

14. Review of Decisions

A reviewable decision is a decision made by the National Disability Insurance Agency (NDIA) which carries formal rights of review under the [National Disability Insurance Scheme Act 2013](#) (NDIS Act).

14.1 Reviewable decisions relevant to compensation

These are reviewable decisions under the NDIS Act related to the Compensation Recoveries Operational Guidelines:

- A decision to give a notice to require a person to take reasonable action to claim or obtain compensation under section 104 of the NDIS Act (subsection 99(1), item 23);
- A decision to refuse to extend a period under subsection 104(5A) of the NDIS Act (subsection 99(1), item 24);
- A decision to take action to claim or obtain compensation under subsection 105(4)(a) of the NDIS Act (subsection 99(1), item 25);
- A decision to take over the conduct of a claim under subsection 105(4)(b) of the NDIS Act (subsection 99(1), item 26);
- A decision to give a notice that the CEO proposes to recover an amount under section 111 of the NDIS Act (subsection 99(1), item 27);
- A decision not to treat the whole or part of a compensation payment as not having been fixed by a judgment or settlement under section 116 of the NDIS Act (subsection 99(1), item 28).
- A decision to approve a statement of participant supports under subsection 33(2) of the NDIS Act (subsection 99(1), item 4).
- Any decision specified by the [National Disability Insurance Scheme \(Supports for Participants – Accounting for Compensation\) Rules 2013](#) (Compensation Rules) (subsection 99(2)).

14.2 The decision to approve a statement of participant supports in a participant's plan may include application of a Compensation Reduction Amount (CRA)

A decision to approve a statement of participant's supports in a participant's plan under subsection 33(2) of the NDIS Act is a reviewable decision (section 99, Item 4 of the NDIS Act).

Before the statement of participant's supports is approved the Compensation Rules must be applied if applicable (subsection 33(5)(d) of the NDIS Act).

In circumstances where the Compensation Rules have been applied to the statement of participant supports before it is approved, the Compensation Rules will form a part of any reviewable decision

under section 99, Item 4 of the NDIS Act, including:

- A CRA where the support component is objectively identifiable (rules 3.11-3.12 of the Compensation Rules);
- A CRA where the support component is not objectively identifiable (rules 3.13-3.16 of the Compensation Rules);
- A CRA where the participant is receiving compensation under a Commonwealth, State, or Territory statutory insurance scheme (rules 3.17-3.18 of the Compensation Rules);
- A CRA where the participant has been identified as having entered into an agreement to give up compensation (rules 3.19-3.21 of the Compensation Rules);
- A decision not to ignore the whole or part of a CRA that would otherwise arise under Rule 3.10 of the Compensation Rules; and
- The period over which a CRA is divided (amortised) under rule 3.7 of the Compensation Rules.

For further information on requesting an internal review please see the [Reviewing our decisions guideline](#) .

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