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	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. 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: • 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*

	• 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. 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: • 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.	*Operational Guideline – Applying to the NDIS* Eligibility and medical conditions FAQ | NDIS
NDIA Posture in relation to this subject	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.	Inquiry report - Disability Care and Support | Productivity Commission Council of Australian Governments (**COAG**) – Principles to determine responsibilities of the NDIS and other service systems
Evidence recommended to inform NDIA position in a specific matter before the Administrative Appeals Tribunal (**AAT**)	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. 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.	Providing evidence of your disability | NDIS Types of disability evidence | NDIS Persons Giving Expert and Opinion Evidence Guideline | Administrative Appeals Tribunal
Other considerations	To satisfy the access requirements, a participant's chronic health condition must be evidenced to ***substantially*** reduce their functional capacity.	Section 24(1)(c) of the *National Disability Insurance Scheme Act 2013*

	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.	Rule 5.8 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016* Eligibility and medical conditions FAQ | NDIS
Previous matters that may advise the NDIA position	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 ***substantial reduction*** in an applicant's functional capacity. 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. 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.	CKJW and National Disability Insurance Agency [2021] AATA 3983 *Mulligan and National Disability Insurance Agency* [2015] AATA 974 *Nika and National Disability Insurance Agency [2021] AATA 2127*
Document admin	Quality, Strategy and Training	4 January 2023
Approved	Matthew Swainson, Chief Counsel	

AAT Case Management Guide

Capacity Building Supports

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Field	Content	Reference Documents
Title	**Capacity Building Supports**	
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	Capacity building (**CB**) supports refer to a range of supports which help a participant build their skills and increase their independence. Capacity building supports are grouped under the following support categories: • Support coordination • CB Home Living • CB Social Community and Civic Participation • CB Employment • CB Relationships • CB Health and Wellbeing • CB Lifelong Learning • CB Choice and Control • CB Daily Activity	What are the support budgets in your plan? | NDIS Support budgets in your plan | NDIS
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	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. The NDIA will fund capacity building supports which: • relate to a participant's disability; and • meet the NDIS funding criteria; and • are most appropriately funded by the NDIS. Capacity building supports meet the NDIS criteria if:	NDIA Dispute Resolution Policy Appendix B to the *Legal Services Directions 2017* Section 34(1) of the *National Disability Insurance Scheme Act 2013* Rule 5.1 of the *National Disability Insurance Scheme (Supports for*

	• they will assist a participant to pursue their goals, objectives, and aspirations; and • they will assist a participant to take part in their social and work life; and • they are effective and beneficial; and • represent good value for money, compared to other supports that may achieve the same outcome or reduce a participant's need for future supports; and • they take account of what is reasonable for families, carers, informal networks, and the community to provide; and • are legal and safe to provide. Where capacity building supports are to be funded as early intervention supports, the NDIA must also be satisfied that they are likely to reduce a participant's need for future disability supports.	*Participants) Rules 2013* Schedule 1 of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* How we work out if a support meets the funding criteria | NDIS
NDIA Posture in relation to this subject	The NDIA must closely consider a participant's individual circumstances – in particular, their functional capacity as well the effectiveness of the supports and their value for money. The NDIA must also consider the role of mainstream service delivery systems in meeting a participant's support needs. The capacity building supports considered reasonable and necessary to provide will differ from one participant to another. For example: • For participants younger than 9 years of age, the focus of the NDIA is about giving participants the best possible start in life, with an emphasis on their development, theirs and their family's wellbeing, and their ability to take part in the community. Capacity building supports which aid a participant in these areas are more likely to be considered reasonable and necessary. This includes Support Coordination, CB Social Community and Civic Participation, CB Relationships, CB Health and Wellbeing and CB Daily Activity. • When a participant reaches 9 years of age, the NDIA recognises that they are likely participating in education. The education system shares in the community's responsibility to help a participant build their	*Operational Guideline – Reasonable and necessary supports* *Operational Guideline – Early childhood approach* *Operational Guideline – Mainstream and community supports overview* *Operational Guideline – Mainstream and community supports interface* Employment | NDIS Rule 5.1 of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013*

	skills and increase their independence through school-based therapy delivered in schools. In this context, the NDIA is unlikely to fund capacity building supports that represent a duplication of the supports provided by the education system. This includes supports such as CB Social Community and Civic Participation, CB Relationships, CB Health and Wellbeing and CB Daily Activity. • From the age of 14 years, the NDIA recognises that a participant may have concluded their schooling career and that their goals, aspirations, and objectives are more likely to tend towards furthering their education, seeking employment, and building relationships. Capacity building supports which target these areas are more likely to be reasonable and necessary; this includes supports like CB Employment, CB Lifelong Learning, CB Relationships, CB Health and Wellbeing and CB Daily Activity. • For adult participants, the NDIA is most likely to fund capacity building supports which will help a participant build their skills to progress their career and live independently. These supports include Support Coordination, CB Choice and Control, CB Employment, CB Home Living, CB Health and Wellbeing and CB Daily Activity.	
Evidence recommended to inform NDIA position in a specific matter before the Administrative Appeals Tribunal (**AAT**)	The NDIA will refer to clinical evidence that capacity building supports will be and may have been in the past, effective, and beneficial for the participant's functional capacity. This evidence would ordinarily be provided by an occupational therapist, psychologist, or physiotherapist. Clinical evidence is to also address the link between capacity building supports and a participant's individual goals and specify how the capacity building supports will be utilised to assist the participant in achieving those goals. The NDIA will also rely on available evidence to consider whether capacity building supports represent good value for money when compared to	Types of disability evidence | NDIS Rules 3.1 – 3.4 of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* Persons Giving Expert and Opinion Evidence Guideline | Administrative Appeals Tribunal

	alternative support options which may have a similar outcome at a cheaper cost.	
Other considerations	The NDIA is unable to fund capacity building supports which constitute a day-to-day living cost, or which acts as income stream replacement. *Note: Capacity building support funding cannot be moved between Capacity Building support categories.* The nature of capacity building supports leads to them no longer being reasonable and necessary over time. The provision and funding of these types of support therefore may fluctuate depending on the effect on the participant's needs. Additionally, if capacity building supports have successfully aided a participant in building their independence, the participants need for other supports is expected to decrease as time progresses.	Rules 5.1 and 5.3(b) of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* *Operational Guideline – Reasonable and necessary supports* Support budgets in your plan | NDIS
Previous matters that may advise the NDIA position		
Document admin	Quality, Strategy and Training	5 July 2023
Approved	Matthew Swainson, Chief Counsel	

