



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	<p>The NDIA will not fund supports for chronic health conditions that are unrelated to a participant’s disability. For example, the NDIA may approve access to the Scheme on the basis of a limb amputation as a result of peripheral arterial disease within the setting of diabetes but will not fund supports related to the treatment or management of peripheral arterial disease or diabetes.</p>	<p>Rule 5.8 of the National Disability Insurance Scheme (Becoming a Participant) Rules 2016</p> <p>Eligibility and medical conditions FAQ NDIS</p>
<p>Previous matters that may advise the NDIA position</p>	<p>The determination of the AAT regarding whether an applicant’s chronic health condition satisfies the requirements for access to the Scheme will usually turn on the question of a <i>substantial reduction</i> in an applicant’s functional capacity.</p> <p>The test is not whether or not the chronic health condition is significant, but whether or not the legislative requirements for access are met on the balance of the available evidence.</p> <p>In each of these cases, the AAT affirmed the decision under review on the basis that the AAT was not satisfied that the applicants’ chronic health condition substantially reduced their functional capacity.</p>	<p>CKJW and National Disability Insurance Agency [2021] AATA 3983</p> <p>Mulligan and National Disability Insurance Agency [2015] AATA 974</p> <p>Nika and National Disability Insurance Agency [2021] AATA 2127</p>
<p>Document admin</p>	<p>Quality, Strategy and Training</p>	<p>4 January 2023</p>
<p>Approved</p>	<p>Matthew Swainson, Chief Counsel</p>	

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