



Australian Government

Australian Government Response to the Senate Community Affairs
Legislation Committee Inquiry into the Social Services Legislation
Amendment (Transition Mobility Allowance to the National Disability
Insurance Scheme) Bill 2016

June 2017

Introduction

The Australian Government welcomes the opportunity to respond to the Senate Community Affairs Legislation Committee's report on its Inquiry into the Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016 (the Bill).

The Bill introduces the 2016-17 Budget measure to transition the Mobility Allowance program to the National Disability Insurance Scheme (NDIS). Mobility Allowance is one of 17 Commonwealth programs transitioning to the NDIS, as part of its roll-out across Australia, which commenced on 1 July 2016.

Mobility Allowance is being transitioned to the NDIS to ensure that the NDIS is the main program of support for people with a disability who need assistance to enable them to fully engage in the workforce and other economic activities.

The NDIS is the new way of providing individualised support for eligible people with a permanent disability or a significant functional impairment. The NDIS will provide about 460,000 Australians under the age of 65 with a disability with reasonable and necessary supports they need to live fruitful and successful lives.

In addition to the transition, the Bill also includes changes to eligibility and ongoing entitlement rules designed to support the transition of Mobility Allowance funding to the NDIS, as eligible recipients move from the payment to NDIS. These changes are consistent with changes made to other Commonwealth programs where funding is transitioning to the NDIS.

The Government is committed to the full implementation of the NDIS, and ensuring that those Australians who need support to engage in work and training receive the necessary assistance. This Bill is another step by this Government towards that outcome.

The Inquiry Report highlighted some concerns raised through submissions to the Inquiry hearing. This Government response addresses those concerns and supports the Committee's recommendation that the Bill be passed.

Response to Recommendations

Recommendation: **The committee recommends that the Bill be passed.**

Government Response: *Supported.*

The Government is pleased that the Committee's report agreed that the measures in this Bill would better target Mobility Allowance and support the program's transition to the NDIS and the Bill should therefore be passed.

The Government notes however, that some concerns regarding the intent and the impact of the proposed changes were raised by the Committee, including those by non-government senators through dissenting reports.

Key Concerns

Continuity of Support Arrangements

Commonwealth and State/Territory Governments have committed to providing continuity of support for clients who are not eligible for the NDIS. Clients of State/Territory programs who are under 65 years of age will receive continuity of support through State/Territory arrangements. Clients who are over 65 years of age (and Indigenous people aged 50 and over, and who are found ineligible for the NDIS) will receive continuity of support from the Commonwealth Continuity of Support Program which is administered by the Department of Health.

Clients of Commonwealth programs, including Mobility Allowance, who are not eligible for the NDIS will receive continuity of support under existing program arrangements. Funding agreements have been extended to reflect this requirement. Arrangements for the provision of continuity of support beyond existing funding arrangements, most of which do not expire until 30 June 2019, are under development with the policy expected to be finalised by the end of 2017.

People ineligible for continuity of support arrangements

Concerns were raised as part of the Inquiry about those who will be ineligible for continuity of support arrangements due to age.

Under the proposed eligibility changes, Mobility Allowance will no longer be available to new claimants who are aged 65 or over at the time of claim or who do not meet the new disability criteria. Consequently, these people will not be covered by continuity of support arrangements.

Australia's social security system is designed to be highly targeted and to provide for different payments, rates and other settings that reflect the needs and circumstances of different cohorts. For this reason, age-based eligibility criteria are already part of a number of social security payments, including Mobility Allowance which is currently limited to those aged 16 and over.

The Bill limits access to Mobility Allowance to persons under the age of 65. This amendment is intended to provide consistency with access requirements for the NDIS. Existing Mobility Allowance recipients will not be affected by this change and both new and existing recipients can continue to be paid Mobility Allowance if they turn 65 while receiving the payment. This is to ensure there is no loss of entitlement for current recipients on the basis of age.

