20 September 2022

Award changes include raised minimum engagement periods applying to casual and part-time home care workers from 1 hour to 2 hours.

- From 1 July 2022, the NDIA increased price limits for supports delivered by disability support workers by 9 per cent, in recognition of several additional cost pressures including:
  - Increased costs which may arise from the changes to the Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award);
  - Costs associated with managing the COVID-19 pandemic and quality and safeguard requirements; and
  - The increase in the Superannuation Guarantee Charge.
- The key change to the SCHADS Award is the introduction of a minimum 2-hour engagement period for casual and part-time home care workers.
- Under these changes, an employer is required to pay part-time and casual social and community services employees, who are undertaking home care or disability services work, for a minimum of 2-hours, at the appropriate award rate, for each shift, or period of work in a broken shift.
- This is an increase from the previous minimum engagement period of 1-hour.
- All unspent funds in NDIS plans were automatically increased to account for these pricing changes.
- This price limit increase followed extensive consultations with the disability sector as part of the Annual Pricing Review.
- Changes to the Award do not impact, change or reduce a participant's NDIS plan.
- Information sessions have been scheduled for participants and providers – visit NDIS events for details and to register.

Additional information for participants

- Participants will not miss out on the services they are entitled to through the NDIS as a result of the changes the Fair Work Commission has made to the SCHADS Award.

- The NDIA has heard from NDIS participants that following the 1 July 2022 changes to the SCHADS Award some providers are:

  - Imposing a minimum 2-hour engagement period for providing support to a participant.

  - Advising participants they will be charged for two hours of support, regardless of the amount of time workers actually delivered support to the participant.

- This advice to NDIS participants is incorrect.
- Changes to the SCHADS Award impacts providers' relationship with their workers/employees, not participants.
- How providers choose to schedule worker shifts has never had any impact on what participants pay for their supports.
- The recent changes to the SCHADS Award do not change that.
- Mandating a minimum support period or charging for a minimum support period in excess of actual hours of support delivered, would constitute a breach of the NDIS Code of Conduct, which all providers are required to adhere.
- A provider cannot charge a participant for more time than the actual amount of support delivered.
- Claiming payment for supports not delivered may also be potentially fraudulent and will be investigated by the NDIA.
- The Agency is continuing to work with the disability sector to ensure the NDIS can better support participants.
- The Agency will work with any participants who would like to discuss their individual circumstances if they believe there will be an impact on the volume of support hours they will be able to access as a result of SCHADS Award changes.
- For further assistance please contact the NDIA National Contact Centre on 1800 800 110 or enquiries@ndis.gov.au.

Additional information for providers

- Under NDIS pricing arrangements, the amount paid per billable hour is not intended to only cover the costs of the worker during that billable hour. It is also intended to cover any on-costs, or operational and corporate overheads associated with the delivery of the support to the participant.

- This includes any additional non-billable time that a worker may have in a shift because the provider was not able to find sufficient billable work for them to undertake.
- The NDIA understands providers may need to modify their rostering, operational systems and business procedures to accommodate changes in the SCHADS Award.
- The Agency has committed to continue to work with the sector to monitor the impact on provider costs of the changes in the employment conditions in the SCHADS Award that came into effect on 1 July 2022, with a view to further addressing these costs if necessary.
- It’s important for NDIS providers to understand the new minimum 2-hour engagement requirement does not apply at the level of a disability support worker’s interaction with an individual participant.
    - The minimum shift requirement applies to the employer of the support worker, not the recipient of the support.
    - Participants are not required to engage support workers for minimum periods.
    - A disability support worker can be rostered to provide services to more than one participant during a shift.
    - A provider should make all reasonable arrangements to find work for their employee during a shift if the participant does not require two hours of support. The minimum 2-hour engagement is not required to be with the same participant.
    - Participants can only use their NDIS funds to purchase supports which are reasonable and necessary.
- Providers can negotiate with the participant regarding the arrangements of their support but cannot force a participant to change their support times or engage a worker for a minimum length with an individual participant, if the participant does not need that amount of support.
- If a participant’s disability needs do not require two hours of support, then it would be inappropriate for them to use Scheme funds to purchase a 2-hour shift, and it would be inappropriate for a provider to deliver that support to the participant.
- Changes to the Award do not impact, change or reduce a participant’s NDIS plan.
- The NDIA has heard from participants that providers are telling them they will now be charged for a minimum 2-hours support delivery, even if less time than this is spent delivering the support.
- This advice to NDIS participants is incorrect.
- Mandating a minimum support period or charging for a minimum support period in excess of actual hours of support delivered, would constitute a breach of the NDIS Code of Conduct, which all providers are required to adhere.
- A provider cannot charge a participant for more time than the actual amount of support delivered.
- Claiming payment for supports not delivered may also be potentially fraudulent and will be investigated by the NDIA.
- All NDIS participants are free to purchase the supports they want, when they want, and in what quantities they choose.