Case Management Guide

Capacity Building

Field	Category	Reference Documents
Title	**Capacity Building**	
Purpose	This document is part of a suite of guidance documents for Case Managers to use in formulating their approach to managing individual matters before the Administrative Review Tribunal (**ART**). This Guide applies nationally to the conduct of all matters within the ART Case Management Branch.	
Scope	Capacity building (**CB**) supports refer to a range of supports which help a participant build their skills and increase their independence. Capacity building supports are grouped under the following support categories: • Support coordination • CB Home Living • CB Social Community and Civic Participation • CB Employment • CB Relationships • CB Health and Wellbeing • CB Lifelong Learning • CB Choice and Control • CB Daily Activity	What are the support budgets in your plan? | NDIS Support budgets in your plan | NDIS
NDIA policy on this subject	The ART process is often seen as stressful and adversarial by participants and prospective participants of the Scheme. The NDIA will adopt a participant-focused approach to resolving disputes before the ART, and will work directly with participants and prospective participants to provide better and earlier outcomes, where possible. The role of the NDIA is to assist the ART in reaching the correct and preferable decision, including by assisting participants and prospective participants in reaching the best possible resolution by agreement. The NDIA will fund capacity building supports which: • relate to a participant's disability; and • meet the NDIS funding criteria; and • are most appropriately funded by the NDIS.	NDIA Dispute Resolution Policy Appendix B to the *Legal Services Directions 2017* Section 34(1) of the *National Disability Insurance Scheme Act 2013* Rule 5.1 of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* Schedule 1 of the *National Disability Insurance Scheme*

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Capacity Building

Field	Category	Reference Documents
	Capacity building supports meet the NDIS criteria if: • they will assist a participant to pursue their goals, objectives, and aspirations; and • they will assist a participant to take part in their social and work life; and • they are effective and beneficial; and • represent good value for money, compared to other supports that may achieve the same outcome or reduce a participant's need for future supports; and • they take account of what is reasonable for families, carers, informal networks, and the community to provide; and • are legal and safe to provide. Where capacity building supports are to be funded as early intervention supports, the NDIA must also be satisfied that they are likely to reduce a participant's need for future disability supports.	*(Supports for Participants) Rules 2013* How we work out if a support meets the funding criteria | NDIS
NDIA posture in relation to this subject	The NDIA must closely consider a participant's individual circumstances – in particular, their functional capacity as well the effectiveness of the supports and their value for money. The NDIA must also consider the role of mainstream service delivery systems in meeting a participant's support needs. The capacity building supports considered reasonable and necessary to provide will differ from one participant to another. For example: • For participants younger than 9 years of age, the focus of the NDIA is about giving participants the best possible start in life, with an emphasis on their development, theirs and their family's wellbeing, and their ability to take part in the community. Capacity building supports which aid a participant in these areas are more likely to be considered reasonable and necessary. This includes Support Coordination, CB Social Community and Civic Participation, CB Relationships, CB Health and Wellbeing and CB Daily Activity.	*Operational Guideline – Reasonable and necessary supports* *Operational Guideline – Early childhood approach* *Operational Guideline – Mainstream and community supports overview* *Operational Guideline – Mainstream and community supports interface* Employment | NDIS Rule 5.1 of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013*

Field	Category	Reference Documents
	• When a participant reaches 9 years of age, the NDIA recognises that they are likely participating in education. The education system shares in the community's responsibility to help a participant build their skills and increase their independence through school-based therapy delivered in schools. In this context, the NDIA is unlikely to fund capacity building supports that represent a duplication of the supports provided by the education system. This includes supports such as CB Social Community and Civic Participation, CB Relationships, CB Health and Wellbeing and CB Daily Activity. • From the age of 14 years, the NDIA recognises that a participant may have concluded their schooling career and that their goals, aspirations, and objectives are more likely to tend towards furthering their education, seeking employment, and building relationships. Capacity building supports which target these areas are more likely to be reasonable and necessary; this includes supports like CB Employment, CB Lifelong Learning, CB Relationships, CB Health and Wellbeing and CB Daily Activity. • For adult participants, the NDIA is most likely to fund capacity building supports which will help a participant build their skills to progress their career and live independently. These supports include Support Coordination, CB Choice and Control, CB Employment, CB Home Living, CB Health and Wellbeing and CB Daily Activity.	
Evidence recommended to inform NDIA position in a matter before the ART	The NDIA will refer to clinical evidence that capacity building supports will be and may have been in the past, effective, and beneficial for the participant's functional capacity. This evidence would ordinarily be provided by an occupational therapist, psychologist, or physiotherapist.	Types of disability evidence | NDIS Rules 3.1 – 3.4 of the *National Disability Insurance Scheme*

Field	Category	Reference Documents
	Clinical evidence is to also address the link between capacity building supports and a participant's individual goals and specify how the capacity building supports will be utilised to assist the participant in achieving those goals. The NDIA will also rely on available evidence to consider whether capacity building supports represent good value for money when compared to alternative support options which may have a similar outcome at a cheaper cost.	*(Supports for Participants) Rules 2013* Persons Giving Expert and Opinion Evidence Guideline | Administrative Appeals Tribunal
Other considerations	The NDIA is unable to fund capacity building supports which constitute a day-to-day living cost, or which acts as income stream replacement. *Note: Capacity building support funding cannot be moved between Capacity Building support categories.* The nature of capacity building supports leads to them no longer being reasonable and necessary over time. The provision and funding of these types of support therefore may fluctuate depending on the effect on the participant's needs. Additionally, if capacity building supports have successfully aided a participant in building their independence, the participants need for other supports is expected to decrease as time progresses.	Rules 5.1 and 5.3(b) of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* *Operational Guideline – Reasonable and necessary supports* Support budgets in your plan | NDIS
Previous matters that may inform the NDIA position		

Document Control	Responsible Person	Date
Document author	Continuous Improvement	[date]
Document approver	Director, Continuous Improvement	[date]

AAT Case Management Guide

Assistive Technology: Low-Cost Consumables

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Field	Content	Reference Documents
Title	**Assistive Technology (AT): Low-Cost Consumables**	
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	Low-cost assistive technology (**AT**) assists participants to do things more easily or safely. Funding for low-cost AT is included in a planned *consumables* budget, which enables a participant to purchase the low-cost AT they require. Low-cost AT consumables are any which are charged at $1,500.00 per item or less, such as: • continence products • non-slip bathmats • large print labels • walking sticks • basic shower chairs	*Operational Guideline – Assistive Technology* *Operational Guideline – Reasonable and necessary supports* Reasonable and necessary supports | NDIS NDIA Assistive Technology & Consumables Code Guide Section 34 of the *National Insurance Disability Scheme Act 2013*
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	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. The NDIA is unable to provide low-cost AT funding for items which are: • considered an ordinary living cost (utilities); • applications or software intended for the continuity of support, as this is generally free, very low cost, or provided by a Provider; • additional hardware or accessories, other than standard protective cases.	NDIA Dispute Resolution Policy Appendix B to the *Legal Services Directions 2017* Assistive Technology – Guide for low cost support funding | NDIA Flexible low cost AT for support continuity | NDIS

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Assistive Technology: Low-Cost Consumables