Once the Mobility Allowance program is closed, any remaining recipients under 65 years of age will either transition to the NDIS or be supported under continuity of support arrangements. Mobility Allowance recipients who are aged 65 and over will be transitioned to continuity of support arrangements. Funding for continuity of support arrangements includes current recipients aged 65 or over who will be ineligible to transition to the NDIS.

The NDIS is part of a broader system of support available in Australia and persons over the age of 65 who are not eligible for assistance through Mobility Allowance or the NDIS can access support through the aged care system.

The Government subsidises many different types of aged care services. These aged care packages and programs are there to help people stay as independent as they can, including living in your own home and transport services. Each program or package has broad eligibility criteria and an assessment process to determine a person's needs and eligibility.

In addition to the transport services, affected individuals aged 65 and over will continue to be supported by a range of programs and other services provided by the Commonwealth and state governments. Some of these assistance programs provide services to address mobility issues faced by individuals. Assistance programs available to these individuals include:

- GST exempt purchase of cars for work use, where the individual has a disability affecting them to the extent they cannot use public transport;
- Disabled Australian Apprentice Wage Support Program, providing wage and mentoring support for the employers hiring apprentices and trainees with disability; and
- State and territory transport, vehicle modification and parking subsidies.

Equity of funding under the NDIS

NDIS participants can choose to receive their NDIS transport assistance as a regular fortnightly payment, similar to the way they received Mobility Allowance – or they can receive transport assistance from a provider of their choice.

The planning process for NDIS packages is based around the person's reasonable and necessary level of support. Funding for all core supports is flexible so a participant can choose to spend more of their budget on travel.

While the level of transport assistance under NDIS is generally similar to that paid under Mobility Allowance, the value of transport assistance in someone's NDIS plan is built around the principles of reasonable and necessary support, rather than trying to duplicate or replace historical programs.

Changes to qualifying activities

Under current arrangements, Mobility Allowance is a very broad program which is not well targeted. The payment has not led to any significant increase in the workforce participation of recipients. This is partly because, despite its policy objectives, there is no requirement for Mobility Allowance payments to be spent on transport needs or in ways that directly assist a recipient's workforce participation.

Eligibility rules for new claimants are being tightened to ensure that the program is targeted to those who need support the most while they wait to be transitioned to the NDIS.

Approved activities for Mobility Allowance are being restricted to better target the payment towards people who are in paid work or undertaking education or training to prepare for paid work in order to support people to become self-reliant.

Voluntary work does not necessarily lead to paid employment and self-reliance, as placements generally do not correspond to a job opening and volunteer roles may not provide skills relevant to the individual or for the local labour market.

While job search is an integral aspect of finding employment, support is already provided by the Commonwealth through employment services providers.

The changes to the eligibility criteria will not apply to existing Mobility Allowance recipients while they remain on the payment. However, recipients who are cancelled off payment and wish to reclaim Mobility Allowance will be assessed under the new rules.

Continuation period

The measure will reduce the existing grace period during which a recipient continues to receive Mobility Allowance while they are no longer engaged in a qualifying activity from 12 weeks to 4 weeks.

Twelve weeks is an overly generous period of time to continue to pay Mobility Allowance to someone who is not participating in an approved activity, given that the payment is intended to assist with transport costs for people who are required to leave home to undertake an approved activity. For example, in the 2015-16 financial year, approximately 7,500 Mobility Allowance recipients had their payment cancelled as they did not commence another approved activity within 12 weeks of finishing their previous activity.

The existence of the 12 week continuation period has not lead to any appreciable increase in the level of workforce participation of Mobility Allowance recipients.

It is the Government's view that four weeks is sufficient time for most Mobility Allowance recipients to find and commence another approved activity. In a needs-based social security system, it is not equitable to continue to pay a targeted payment to people who are no longer undertaking an activity for which the payment is made.

Mobility allowance advance

The Mobility Allowance advance is intended to assist recipients with any large or upfront transport-related costs associated with undertaking qualifying activities. Unlike advances for other income support and family assistance payments, the Mobility Allowance advance is not intended for general costs of living expenses and therefore payments are not made on the basis of hardship.

