



Australian College of Audiology Ltd.
ABN 32 615 408 323

Mailing Address:
PO Box 139
GREENWITH SA 5125

Business Address:
Suite 7, 4th Floor
201 Wickham Tce
SPRING HILL QLD 4000

Tel
Fax
Toll Free
Email

07 3838 1622
07 3839 1822
1800 803 128
acaud@acaud.org

23rd May 2018

Nick Morgan
Assistant Secretary
Home Support and Hearing Branch
Department of Health
hearing@health.gov.au

Dear Assistant Secretary Morgan,

ACAud response to Thematic Review of the Commonwealth hearing services legislation

Thank you for giving the Australian College of Audiology (ACAud) the opportunity to provide input into the Thematic Review of the Commonwealth's hearing services legislation.

ACAud welcomes this review in addition to the other recent reviews and inquiries into hearing service provision as it feels there is opportunity to significantly simplify and improve the current hearing services legislation to:

- make the legislation more succinct and therefore more accessible,
- update it and reflect current intersections with other Government programmes, and
- make the legislation regarding low income adults with hearing needs fairer.

Refer below to ACAud's responses to the five questions you provided in Attachment A. As the timeframe for this request for input was short, we are eager for future opportunities to provide detailed feedback on any drafts of revised legislation.

ACAud would like to acknowledge and thank the Office of Hearing Service's (OHS's) work in providing clear guidance and information regarding the hearing services legislation and other related schemes such as the National Disability Insurance Scheme (NDIS). This includes the contracts with Contracted Service Providers (CSPs), the CSP Notices and the information on the OHS's website. We hope that the Department of Health will continue to provide the same level of clarity and support to CSPs regarding relevant legislation and other requirements.

ACAud looks forward to continuing to work with the Department of Health on the various reviews of hearing health programmes, including the development of a roadmap for hearing health.

Please do not hesitate to contact us if you require any further information on any of the issues we have raised in this response.

Yours Sincerely,

A handwritten signature in black ink that reads "Michael Smith".

MICHAEL SMITH
ACAud President

Attachment A- ACAud response to the questions for hearing services stakeholders

1. Do you consider any of the legislative instruments (or provisions within) are redundant or unnecessary or otherwise not fit-for-purpose?

- It is ACAud's position that Government-subsidised hearing services for all low-income earners not eligible for other programmes should be provided via the Hearing Services voucher system after the age of 26. We realise that this may be considered a major policy or funding issue but feel that this is also a reflection of legislation that is not fit-for-purpose.
 - One possible route to achieve this would be to remove the condition stated in para 5(2)(b)(ii) of the Hearing Services Administration Act 1997 which required that holders of Health Care Cards are only eligible for the voucher system if the person "holds that card because the person is in receipt of sickness allowance under the *Social Security Act 1991*". Extending eligibility to all holders of a Health Care Card¹ would increase the number of low-income earners eligible for Government-subsidised hearing services.
 - We note that the National Disability Insurance Scheme (NDIS) Operational Guidelines have stated that only clients over the age of 25 with very high levels of hearing loss and complex needs will be eligible for the NDIS (see Attachment B for relevant excerpts from the NDIS Operational Guidelines). It is ACAud's position that this threshold is too high for adults in need of hearing services and that the voucher system should therefore be, at a minimum, extended to support all adults on a low income.
- ACAud notes that Schedule 1 of the *Hearing Services Rules of Conduct 2012* need to be updated to reflect ACAud's current entity type, ABN and membership categories.

2. Do you consider the legislative instruments simple, clear and easy to read? If not, which elements of the legislation pose particular challenges, and what changes would you suggest?

- The legislative instruments in their totality are difficult to read and appear to contain unnecessary repetition and cross-referencing between the legislative instruments and the relevant Acts. Where possible, inclusion of all related requirements into a single piece of legislation would significantly ease access and improve the accessibility of the legislation. From our non-legal perspective, it appears that there is opportunity to do this with regards to the *Hearing Services Administration Act 1997*, *Hearing Services (Eligible Persons) Determination 1997*, *Hearing Services (Participants in Voucher System) Determination 1997* and *Hearing Services Providers Accreditation Scheme 1997*. For example:
 - A streamlining of the eligibility criteria into a single piece of legislation would ease understanding. The cross-referencing and repetition of eligibility criteria between the *Hearing Services Administration Act 1997*, *Hearing Services (Eligible Persons) Determination 1997* and *Hearing Services (Participants in Voucher System) Determination 1997* is confusing and requires careful cross-referencing making eligibility difficult to determine.

¹ Australian Government, Department of Human Services. Eligibility for a Health Care Card. Available at: <https://www.humanservices.gov.au/individuals/enablers/eligibility-health-care-card/28476>, last accessed 19 May 2018.

- Table B in sub-section 6 (2) of the *Hearing Services (Participants in Voucher System) Determination 1997* appears to have the same description of available hearing services for Class No. 1 and 2 of persons. Is this repetition necessary or could both class numbers appear against a single description?