  - This applies to all participants, regardless of how NDIS funds are managed, including self-managed participants.
  - Although the 1 July 2022 changes to the SCHADS Award may impact a provider's internal rostering decisions, they do not, and must not, impact a participant's choice and control.
- Providers cannot mandate a minimum engagement period for an individual participant.
- Providers cannot charge a participant for more than the hours of support they delivered.
- Providers must discuss and reach agreement with participants regarding any changes to existing arrangements for support delivery and ensure Service Agreements with participants are updated as required.
- All providers of NDIS supports, both registered and unregistered, are required to comply with the NDIS Code of Conduct.
- The increased price limits for supports delivered by disability support workers followed extensive consultations with the sector as part of the Annual Pricing Review, including on the implications of the changes to the SCHADS Award on provider costs. Read the report of the Annual Pricing Review.
- The SCHADS Award can be found at Fair Work Ombudsman - 1 July 2022 changes to Social, Community, Home care & Disability Services Award
- The NDIS Code of Conduct can be found by visiting the NDIS Quality and Safeguards Commission's website.
- For further assistance please contact the NDIA National Contact Centre on 1800 800 110 or email provider.support@ndis.gov.au.

Q and As - for participants

What does this change mean for participants?

Changes to the Award do not impact, change or reduce a participant's NDIS plan.

The NDIA has heard from participants that providers are telling them they will now be charged for a minimum 2-hours support delivery, even if less time than this is spent delivering the support.

This advice to NDIS participants is incorrect. Changes to the SCHADS Award impacts providers' relationship with their workers/employees, not participants.

How providers choose to schedule worker shifts has never had any impact on what participants pay for their supports. The recent changes to the SCHADS Award do not change that.

Who do I talk to if I'm worried about this change?

These changes should not impact your ability to access the supports you need. If you would like to talk more about this change or if you are concerned your plan will run out of funds due to these changes, please speak with your NDIS contact or call the NDIS on 1800 800 110.

What if I’m concerned my provider is doing the wrong thing with NDIS funds?

If you’re concerned that your provider is doing the wrong thing with NDIS funds, such as a provider billing you for work they have not done or that was not authorised, then you may wish to raise this issue with the NDIS Quality and Safeguards Commission (NDIS Commission), which has responsibility for these issues.

The NDIS Commission can be contacted via 1800 035 544 (free call from landlines) or TTY 133 677. Interpreters can be arranged. You can also report the matter through the NDIS Fraud Reporting and Scams Helpline on 1800 650 717 or by emailing fraudreporting@ndis.gov.au

What if my provider insists that I have to pay for minimum two hour shifts, but I’m worried that if I do my plan will run out?

Mandating a minimum support period or charging for a minimum support period in excess of actual hours of support delivered, would constitute a breach of the NDIS Code of Conduct, which all providers are required to adhere.

A provider cannot charge a participant for more time than the actual amount of support delivered.

Claiming payment for supports not delivered may also be potentially fraudulent and will be investigated by the NDIA.

A NDIS participant should not be disadvantaged by the changes to SCHADS Award provisions as their plan includes all funding necessary to purchase all of the supports that it is reasonable and necessary for them to receive.

If you believe you have insufficient funding in your NDIS plan to meet your support needs, please speak with your NDIS contact or call the NDIS on 1800 800 110.

Is the amount paid per billable hour just intended to cover the cost of the provider during the billable hour?

Under the NDIS pricing arrangements, the amount paid per billable hour is not just intended to cover the costs of the provider during that billable hour.

It is also intended to cover any on-costs, or operational and corporate overheads associated with the delivery of the support.

This includes any additional non-billable time that a worker may have in a shift because the provider was not able to find sufficient billable work for them to do.

If I am self-managed, do I need to buy 2 hours of support?

No. Like all other participants, you continue to choose what supports you want, when you want them, and for how long.

The SCHADS Award changes affect providers' internal rostering decisions, they do not impact your choice and control.

