



DisabilityCare Australia

The national disability insurance scheme

Presentation to MIIAA

David Bowen
Chief Executive Officer




Accessing DisabilityCare Australia

Must meet the *Residence*, *Age* and either the *Disability* or *Early Intervention* Requirements


A person meets the *Disability* Requirement if:

- the person has a disability that is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments, or to one or more impairments attributable to a psychiatric condition; and
- the person's impairment or impairments are, or are likely to be, permanent; and
- the impairment or impairments result in substantially reduced functional capacity to undertake, or psychosocial functioning in undertaking, one or more of the following activities: communication, social interaction, learning, mobility, self-care, self-management; and
- the impairment or impairments affect the person's capacity for social and economic participation; and
- the person is likely to require support under the NDIS for the person's lifetime.




Intersection with medical misadventure

- Determined at the time of finalising the plan (in deciding what level of support is funded or provided by DisabilityCare Australia).
- 3 situations
 - Person has already been compensated
 - Person has a claim for compensation not yet finalised
 - Person may have a claim for compensation



Person has received compensation

- NDIS Rules require that if a participant receives compensation:
 - If they have a plan, their plan is 'reviewed' the reasonable and necessary supports are reduced by the **compensation reduction amount**; or
 - If they do not yet have a plan, the plan is developed with the reasonable and necessary supports reduced by the **compensation reduction amount**
- Calculating the **compensation reduction amount** depends on the source of the compensation (settlement, judgement or statutory scheme).
 - Most critical point is that the compensation reduction amount is objectively identified.
- The **compensation reduction amount** can be amortised over the period of the participant's expected lifetime.




Person has a claim not yet settled

- While a participant has a claim on foot they will continue to be able to access supports through their plan.
- Once the compensation is awarded:
 - the plan will be reviewed and the reasonable and necessary supports funded by the scheme reduced (as before); and
 - The cost of the supports that have previously been provided become a debt to the Agency (assuming the compensation is greater than the level of supports already provided).
- DisabilityCare Australia also has the power to recover directly from compensation payers and insurers
- DisabilityCare Australia has the discretion to disregard any compensation paid because of exceptional circumstances.




Person may have a claim

- DisabilityCare Australia can require that the person take an action to pursue the claim.
 - This can only be done when DisabilityCare Australia is satisfied that the action is reasonable in the circumstances and there is a reasonable prospect of success.
- Consequences for failing to take the action depend on the type of compensation:
 - If the compensation is under a Commonwealth, State or Territory scheme - the plan will be suspended (and supports will not be funded or provided by DisabilityCare Australia);
 - If the compensation is under a common law action – DisabilityCare Australia has the power to take over the action to pursue compensation on the person's behalf.



Launch v Full Scheme

- These arrangements apply in the launch areas/cohorts until June 2016
- From 1 July 2016 the InterGovernmental Agreement requires State to put in place arrangements for the National Injury Insurance Scheme (NIIS)
- How that may work is an open issue for consideration



Any questions?