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NDIA Posture in relation to this subject	The NDIA must consider whether funding for low-cost AT is more appropriately provided by other mainstream service delivery systems. Because every case is unique, and the needs of an individual participant may change over time, the NDIA will consider whether it would be preferable to rent, as opposed to buying, a particular item.	Assistive technology explained | NDIS How do we fund assistive technology? | NDIS
Evidence recommended to inform NDIA position in a specific matter before the Administrative Appeals Tribunal (**AAT**)	The NDIA will support and encourage participants to provide detailed assessments detailing their low-cost AT needs and quotes to substantiate the amount of low-cost AT funding available in their plan. The NDIA will rely on the best available evidence in forming a view, including expert evidence, medical evidence, opinion evidence and witness statements.	Assistive technology product risk table | NDIS Persons Giving Expert and Opinion Evidence Guideline | Administrative Appeals Tribunal
Other considerations	Participants should generally not be expected or need to spend more than $750 on maintenance costs. Generally, participants should not be expected or need to spend more than $600 on a standard tablet, computer, or iPad in order to participant in online video classes. The COVID-19 pandemic changed the way in which some supports can be delivered, with greater reliance on technology to enable the continuity of support delivery (such as through telehealth and video conferencing). The NDIA will continue its flexible approach to AT to accommodate these changes.	Flexible low cost AT for support continuity | NDIS
Previous matters that may advise the NDIA position		
Document admin	Quality, Strategy and Training	4 January 2023
Approved	Matthew Swainson, Chief Counsel	

Case Management Guide

Assistive Technology (AT): Low Cost-Consumables

Field	Category	Reference Documents
Title	**Assistive Technology (AT): Low-Cost Consumables**	
Purpose	This document is part of a suite of guidance documents for Case Managers to use in formulating their approach to managing individual matters before the Administrative Review Tribunal (**ART**). This Guide applies nationally to the conduct of all matters within the ART Case Management Branch.	
What is low-cost assistive technology?	Low-cost assistive technology (**AT**) assists participants to do things more easily or safely. Funding for low-cost AT is included in a planned *consumables* budget, which enables a participant to purchase the low-cost AT they require. Low-cost AT consumables are any which are charged at $1,500.00 per item or less, such as: • continence products • non-slip bathmats • large print labels • walking sticks • basic shower chairs	*Operational Guideline – Assistive Technology* *Operational Guideline – Reasonable and necessary supports* Reasonable and necessary supports | NDIS NDIA Assistive Technology & Consumables Code Guide Section 34 of the *National Insurance Disability Scheme Act 2013*
Policy statement	The ART process is often seen as stressful and adversarial by participants and prospective participants of the Scheme. The NDIA will adopt a participant-focused approach to resolving disputes before the ART, and will work directly with participants and prospective participants to provide better and earlier outcomes, where possible. The role of the NDIA is to assist the ART in reaching the correct and preferable decision, including by assisting participants and prospective participants in reaching the best possible resolution by agreement.	NDIA Dispute Resolution Policy Appendix B to the *Legal Services Directions 2017* Schedule 1 and 2 *National Disability Insurance Scheme (NDIS Supports) Transitional Rules 2024*

Case Management Guide

Assistive Technology (AT): Low Cost-Consumables

Field	Category	Reference Documents
	The NDIA is unable to provide low-cost AT funding for items which are: • not NDIS supports; • considered an ordinary living cost (utilities); • applications or software intended for the continuity of support, as this is generally free, very low cost, or provided by a Provider; and/or • additional hardware or accessories, other than standard protective cases.	Assistive Technology – Guide for low cost support funding | NDIA Flexible low cost AT for support continuity | NDIS
Approach to ART matters	The NDIA will fund all reasonable and necessary low-cost AT, where that support is a NDIS support. Because every case is unique, and the needs of an individual participant may change over time, the NDIA will consider whether it would be preferable to rent, as opposed to buying, a particular item.	Assistive technology explained | NDIS How do we fund assistive technology? | NDIS What does NDIS fund? | NDIS
Evidence recommended	The NDIA will support and encourage participants to provide detailed assessments detailing their low-cost AT needs and quotes to substantiate the amount of low-cost AT funding available in their plan. Low-cost AT which poses a higher risk – including, but not limited to, bed sticks and other transfer aids, bed rails, bed covers, weighted blankets and pressure cushions – will generally require advice from an AT Advisor or AT Assessor, to ensure appropriate funding is provided. If the requested AT is low cost and **low risk,** TAPIB suggest that advice be obtained from an AT Advisor about the specific item that will best meet the participant's needs. However, if the requested AT is low cost and higher risk, it is necessary to obtain **written** advice from an AT Advisor on whether the AT is safe and appropriate for the participant, and on whether there are other suitable and safer alternatives.	Assistive technology product risk table | NDIS Persons Giving Expert and Opinion Evidence Guideline | Administrative Appeals Tribunal Fact Sheet – Understand Assistive Technology evidence, advice, assessment and quotes

Case Management Guide

Assistive Technology (AT): Low Cost-Consumables

Field	Category	Reference Documents
	The NDIA will rely on the available evidence in forming a view, including expert evidence, medical evidence, opinion evidence and witness statements.	
Other considerations	Participants should generally not be expected or need to spend more than $750 (per year) on maintenance costs. Generally, where replacement supports have been considered, participants should not need to spend more than $600 on a standard tablet or computer..	Flexible low cost AT for support continuity | NDIS

Document Control	Responsible Person	Date
Document author	Continuous Improvement	November 2024
Document approver	Director, Continuous Improvement	20 November 2024

AAT Case Management Guide

Disability Related Health Supports

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Field	Content	Reference Documents
Title	**Disability Related Health Supports**	
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	Disability-related health supports are health supports which directly relate to the functional impact of a participant's disability on their functional capacity. Disability-related health supports help the participant partake in their day-to-day life, become more independent, and pursue their goals.	Disability-related health supports How do we decide what disability-related health supports we fund? | NDIS
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	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. The NDIA will fund all reasonable and necessary supports which meet the NDIS funding criteria. This means that the NDIA will fund all disability related health supports which: • directly relate to a participant's disability; • help increase a participant's social and economic participation; • are effective and beneficial; • represent good value for money, in comparison to other supports which the NDIA may fund; and • would not be more appropriately funded by another mainstream service delivery system Particularly in the context of disability-related health supports, the NDIA is unable to fund supports which	NDIA Dispute Resolution Policy Appendix B to the *Legal Services Directions 2017* Sections 34(1) *National Disability Insurance Scheme Act 2013* Dysphagia supports | NDIS Nutrition supports including meal preparation | NDIS Diabetes management supports | NDIS Continence Supports | NDIS Wound and Pressure Care Supports | NDIS

	would more appropriately be funded by another mainstream service delivery system. Common examples of what this means the NDIA is able to fund include: *Dysphagia supports* • low-cost assistive technology (equipment or devices to help a participant eat and drink) • thickener products • help to prepare specific foods • a support worker • a speech pathologist, to make and implement a mealtime management plan and train support workers, family and/or carers *Nutrition supports* • a dietician, to create a disability-related meal plan for a participant • support to help follow that meal plan • Home Enteral Nutrition (**HEN**) and Percutaneous Endoscopic Gastrostomy (**PEG**) equipment • other products which may help a participant eat safely, and acquire the nutrition they need (such as good thickeners) • support to manage HEN and PEG strategies *Diabetes management supports* • a nurse or otherwise qualified person to create a disability-related diabetes management plan • support to follow that management plan • a support worker, to monitor glucose levels and administer insulin or other medication • training for support workers • a nurse or otherwise qualified person to monitor glucose levels and administer insulin or other medication (for participants with unstable diabetes, and/or complex disability support needs) • assistive technology to help manage diabetes, which a participant is otherwise unable to acquire through the healthcare system *Continence supports*	Podiatry and foot care supports | NDIS Epilepsy Supports | NDIS Assistive technology | NDIS What if you need someone with training to provide the support you need? | NDIS