What if I engage my support workers through a provider, including a platform provider?

The SCHADS Award changes do not impact what supports you want and for how long, as these changes do not apply at the level of a disability support worker's interaction with you, the individual participant.

The SCHADS Award changes impact your providers' obligations to their employees.

What if I engage a sole-trader support worker?

The SCHADS Award changes do not impact what supports you want and for how long, as these changes do not apply at the level of a disability support worker's interaction with you, the individual participant.

The SCHADS Award changes impact your providers' obligations to their employees, in this case, the support worker is also their own employer.

Do I need to pay for other changes from the SCHADS Award (i.e. increase to overtime rates for part-time and casual employees)?

No. Like all other participants, you continue to choose what supports you want, when you want them, and for how long.

The SCHADS Award changes affect your provider's internal business decisions, such as rostering, and they do not impact participants' choice and control.

The NDIA has considered costs associated with the changes to the SCHADS Award, such as overtime rates and employee allowances, in the NDIS price limits for disability support workers to ensure providers can recuperate costs in delivering supports to NDIS participants.

Is the change in cancellation policy related to this?

No, the change in NDIS cancellation policy from 2 days to 7 days relates to another change to the SCHADS Award.

This is where a client cancellation occurs for scheduled services within 7 days of the service and where a worker is unable to service another client and the provider is required to pay the worker for the time that would have been spent providing the support.

Why is the award changing?

This change to the SCHADS Award brings it in line with other employment awards, improves worker protection, and boosts the incentive to work in the disability sector, which we know experiences a high level of insecure work.

How has the Agency been involved?

The Agency has been analysing the implications for NDIS participants of this and other recent changes to the SCHADS Award since the Fair Work Commission first expressed its preliminary views on these matters on 4 May 2021.

The Agency conducted extensive consultations led by the Agency's Chief Economist with the sector as part of the Annual Pricing Review, including on the implications of the changes to the SCHADS Award on provider costs.

Q and As - for providers

Are participants required to engage support workers for minimum periods?

No. It's important for NDIS providers to understand the new minimum 2-hour engagement requirement does not apply at the level of a disability support worker's interaction with an individual participant.

The minimum shift requirement applies to the employer of the support worker, not the recipient of the support.

- Participants are not required to engage support workers for minimum periods.
- A disability support worker can be rostered to provide services to more than one participant during a shift.
- A provider should make all reasonable arrangements to find work for their employee during a shift if the participant does not require two hours of support. The minimum 2-hour engagement is not required to be with the same participant.
- Participants can only use their NDIS funds to purchase supports that are reasonable and necessary.

What is the background of the SCHADS Award change?

The NDIA is aware of the provisions in clause 10.5 of the Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award) that require employers to pay part-time and casual home care employees and part-time and casual social and community services employees undertaking disability services work for at least 2 hours, at the appropriate rate, for each shift or period of work in a broken shift.

It is also aware of the provision for broken shift allowances in clause 20.12 of the SCHADS Award.

What was the latest pricing 2022-23 announcement?

On 1 July 2022, the Agency increased the price limits for supports delivered by disability support workers by 9 per cent in recognition of a number of additional cost pressures, including any pressures that may arise from the changes in the SCHADS Award.

These changes will better support participant outcomes and reduce workforce turnover by funding better conditions for your NDIS workers.

The changes recognise the true cost of continuity of support, keeping participants safe and improving systems to drive productivity.

Can time spent on travel and non-face-to-face activities be included in this minimum engagement time?

At the participant’s agreement, the time spent on provider travel and billable non-face-to-face activities to deliver supports to NDIS participants can be considered engagement of a worker to support a NDIS participant.

However, rostering arrangements of a provider is still a business decision, and an employer is still required to meet their legal obligations to their employees.

The NDIA encourages providers to discuss their concerns with the Fair Work Commission.

Can time spent on travel be included in this minimum engagement time?

Charging for travel remains unchanged and is capped as outlined in the NDIS Pricing Arrangements and Price Limits document.

In remote and very remote areas (MMM6 and MMM7), providers delivering core and capacity building supports may enter specific arrangements with participants to cover travel costs, up to the relevant hourly rate for the support item.

Other changes in the SCHADS Award

Other changes in the SCHADS Award include:

- Broken shifts
- On call/remote response work
- Client cancellation

More information is available on the Fair Work Commission's website .

The Annual Pricing Review is available here.

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