

Community Affairs Legislation Committee: Inquiry into National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 [Provisions]

Public Hearing – 22 May 2024

ANSWER TO QUESTION ON NOTICE

Department of Social Services

Topic: Inquiry into National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 [Provisions]

Question reference number: IQ24-000038

Question asked by: Marielle Smith

Type of Question: Written. **Hansard Page/s:**

Date set by the Committee for the return of answer: 05 June 2024

Question:

3. Regarding provisions around new needs assessment processes and requirements (e.g. in proposed section 32L), could the department please clarify:
- whether the provisions in the bill would require that a copy of the assessment report be provided to the participant, prior to its finalisation;
 - under the proposed provisions, what extent participants will have an opportunity to correct, or request changes to the assessment report before it is finalised; and
 - under the proposed provisions, what would be the mechanism for review for participants, should they wish to review the needs assessment report after it is finalised.

Answer:

All participants will be provided with a copy of their needs assessment report as part of the planning process. They will have the opportunity to review it and provide feedback or correct any errors that may be present.

Subsection 32D(2) of the Bill requires a participant's plan to be prepared with the participant and approved by the CEO. A participant must be provided with a copy of the needs assessment report in order to be involved in the preparation of their plan.

The needs assessment itself is not a decision under the *National Disability Insurance Scheme Act 2013* (the Act), rather a necessary input and preliminary step before a plan can be approved. The reviewable decision in the planning context will continue to be the decision to approve a statement of participant supports.

When seeking a review of statement of participant supports, the participant can seek review of all aspects of the statement of participant supports. As the needs assessment is a necessary input for the reasonable and necessary budget, a participant can ask for a replacement needs assessment as part of their review request.

This does not mean the entire assessment needs to be reconducted (although a participant could request an entirely new assessment). It could be as simple a change to certain aspects of the needs assessment report that had an impact on the participant's reasonable and necessary budget.

The Administrative Appeals Tribunal will also be able to require that a replacement needs assessment is undertaken. This does not need to be stated specifically in the Act as it is already allowed under section 43(1) of the *Administrative Appeals Tribunal Act 1975*, which provides that the Tribunal may exercise all of the powers and discretions that are conferred on the person who made the original decision. This means that anything that the original decision maker can do, the Tribunal can also do.