Claims for Mobility Allowance advance can be made during the initial claim process, or a current Mobility Allowance recipient can make an online claim. Where a person makes a claim for Mobility Allowance advance, no assessment is currently made of how they intend to use the payment they receive. Payment is granted as long as the recipient is expected to remain qualified for Mobility Allowance for a further 26 weeks.

A Mobility Allowance advance is a lump sum of 13 fortnights' worth of payments. The payment is then recovered over 13 fortnights.

With the rollout of the NDIS, Mobility Allowance recipients are expected to be assessed for entitlement to an NDIS package of support. The Department of Human Services (DHS), as a delegate for the Secretary, cannot determine the timing in relation to a recipient's assessment and eligibility for an NDIS package of support. As such, DHS cannot be satisfied that a recipient who claims a Mobility Allowance advance would remain eligible for another 26 weeks, as required by the legislation.

The legislation stipulates that a person cannot receive Mobility Allowance at the same time as being an NDIS participant. Ceasing the Mobility Allowance advance will ensure that a lump-sum payment is not paid to a person who subsequently becomes an NDIS participant. This amendment will therefore ensure that recipients do not receive Mobility Allowance advance payments and NDIS supports for the same period.

Mobility Allowance debts are generally not recoverable; so where a recipient claims an advance payment and subsequently commences an NDIS package of support, the payment received cannot be recovered. Overpayments can only be raised if it can be established that the recipient deliberately misrepresented their circumstances in order to receive the payment.

Around 90 per cent of Mobility Allowance recipients receive another income support payment and will continue to have access to an advance of their primary payment. The remaining 10 per cent have other means of support which precludes them from receiving a means-tested income support payment, therefore hardship is unlikely to be an issue.

Labor Senators' Dissenting Report

Recommendation: Labor Senators on this committee recommended that further explanation of the need for the Bill, including the provision of \$46.5 million to ensure support that exists under current legislation, be provided to the Senate before a decision is formed.

Government Response: *Noted*

In the 2013-14 Budget, the previous Government agreed Mobility Allowance to be in scope to fully transition to the NDIS. Funding for the Mobility Allowance program was used as an offset to pay for the NDIS. Budget papers show the step down in funding for existing Commonwealth disability programs, including Mobility Allowance. The original decision allocated all under 65 Mobility Allowance funding to the NDIS and the remaining funding to Continuity of Support arrangements for those over 65. This was despite the fact that the eligibility rules for Mobility Allowance were broader than the NDIS and ultimately some people who receive the allowance would not be eligible for the NDIS.

Implementation of this decision would have required the progressive closing of Mobility Allowance in NDIS sites from 2016-17 in order to align the Mobility Allowance payment settings with NDIS funding estimates. Failure by the previous Government to change legislation to give effect to their decision resulted in a financial misalignment in the system, leaving a funding gap in the NDIS or to provide Continuity of Support to those current Mobility Allowance recipients found ineligible for the NDIS.

The 2016-17 Budget measure provided \$46.5 million to ensure continued support for people under 65 who are eligible for Mobility Allowance but not for NDIS supports. In effect, this ensures continuity of support for such people while long term arrangements are still being developed

The Budget measure also tightens eligibility rules to align with the NDIS and to better target the payment to those who need support the most while they wait to be transitioned to the NDIS. These changes will also ensure that the existing funding misalignment is not exacerbated.

Australia Greens Senators Dissenting Report

Recommendation: The Australian Greens recommend that the Bill not be passed, in its current form.

Government Response: *Not supported*

This recommendation is not supported by the Government as the objectives of this Bill are consistent with the Government's commitment to the full implementation of the NDIS. Together with the transition of other programs this Bill ensures that the NDIS is the main program of support for people with a disability who need assistance to enable them to fully engage in the workforce and other economic activities.

Other concerns raised by the Australian Green Senators' are addressed in the main body of the Government's response.