	• pads and/or nappies • bedding and/or chair protection • liners or shields • anal plugs • collection bags • bottles • strapsor tape • professional training for someone to assist a participant with bodily functions and hygiene • continence assessment(s) • a bed wetting alarm *Wound and pressure care supports* • an enrolled/registered/clinical nurse consultant to develop a wound management plan or pressure care plan • a support worker, enrolled/registered/clinical nurse to help implement that management plan or care plan • training for a support worker to help implement that pressure care plan • wound care items (gauze, bandages, dressing and tape) • items to prevent wounds (including pressure relief cushions, moisturiser, barrier creams and non-PH washes) • review and planning of pressure care positioning • support to manage lymphoedema *Podiatry supports* • an initial consultation and assessment by a podiatrist, including the development of a podiatry care plan • regular re-assessment(s) during a care plan • appointments with a podiatrist to assist with overall foot care and foot health • a support worker • assistive technology (orthoses, custom made orthoses, medical grade/custom footwear, as well as maintenance and repair) *Epilepsy supports* • funding and training for a support worker to follow an epilepsy management plan	

	• a nurse or support worker to monitor seizures • assistive technology (such as alarms or seizure monitors) • support coordination	
NDIA Posture in relation to this subject	The NDIA will fund all reasonable and necessary disability-related health supports which would not more appropriately be funded by any other mainstream service delivery system.	How do we work out who should fund or provide your supports? | NDIS
Evidence recommended to inform NDIA position in a specific matter before the Administrative Appeals Tribunal (**AAT**)	The NDIA must first consider whether a particular support would be more appropriately funded by the any other mainstream service system. The nature and level of evidence then required to inform the NDIA position will depend on the particular disability and support in question. For example, funding for: • dysphagia supports – will be informed by evidence provided by a speech pathologist • nutrition supports – will be informed by evidence provided by a dietician, or other suitably qualified health professional • continence supports – will be informed by evidence provided by a continence nurse, or other suitably qualified health professional • diabetes management supports, wound and pressure care supports, podiatry supports, and epilepsy supports – will be informed by evidence provided by a suitably qualified health professional Matters concerning the provision of disability-related health supports will turn on the facts of each particular case, and the evidence available. The NDIA will seek to ensure the best possible evidence is made available to help guide the AAT towards the best possible outcome for the participant.	Persons Giving Expert and Opinion Evidence Guideline | Administrative Appeals Tribunal
Other considerations	Where a participant also receives support from any other mainstream service delivery system, the NDIA expects that the participant ensures NDIS funding is not used to fund support(s) of the kind funded by that other mainstream service delivery system.	

Previous matters that may advise the NDIA position	Funding for general support to maintain an eating plan, as well as thickened fluids and nutritional supplements constitutes a reasonable and necessary support. The AAT set aside the decision under review.	*Burchell and National Disability Insurance Agency* [2019] AATA 1256
	Additional funding for continence products was not a reasonable and necessary support, as existing plan funding for continence products remained unused. In the absence of any evidence supporting the participant's request for specialised shoes, the AAT could not be satisfied that it would be reasonable or necessary for the NDIA to fund that support. The AAT Affirmed the decision under review.	*Hoolachan and National Disability Insurance Agency* [2019] AATA 4798
Document admin	Assistant Director, Policy, Continuous Improvement	10 September 2024
Approved	Director, Continuous Improvement	10 September 2024

Case Management Guide

Disability Related Health Supports

Field	Category	Reference Documents
Title	**Disability Related Health Supports**	
Purpose	This document is part of a suite of guidance documents for Case Managers to use in formulating their approach to managing individual matters before the Administrative Review Tribunal (**ART**). This Guide applies nationally to the conduct of all matters within the ART Case Management Branch.	
What are disability-related health supports?	Disability-related health supports are health supports which directly relate to the functional impact of a participant's disability on their functional capacity. Disability-related health supports help the participant partake in their day-to-day life, become more independent, and pursue their goals.	Disability-related health supports How do we decide what disability-related health supports we fund? | NDIS
Policy statement	The ART process is often seen as stressful and adversarial by participants and prospective participants of the Scheme. The NDIA will adopt a participant-focused approach to resolving disputes before the ART, and will work directly with participants and prospective participants to provide better and earlier outcomes, where possible. The role of the NDIA is to assist the ART in reaching the correct and preferable decision, including by assisting participants and prospective participants in reaching the best possible resolution by agreement. The NDIA will fund all reasonable and necessary supports which meet all of the NDIS funding criteria. This means that the NDIA will fund all disability related health supports which: • are NDIS supports; • directly relate to a participant's disability; • help increase a participant's social and economic participation; • are effective and beneficial; and • represent good value for money, in comparison to other supports which the NDIA may fund.	NDIA Dispute Resolution Policy Appendix B to the *Legal Services Directions 2017* Sections 10 and 34(1) *National Disability Insurance Scheme Act 2013* Schedule 1 and 2 *National Disability Insurance Scheme (NDIS Supports) Transitional Rules 2024* What does NDIS fund? | NDIS

Case Management Guide

Disability Related Health Supports

Field	Category	Reference Documents
Common disability-related health supports the NDIA is able to fund	**Dysphagia supports** • low-cost assistive technology (equipment or devices to help a participant eat and drink) • thickener products • help to prepare specific foods • a support worker • a speech pathologist, to make and implement a mealtime management plan and train support workers, family and/or carers **Nutrition supports** • a dietitian, to create a disability-related meal plan for a participant • support to help follow that meal plan • Home Enteral Nutrition (**HEN**) and Percutaneous Endoscopic Gastrostomy (**PEG**) equipment • other products which may help a participant eat safely, and acquire the nutrition they need (such as food thickeners) • support to manage HEN and PEG strategies **Diabetes management supports** • a nurse or otherwise qualified person to create a disability-related diabetes management plan • support to follow that management plan • a support worker, to monitor glucose levels and administer insulin or other medication • training for support workers • a nurse or otherwise qualified person to monitor glucose levels and administer insulin or other medication (for participants with unstable diabetes, and/or complex disability support needs) • assistive technology to help manage diabetes, which a participant is otherwise unable to acquire through the healthcare system	Dysphagia supports | NDIS Nutrition supports including meal preparation | NDIS Diabetes management supports | NDIS Continence Supports | NDIS Wound and Pressure Care Supports | NDIS Podiatry and foot care supports | NDIS Epilepsy Supports | NDIS Assistive technology | NDIS What if you need someone with training to provide the support you need? | NDIS NDIS Practice Standards: High intensity support skills descriptors Knowledge Article - Understand disability-related health supports – capacity building supports

