

National Disability Insurance Scheme Bill 2012

RANZCP Submission – 23 January 2013



Introduction

The Royal Australian and New Zealand College of Psychiatrists (RANZCP, the College) supports the principles contained within the *National Disability Insurance Scheme Bill 2012*. The RANZCP is committed to working with medical and disability organisations, consumer and carer groups and government towards the implementation of this crucial piece of legislation.

People with intellectual and developmental disability and physical disability have high rates of co-morbid mental health problems, but very poor access to mental health services. They also experience poor general health, premature ageing and shorter life expectancy, and need the support of carers and disability services. This legislation will facilitate greater access to services for those most in need in our community.

The College has four concerns with the current draft Bill:

1. The cut off age for services
2. Assessments for eligibility
3. Administration of the scheme; and
4. Membership of the NDIS Advisory Group.

1. Cut off age for services (Sections 22, 29 and 34)

RANZCP has concerns about the potential for a person aged 65 or over not being able to access services under either the NDIS or under the *Aged Care Act 1997*.

There appears to be a risk of a 'care gap' for people aged 65 and older who develop significant permanent disability but are not considered 'frail'. The *Aged Care Act 1997* and associated Principles do not define an age over which people are eligible for services, rather a set of characteristics the person must meet to be eligible (see **Attachment One**). Current interpretations of the *Aged Care Act 1997* mean that mental illness alone is not enough to qualify for services under this Act.

The apparent risk is that an individual who is over the age of 65 and is no longer eligible for support through the NDIS, but does *not* meet the set of characteristics required for eligibility under the *Aged Care Act 1997* will fall through the cracks of the system and be left without any form of support.

RANZCP is concerned that the criteria for cessation of services under the NDIS presents a significant risk that decisions to cease services for people aged 65 and older could become driven by age and budgetary considerations, rather than the person's best interests, resulting in disadvantage to the participant.

Recommendation:

Review the relationship between the NDIS legislation and the *Aged Care Act 1997* to ensure there is no care gap for consumers over the age of 65 who otherwise meet the eligibility criteria for services under the NDIS but do not meet the requirements of the *Aged Care Act 1997*.

2. Assessments for eligibility

RANZCP has some concerns regarding the nature of assessments for eligibility to participate in the scheme. The Bill (along with the Explanatory Memorandum and the Productivity Commissions' 2011 report) does not specify who will undertake these assessments or the nature of the qualifications required to undertake assessments.

It is important that people who will make an assessment of symptoms of serious psychiatric illness are sufficiently trained to understand the symptoms and to be aware of the episodic state of these conditions – for example, that a participant with schizophrenia may not necessarily exhibit the symptoms of this illness during the assessment. The Productivity Commission report notes that 'people making assessments would need to be independent of the client'.¹ Clarification is required on what role a participant's treating psychiatrist would have in the participant's assessment for eligibility.

Recommendation:

Clarify the qualifications required for individuals authorised to undertake assessments for eligibility for NDIS services.

3. Administration of the scheme

RANZCP acknowledges that a scheme the complexity and size of the National Disability Insurance Scheme will require a high level of administration, including the establishment of the National Disability Insurance Agency. Efforts must be made to ensure that the level of bureaucracy required to administer this scheme does not prevent consumers who need the most care from receiving it in a proper and timely fashion.

Recommendation:

Details around the establishing and running of this Agency be outlined in Regulations, rather than legislation, to ensure that the legislation does not become overly prescriptive.

4. Membership of the NDIS Advisory Group

The NDIS Advisory Group's proposed composition, outlined in the Statement of Compatibility with Human Rights, is an inclusive one.

Recommendation:

That someone whose area of expertise is psychiatric disability be included in this group to ensure people with psychiatric disability and clinicians who treat people with psychiatric disability are represented at this level.

Contact

If you require further information on this submission, please contact Dr Anne Ellison via Executive Assistant, Claire Bellett

¹ Productivity Commission's Report into Disability Care and Support, 'The Assessment Tools', page 20.

Attachment One

Aged Care Act 1997

Division 21—Who is eligible for approval as a care recipient?

21-1 Eligibility for approval

A person is eligible to be approved under this Part if the person is eligible to receive:

- (a) residential care (see section 21-2); or
- (b) community care (see section 21-3); or
- (c) flexible care (see section 21-4).

21-2 Eligibility to receive residential care

A person is eligible to receive **residential care** if:

(a) the person has physical, medical, social or psychological needs that require the provision of care; and

(b) those needs cannot be met more appropriately through non-residential care services; and

(c) the person meets the criteria (if any) specified in the Approval of Care Recipient Principles as the criteria that a person must meet in order to be eligible to be approved as a recipient of residential care.

21-3 Eligibility to receive community care

A person is eligible to receive **community care** if:

(a) the person has physical, social or psychological needs that require the provision of care; and

(b) those needs can be met appropriately through non-residential care services; and

(c) the person meets the criteria (if any) specified in the Approval of Care Recipients Principles as the criteria that a person must meet in order to be eligible to be approved as recipient of community care.

21-4 Eligibility to receive flexible care

A person is eligible to receive **flexible care** if:

(a) the person has physical, social or psychological needs that require the provision of care; and

(b) those needs can be met appropriately through flexible care services; and

(c) the person meets the criteria (if any) specified in the Approval of Care Recipients Principles as the criteria that a person must meet in order to be eligible to be approved as a recipient of flexible care.