3. Do you consider any of the legislative instruments generate unnecessary administrative burden (for service providers, hearing device manufacturers and suppliers, clients, government or others)? If so, what changes could be made to address this?

- The requirement in sub-section 5 (3) of the *Hearing Services Voucher Rules 1997* that an application form for the issue of a voucher must require an applicant to obtain a certificate from a medical provider creates unnecessary administrative burden for service providers, clients and medical practitioners.
 - ACAud suggests that the possibility of whether other professions could perform this task should be explored. Safeguards such as audits of clinical decisions could be made to ensure that clinical standards are upheld.

4. Do you consider any of the legislative instruments impose significant unnecessary compliance costs on business, community organisations and individuals? If so, how could compliance costs be reduced?

No comment.

5. Do you have suggestions for reducing regulatory burden or improving the operation of the legislation?

See response to question 3.

6. Other issues

- ACAud notes that under sub-section 8 (1) of the *Hearing Services Rules of Conduct 2012* accredited service providers (which includes Australian Hearing according to section (7) of the *Hearing Service Providers Accreditation Scheme 1997*) who are also Contracted Service Providers for the provision of services to voucher-holders must:

"[...] not publish, or cause to be published, an advertisement in connection with the provision of hearing services to voucher-holders that:

(a) is misleading or deceptive, or likely to mislead or deceive; or

(b) is calculated to mislead either directly or by implication; or

(c) suggests, directly or indirectly, that:

(i) hearing services under the voucher system are only available from the contracted service provider; or

(ii) the contracted service provider enjoys a special relationship with the Minister or the Office that will help get favourable treatment for a voucher-holder; or

(iii) the contracted service provider's accreditation under the accreditation scheme is a recommendation or endorsement by the Commonwealth of its hearing services; or

(iv) the inclusion of a particular device in a list of free devices under the voucher system, and the eligibility of a top-up device for supply under top-up arrangements, is a recommendation, endorsement or award by the Commonwealth other than that the device meets specified standards.”

ACAud would like clarification that this rule applies to Australian Hearing, as the allegations that came to light as part of the Australian Competition & Consumer Commission’s enquiries into the hearing aid industry suggest that Australian Hearing may be in breach of this rule.

- ACAud suggests that the legislation should be modified to ensure that other non-voucher components of Australian Hearing service provision (private and the Community Service Obligations (CSO) components) are subject to similar rules as those outlined in the *Hearing Services Rules of Conduct 2012*. It is ACAud’s position that the public has a right to know the rules Australian Hearing must uphold in the delivery of the CSO program.

Attachment B- Relevant excerpts from the NDIS Operational Guidelines

“8.3.3 Additional guidance for hearing impairments

Hearing impairments may result in reduced functional capacity to undertake communication, social interaction, learning and self-management activities.

Generally, the NDIA will be satisfied that hearing impairments of ≥ 65 decibels in the better ear (pure tone average of 500Hz, 1000Hz, 2000Hz and 4000Hz) may result in substantially reduced functional capacity to perform one or more activities. This audiometric criteria reflects the lower limit of what is likely to constitute a substantially reduced functional capacity to undertake relevant activities.

Hearing impairments < 65 dB decibels in the better ear (pure tone average of 500Hz, 1000Hz, 2000Hz and 4000Hz) in conjunction with other permanent impairments (for example vision or cognitive impairments), or where there is evidence of significantly poorer than expected speech detection and discrimination outcomes, may also be considered to result in substantially reduced functional capacity to undertake relevant activities.”²

“9.5.2 Early intervention for hearing impairment for people aged 0-25

The NDIA will be satisfied that a person meets the early intervention requirements without further assessment when the person:

- is aged between birth and 25 years of age; and*
- has confirmed results from a specialist audiological assessment (including electrophysiological testing when required) consistent with auditory neuropathy or hearing loss ≥ 25 decibels in either ear at 2 or more adjacent frequencies, which is likely to be permanent or long term; and*
- the hearing loss of the person necessitates the use of personal amplification.*

This streamlined access approach for early intervention acknowledges a rich body of evidence that recognises that early intervention support up to and including the age of 25 is critical for people with hearing impairment as the developing brain requires consistent and quality sound input and other support over that period to develop normally and ameliorate the risk of lifelong disability.

This same body of evidence suggests that brain development and language capability have been achieved by the age of 26. Therefore, adults aged 26 years and over are not immediately accepted to be likely to benefit from the same early intervention approach because there is no requirement to support the development of the auditory pathways. Adults aged 26 years and over with hearing impairment will therefore be assessed normally, on a case by case basis, having regard to the availability of all relevant evidence.”³

² National Disability Insurance Agency. NDIS Operational Guidelines- Access to the NDIS. 8. The disability requirements. Available at: <https://www.ndis.gov.au/operational-guideline/access/disability-requirements.html#8.3>, last accessed 19 May 2018.

³ National Disability Insurance Agency. NDIS Operational Guidelines- Access to the NDIS. 9. Early intervention requirements. Available at: <https://www.ndis.gov.au/operational-guideline/access/early-intervention-requirements.html#9.5>, last accessed 19 May 2018.