	Continence supports • pads and/or nappies • bedding and/or chair protection • liners or shields • anal plugs • collection bags • bottles • straps or tape • training for support workers or other supports to assist a participant with bodily functions and hygiene • continence assessment(s) • a bed wetting alarm **Wound and pressure care supports** • a registered/clinical nurse/clinical nurse consultant to develop a chronic wound management plan or pressure care plan • a support worker, enrolled/registered/clinical nurse to help implement that management plan • training for a support worker or other supports to help implement the wound and pressure management plan • wound care items (gauze, bandages, dressing and tape) • items to prevent wounds (including pressure relief cushions, moisturiser, barrier creams and non-PH washes) • support to manage lymphoedema, either by a trained support worker, or by a qualified lymphoedema practitioner. **Podiatry supports** • an initial consultation and assessment by a podiatrist, including the development of a podiatry care plan • regular re-assessment(s) during a care plan • appointments with a podiatrist to assist with overall foot care and foot health • a support worker to be trained in foot care tasks that do not require the care of a professional.	

Field	Category	Reference Documents
	• assistive technology (orthoses, medical grade/custom footwear, as well as maintenance and repair) **Epilepsy supports** • funding and training for a support worker to follow an epilepsy management plan • a High Intensity support worker to monitor seizures and provide support during and after a seizure, by following the epilepsy management plan and epilepsy emergency medication plan • assistive technology (such as alarms or seizure monitors) • support coordination Please note, in relation to the above, training may include Registered Nurse Delegation and Supervision of Care (DSOC) for Standard or High Intensity support skills	
Approach to ART matters	The NDIA will fund all reasonable and necessary disability-related health supports which are NDIS supports, most appropriately funded by the NDIS.	How do we work out who should fund or provide your supports? | NDIS
Evidence recommended	The NDIA must first consider whether a particular support would be more appropriately funded by the NDIS or any other mainstream service system. The nature and level of evidence then required to inform the NDIA position will depend on the particular disability and support in question. For example, funding for: • dysphagia supports – will be informed by evidence provided by a speech pathologist • nutrition supports – will be informed by evidence provided by a dietitian, or other suitably qualified health professional • continence supports – will be informed by evidence provided by a continence nurse, or other suitably qualified health professional	Persons Giving Expert and Opinion Evidence Guideline | Administrative Appeals Tribunal

Field	Category	Reference Documents
	• diabetes management supports, wound and pressure care supports, podiatry supports, and epilepsy supports – will be informed by evidence provided by a suitably qualified health professional Matters concerning the provision of disability-related health supports will turn on the facts of each particular case, and the evidence available. The NDIA will seek to ensure the best possible evidence is made available to help guide the ART towards the best possible outcome for the participant.	
Other considerations	Where a Participant also receives support from any other mainstream service delivery system, the NDIA expects that the Participant ensures NDIS funding is not used to fund support/s of the kind funded by that other mainstream service delivery system.	
Previous relevant decisions	Funding for general support to maintain an eating plan, as well as thickened fluids and nutritional supplements constitutes a reasonable and necessary support. The AAT set aside the decision under review.	*Burchell and National Disability Insurance Agency* [2019] AATA 1256
	Additional funding for continence products was not a reasonable and necessary support, as existing plan funding for continence products remained unused. In the absence of any evidence supporting the participant's request for specialised shoes, the AAT could not be satisfied that it would be reasonable or necessary for the NDIA to fund that support. The AAT Affirmed the decision under review.	*Hoolachan and National Disability Insurance Agency* [2019] AATA 4798

Document Control	Responsible Person	Date
Document author	Continuous Improvement	November 2024
Document approver	Director, Continuous Improvement	20 November 2024

AAT Case Management Guide

Access to the NDIS

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Field	Content	Reference Documents
Title	**Access to the NDIS**	
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	This Guide outlines the eligibility requirements which all prospective participants seeking access to the Scheme are required to meet. This Guide applies nationally to the conduct of all matters within the AAT Case Management Branch.	
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	The AAT process is often seen as stressful and adversarial by prospective 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 prospective participant in reaching the most appropriate resolution for the prospective participant by agreement. A person is eligible for access to the Scheme if they meet the criteria in ss 21–25 of the *NDIS Act 2013*. Within the context of an AAT proceeding, the primary issue before the Tribunal will usually be whether the prospective participant meets either: • **Disability Requirements in section 24** When this is the case, the issues for determination by the AAT are whether: ○ the prospective participant has a disability which is attributable to an impairment; ○ the impairment is likely to be permanent; ○ the impairment substantially reduces the prospective participant's functional capacity; ○ the impairment affects their ability to work, study or take part in their social life; and	NDIA Dispute Resolution Policy Appendix B to the *Legal Services Directions 2017* Operational Guideline – Applying to the NDIS Sections 21–25 of the *National Disability Insurance Scheme Act 2013* Rules 5, 6 and 7 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016* Do you meet the disability requirements?

	○ the prospective participant is likely to need the support of the Scheme for their lifetime. • **Early Intervention Requirements in section 25** When this is the case, the issues for determination by the AAT are whether: ○ the prospective participant has an impairment which is likely to be permanent; ○ early intervention supports are likely to benefit the prospective participant and reduce their need for future supports; and ○ the early intervention needed is most appropriately funded through the NDIS.	Does your impairment substantially reduce your functional capacity? Does your impairment affect your social, work or study life? Do you need early intervention?
NDIA Posture in relation to this subject	**Disability Requirements in section 24** **Section 24(1)(a)** will be met where there is evidence that a prospective participant has a *disability*, which *can be attributed to one or more impairments*. A person has a *disability* if they have a reduction or loss of an ability to perform an activity, or a reduced capacity to carry out daily life activities and tasks. An *impairment* can be intellectual, cognitive, neurological, sensory, psychological or physical. It is possible for a person to have a permanent impairment, without necessarily having a disability. Diabetes and epilepsy are common examples. However, diabetes may lead to a disability if there has been an amputation or peripheral neuropathy, and epilepsy may lead to a disability if there is a cognitive deficit or acquired brain injury resulting from frequent or sever seizures. Note: The role of Case Managers and the AAT is to consider whether the evidence confirms an impairment to which a disability can be attributed, even if that impairment is not the claimed diagnosis. **Section 24(1)(b)** will be met where there is evidence that the impairment *is, or is likely to be, permanent*. When considering the likely permanence of an impairment, it is necessary to assess the *availability and suitability of evidence-based treatment options*.	Section 24 of the *National Disability Insurance Scheme Act 2013* Rule 5 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016* List A: Conditions that are likely to meet the disability requirements List B: Conditions that are likely to result in a permanent impairment

	An impairment is only likely to be permanent where there are no other known, available and appropriate treatment options likely to remedy the impairment (rule 5.4) – even if the impact of the impairment may fluctuate, or improve over time (rule 5.5). Further, some impairments require medical treatment and review before a determination can be made as to whether they are likely to be permanent (rule 5.6). Degenerative impairments are also likely to be permanent if treatment options are, or are unlikely to, improve the impairment (rule 5.7). A mere assertion that an impairment is likely to be permanent is insufficient. Case Managers should seek specific and detailed evidence concerning the suitability and availability of treatment options and, where necessary, seek technical advice from the Technical Advisory Branch (**TAB**). Note: Non-compliance with treatment (such as not taking medication) is fairly common among prospective participants with psychosocial impairment. This alone is generally an insufficient basis upon which to conclude that treatment options are inappropriate or unavailable. **Section 24(1)(c)** will be met where there is evidence that the impairment *substantially reduces functional capacity* in one or more of the following activities (each comprising a number of tasks): ○ communicating; ○ socialising; ○ learning; ○ mobility; ○ self-care; and/or ○ self-management. A prospective participant's functional capacity is substantially reduced if they are unable to participant *effectively or completely* in the activity – with or without assistive technology, equipment (excluding commonly used items such as glasses), home modifications, or the help of another person. Case Managers should closely consider the following:	

	○ Is a current (within the last 12 months) functional capacity assessment available? ○ What does the person need assistance to complete? How often is assistance needed? ○ Is the length of time it takes a person to complete an activity unreasonable? ○ Is there a substantial reduction in functional capacity in between episodic impairments? ○ What does a typical day look like, and what can be achieved with additional support? ○ Is the support imperative, or merely beneficial (for example, house cleaning)? ○ Is the evidence self-reported, or subject to formal observation and assessment? **Section 24(1)(d)** will generally be met, unless there is clear evidence that the prospective participant has *full time employment and a broad social network*. It is unlikely that a matter before the AAT will turn on the questions raised by section 24(1)(d). **Section 24(1)(e)** – which requires that that the person is likely to require *lifelong support* – cannot be met unless *sections 24(1)(b) and (c) are also met*. Section 24(1)(e) also requires consideration as to whether the support needed is most appropriately funded by the NDIS. Where a prospective participant does not meet the disability requirements in section 24 – and in particular, section 24(1)(e) – consideration should turn to whether that person meets the early intervention requirements in section 25.	
NDIA Posture in relation to this subject	**Early Assessment Requirements in section 25** **Section 25(1)(a)** will be met where there is evidence that a prospective participant has one or more *impairments which are likely to be permanent*. An *impairment* can be intellectual, cognitive, neurological, sensory, psychological or physical. When considering the likely permanence of an impairment, it is necessary to assess the *availability and suitability of evidence-based treatment options*.	Section 25 of the *National Disability Insurance Scheme Act 2013* Rule 6 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*

	An impairment is only likely to be permanent where there are no other known, available and appropriate treatment options likely to remedy the impairment (rule 6.4) – even if the impact of the impairment may fluctuate, or improve over time (rule 6.5). Further, some impairments require medical treatment and review before a determination can be made as to whether they are likely to be permanent (rule 6.6). Degenerative impairments are also likely to be permanent if treatment options are, or are unlikely to, improve the impairment (rule 6.7). A mere assertion that an impairment is likely to be permanent is insufficient. Case Managers should seek specific and detailed evidence concerning the suitability and availability of treatment options and, where necessary, seek technical advice from the Technical Advisory Branch (**TAB**). Note: Non-compliance with treatment (such as not taking medication) is fairly common among prospective participants with psychosocial impairment. This alone is generally an insufficient basis upon which to conclude that treatment options are inappropriate or unavailable. **Section 25(1)(b)** will be met where there is evidence that the provision of early intervention supports is likely to *reduce the need for future supports*. **Section 25(1)(c)** will be met where there is evidence that the provision of early intervention supports will benefit the prospective participant by: ○ *mitigating the impact* of their impairment on their functional capacity; or ○ *improve or prevent the deterioration of* their functional capacity; or ○ strengthen the *sustainability* of informal supports available to the person. **Section 25(3)** will be met where the early intervention support needed is most appropriately funded or provided the NDIS, and not through any other system of service delivery or support offered: ○ as part of a universal service obligation; or	List B: Conditions that are likely to result in a permanent impairment

	○ in accordance with reasonable adjustments required under a law dealing with discrimination on the basis of disability.	
Evidence recommended to inform NDIA position in a specific matter before the Administrative Appeals Tribunal (**AAT**)	To consider a prospective participant's eligibility to access the Scheme, the NDIA requires recent evidence from a health care professional which confirms a prospective participant's disability, its impacts on their functional capacity, previous treatments, and outcomes, as well as future treatment options and expected outcomes. A table of the preferred tools when indicating the severity of a participant's impairment is contained at **Annexure A** – Severity Indicator: Preferred Tools. It is important that the professional giving evidence is the most appropriate person to provide that evidence, and that they have treated the prospective participant for a significant period of time.	Providing evidence of your disability Types of disability evidence | NDIS How do we weigh evidence of disability? Persons Giving Expert and Opinion Evidence Guideline | Administrative Appeals Tribunal
Other considerations	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. It is important that each matter is determined on its own merit, based on the available evidence. The response will primarily rely on whether the Scheme is the most appropriate system to fund an individual's disability support needs.	AAT Case Management Guide: Access for Chronic Health Conditions Do you meet the disability requirements?
Previous matters that may advise the NDIA position	The ***availability and suitability of other treatment options*** is wholly dependent on a prospective participant's individual circumstances. An impairment is only likely to be permanent where there are no other known, available *and* appropriate treatment options likely to remedy the impairment (rules 5.4 and 6.4). Relevantly, the Federal Court clarified that a treatment option is: ○ ***known***, if it can be identified by an Australian medical practitioner as a potential treatment for a particular impairment; and ○ ***appropriate***, if it has the capacity to remedy the impairment, and it would be suitable for a particular prospective participant; and ○ ***available***, if it is available and accessible to a particular prospective participant	*NDIA v Davis* [2022] FCA 1002

	(accounting for potential personal, financial and geographical limitations).	
	When considering whether a prospective participant's ***functional capacity is substantially reduced***, a decision-maker is required to make a 'functional, practical assessment of what a person ***can and cannot do***'. 'Undertaking a task… differently to others will not necessarily mean a person cannot participant effectively or completely in an activity'.	*NDIA v Foster* [2023] FCAFC 11
Document admin	Quality, Reporting, Strategy and Training	5 July 2023
Approved	Branch Manager, AAT Case Management	

Annexure A – Severity Indicator: Preferred Tools

Primary Disability	Severity Indicator (by order of preference)
Acquired Brain Injury	1. Care and Need Scale (**CANS**) (aged 17 years and over) 2. World Health Organisation Disability Assessment Schedule (**WHODAS**) 2.0 (aged 17 years and over) 3. **PEDI-CAT** (16 years and under)
Autism	1. Diagnostic and Statistical Manual of Mental Disorders, fifth edition (**DSM-V**) 2. Vineland Adaptive Behavioural Scale (**Vineland-II**) 3. World Health Organisation Disability Assessment Schedule (**WHODAS**) 2.0 (aged 17 years and over) 4. **PEDI-CAT** (16 years and under)
Cerebral Palsy	1. Gross Motor Functional Classification Scale (**GMFCS**) 2. Manual Ability Classification Scale (**MACS**) 3. Communication Function Classification System (**CFCS**)
Hearing Impairment	1. Hearing Impairment Responses and Groupings Guide (aged 17 years and over) 2. **PEDI-CAT** (aged 16 years and under) 3. Hearing Acuity Score
Intellectual Disability (including Developmental Delay and Down Syndrome)	1. Diagnostic and Statistical Manual of Mental Disorders, fifth edition (**DSM-V**) 2. Vineland Adaptive Behavioural Scale (**Vineland-II**) 3. World Health Organisation Disability Assessment Schedule (**WHODAS**) 2.0 (aged 17 years and over) 4. **PEDI-CAT** (16 years and under)
Multiple Sclerosis	1. Disease Steps 2. Patient Determined Disease Steps (**PDDS**) 3. Expanded Disability Status Scale (**EDSS**)
Psychosocial Disability	1. World Health Organisation Disability Assessment Schedule (**WHODAS**) 2.0 (aged 17 years and over) 2. **PEDI-CAT** (16 years and under) 3. Health of the Nation Survey (**HONOS**) 4. Life Skills Profile – 16 Item (**LSP-16**)
Spinal Cord Injury	1. Level of Lesion to indicate where on the spine the injury has occurred – *and* – American Spinal Injury Association Impairment Scale (**ASIA/AIS**) to measure the completeness of the injury

	2. World Health Organisation Disability Assessment Schedule (**WHODAS**) 2.0 (aged 17 years and over) 3. **PEDI-CAT** (16 years and under)
Stroke	1. Modified Rankin Scale (**mRS**)
Vision Impairment	1. Vision Impairment Questionnaire (aged 17 years and older) or **PEDI-CAT** (aged 16 years and under) 2. Visual Acuity Rating
Other	1. World Health Organisation Disability Assessment Schedule (**WHODAS**) 2.0 (aged 17 years and over) 2. **PEDI-CAT** (16 years and under)

Case Management Guide

Access to the NDIS

Field	Category	Reference Documents
Title	**Access to the NDIS**	
Purpose	This document is part of a suite of guidance documents for Case Managers to use in formulating their approach to managing individual matters before the Administrative Review Tribunal (**ART**). This Guide applies nationally to the conduct of all matters within the Administrative Review Branch.	
Scope	This Guide outlines the eligibility requirements which all prospective participants seeking access to the Scheme are required to meet. This Guide applies nationally to the conduct of all matters within the Administrative Review Tribunal Case Management Branch.	
NDIA policy on this subject	The ART process is often seen as stressful and adversarial by participants and prospective participants of the Scheme. The NDIA will adopt a participant-focused approach to resolving disputes before the ART, and will work directly with participants and prospective participants to provide better and earlier outcomes, where possible. The role of the NDIA is to assist the ART in reaching the correct and preferable decision, including by assisting participants and prospective participants in reaching the best possible resolution by agreement. A person is eligible for access to the Scheme if they meet the criteria in sections 21–25 of the *NDIS Act 2013*. Within the context of an ART proceeding, the primary issue before the Tribunal will usually be whether the prospective participant meets section 24 and/or section 25: **Disability Requirements in section 24** When this is the case, the issues for determination by the ART are whether: ○ the prospective participant has a disability which is attributable to an impairment; ○ the impairment is likely to be permanent;	NDIA Dispute Resolution Policy Appendix B to the *Legal Services Directions 2017* Operational Guideline – Applying to the NDIS Sections 21–25 of the *National Disability Insurance Scheme Act 2013* Rules 5, 6 and 7 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016* Do you meet the disability requirements? Does your impairment substantially reduce your functional capacity?

Field	Category	Reference Documents
	○ the impairment substantially reduces the prospective participant's functional capacity; ○ the impairment affects their ability to work, study or take part in their social life; and ○ the prospective participant is likely to need NDIS supports for their lifetime. **Early Intervention Requirements in section 25** When this is the case, the issues for determination by the ART are whether: ○ the prospective participant has an impairment which is likely to be permanent; ○ early intervention supports are likely to benefit the prospective participant and reduce their need for future supports; and ○ the early intervention needed is an NDIS support	Does your impairment affect your social, work or study life? Do you need early intervention?
NDIA posture in relation to Section 24 Disability Requirements	**Section 24(1)(a)** will be met where there is evidence that a prospective participant has a ***disability***, which ***can be attributed to one or more impairments***. A person has a ***disability*** if they have a reduction or loss of an ability to perform an activity, or a reduced capacity to carry out daily life activities and tasks. An ***impairment*** can be intellectual, cognitive, neurological, sensory, psychological or physical. A diagnosis or condition is not an impairment. It is possible for a person to have an impairment, without necessarily having a disability. Diabetes and epilepsy are common examples. However, these conditions may lead to disabilities due to the secondary consequences. eg a physical impairment from an amputation resulting from diabetes. Note: The role of Case Managers and the ART is to consider whether the evidence confirms an impairment to which a disability can be attributed, even if that impairment is not the claimed diagnosis.	Section 24 of the *National Disability Insurance Scheme Act 2013* Rule 5 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016* List A: Conditions that are likely to meet the disability requirements List B: Conditions that are likely to result in a permanent impairment

Field	Category	Reference Documents
	Section 24(1)(b) will be met where there is evidence that the impairment ***is, or is likely to be, permanent***. When considering the likely permanence of an impairment, it is necessary to assess whether all available and appropriate treatment options have been engaged for the impairments. Permanency could be defined by any of the following scenarios: - An impairment is only likely to be permanent where there are no other known, available and appropriate treatment options likely to remedy the impairment (rule 5.4) - Even if the impact of the impairment may fluctuate or improve over time (rule 5.5). - Some impairments require medical treatment and review before a determination can be made as to whether they are likely to be permanent (rule 5.6). - Degenerative impairments are also likely to be permanent if treatment options are, or are unlikely to, improve the impairment (rule 5.7). A statement that an impairment is likely to be permanent is insufficient to meet the threshold for this criteria. Case Managers should seek specific and detailed evidence concerning the engagement in treatments, the outcomes achieved and any anticipated outcomes from future treatment to assist in determining whether there are available and appropriate treatments that are likely to remedy the impairment. Where necessary, Case Managers should seek technical advice from the Technical Advisory and Practice Improvement Branch (**TAPIB**). Note: Non-compliance with treatment (such as not taking medication) is fairly common among prospective participants with psychosocial impairment. This alone is generally an insufficient basis upon which to conclude that treatment options are inappropriate or unavailable.	

Field	Category	Reference Documents
	Non-compliance can have multiple underlying factors, this may represent a need for clinical interpretation from TAPIB. Non-compliance can be a complex part of many disability presentations and consideration of the treating team's attempts to explore barriers to engagement with treatment may need to be considered. It is important to distinguish between the permanency of a condition and the permanency of the impairments. **Section 24(1)(c)** will be met where there is evidence that the permanent impairment/s ***substantially reduces functional capacity*** in one or more of the following activities (each comprising a number of tasks): ○ communicating; ○ socialising; ○ learning; ○ mobility; ○ self-care; and/or ○ self-management. A prospective participant's functional capacity is substantially reduced if they are unable to participate ***effectively or completely*** in the activity – with or without assistive technology, equipment (excluding commonly used items such as glasses), home modifications, or the help of another person. Case Managers should closely consider the following: ○ Is there current functional information available? This could include a functional capacity assessment from the last 12 months. ○ What does the person need assistance to complete? How often is assistance needed? ○ Is the length of time it takes a person to complete an activity unreasonable? ○ Is there a substantial reduction in functional capacity in between episodic impairments?	

Field	Category	Reference Documents
	○ What does a typical day look like, and what can be achieved with additional support? ○ Is the support imperative, or merely beneficial (for example, house cleaning)? ○ Is the evidence self-reported, or subject to formal observation and assessment? ○ An assessment of which impairments meet the Substantially Reduced Functional Capacity (SRFC) threshold is important. Not all impairments may meet SRFC (but often impairments may interact and cumulatively meet the SRFC threshold). A case manager should familiarise themselves with the definition of each domain. It is not uncommon for a person with mobility concerns to describe SRFC in the domain of social interaction, because they are not able to physically attend to social functions. The domain of social interaction speaks to the ability to form and maintain social interactions and not the ability to socialise in the community. In this example, the reduced function in socialising is related to the domain of mobility. **Section 24(1)(d)** will generally be met, unless there is clear evidence that the prospective participant has ***full time employment and a broad social network***. It is unlikely that a matter before the ART will turn on the questions raised by section 24(1)(d). **Section 24(1)(e)** – which requires that that the person is likely to require ***lifelong support*** – cannot be met unless ***sections 24(1)(b) and (c) are also met***. Section 24(1)(e) also requires consideration as to whether the support needed is an NDIS support. If a permanent impairment is evidenced as per 24 (1) (b), a case manager should consider section 25 requirements.	
NDIA posture in relation to Section 25 Early	**Section 25(1)(a)** will be met where there is evidence that a prospective participant has one or more ***impairments which are likely to be permanent***.	Section 25 of the *National Disability Insurance Scheme Act 2013*

Field	Category	Reference Documents
Assessment Requirements	An ***impairment*** can be intellectual, cognitive, neurological, sensory, or physical. Or a permanent psychosocial disability attributable to a permanent impairment or is a child who has developmental delay When considering the likely permanence of an impairment, it is necessary to assess the ***availability and suitability of evidence-based treatment options***. - An impairment is only likely to be permanent where there are no other known, available and appropriate treatment options likely to remedy the impairment (rule 6.4) - even if the impact of the impairment may fluctuate, or improve over time (rule 6.5). - Further, some impairments require medical treatment and review before a determination can be made as to whether they are likely to be permanent (rule 6.6). - Degenerative impairments are also likely to be permanent if treatment options are, or are unlikely to, improve the impairment (rule 6.7). A statement that an impairment is likely to be permanent is insufficient to meet the threshold for this criteria. Case Managers should seek specific and detailed evidence concerning the engagement in treatments, the outcomes achieved and any anticipated outcomes from future treatment to assist in determining whether there are available and appropriate treatments that are likely to remedy the impairment. Where necessary, Case Managers should seek technical advice from the Technical Advisory and Practice Improvement Branch (**TAPIB**). Note: Non-compliance with treatment (such as not taking medication) is fairly common among prospective participants with psychosocial impairment. This alone is generally an insufficient basis upon which to conclude that treatment options are inappropriate or unavailable.	Rule 6 of the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016* List B: Conditions that are likely to result in a permanent impairment

Field	Category	Reference Documents
	Section 25(1)(b) will be met where there is evidence that the provision of early intervention supports is likely to ***reduce the need for future supports***. Early in the impairment **trajectory (Early Intervention does not necessitate being in close proximity to the diagnosis).** Evidence supporting a likely reduction in future support needs. In line with literature and clinical consensus supporting the likely benefit of this. **Section 25(1)(c)** will be met where there is evidence that the provision of early intervention supports will benefit the prospective participant by: ○ ***mitigating the impact*** of their impairment on their functional capacity; or ○ ***improve or prevent the deterioration of*** their functional capacity; or ○ strengthen the ***sustainability*** of informal supports available to the person **Section 25(3)** will be met where the early intervention support needed is most appropriately funded or provided the NDIS, and not through any other system of service delivery or support offered: ○ as part of a universal service obligation; or in accordance with reasonable adjustments required under a law dealing with discrimination on the basis of disability.	
Evidence recommended to inform NDIA position in a matter before the ART	To consider a prospective participant's eligibility to access the Scheme, the NDIA requires recent evidence from a relevant health care professional which confirms a prospective participant's disability, its impacts on their functional capacity, previous treatments, and outcomes, as well as future treatment options and expected outcomes. Case Managers are to be aware that while the while they are preferred tools to describe severity, some of the tools are subjective measures and corroboration	Providing evidence of your disability Types of disability evidence | NDIS How do we weigh evidence of disability? Persons Giving Expert and Opinion Evidence Guideline |

Field	Category	Reference Documents
	with objective measurements and/or functional assessment or observations would be preferred to assess SRFC. It is important that the professional giving evidence is the most appropriate person to provide that evidence, and that they have treated the prospective participant for a significant period of time. When considering permanency, a medical specialist may be best placed to comment. When considering functional capacity, an allied health professional may be more appropriate.	Administrative Appeals Tribunal
Other considerations	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. For disability supports to be consider the evidence needs to support that there is an associated disability attributable to permanent impairments from the chronic health conditions. It is mandatory to seek TAPIB advice, where the condition being considered for access is related to a chronic health condition.	Case Management Guide: Access for Chronic Health Conditions Do you meet the disability requirements?
Previous matters that may inform the NDIA position	The ***availability and suitability of other treatment options*** is wholly dependent on a prospective participant's individual circumstances. An impairment is only likely to be permanent where there are no other known, available *and* appropriate treatment options likely to remedy the impairment (rules 5.4 and 6.4). Relevantly, the Federal Court clarified that a treatment option is: ○ ***known***, if it can be identified by an Australian medical practitioner as a potential treatment for a particular impairment; and ○ ***appropriate***, if it has the capacity to remedy the impairment, and it would be suitable for a particular prospective participant; and ***available***, if it is available and accessible to a particular prospective participant (accounting for	*NDIA v Davis* [2022] FCA 1002

Field	Category	Reference Documents
	potential personal, financial and geographical limitations).	
	When considering whether a prospective participant's ***functional capacity is substantially reduced***, a decision-maker is required to make a 'functional, practical assessment of what a person ***can and cannot do***'. 'Undertaking a task… differently to others will not necessarily mean a person cannot participate effectively or completely in an activity'.	*NDIA v Foster* [2023] FCAFC 11

Document Control	Responsible Person	Date
Document author	Continuous Improvement	October 2024
Document approver	Director, Continuous Improvement	28 October 2024