

National Disability Insurance Scheme (NDIS) Internal Review (Review of a reviewable decision) and NDIS Appeals Flow Chart

NDIS Eligibility and Planning

- Person with disability contacts National Disability Insurance Agency (NDIA) to apply for NDIS support
- Person's eligibility is assessed on functional capacity according to NDIA access criteria
- If not eligible, person will be notified within 21 days

If eligible, person is accepted as NDIS participant

- NDIS participant meets with planner to develop a plan
- Plan is implemented
- If the NDIS participant is unhappy with the plan, an 'Application for a review of a reviewable decision' form must be lodged within three months. This can be completed by the participant online, or by an NDIA officer over the phone, or in person
- NDIA initiates an internal review process

If not eligible, person is not accepted as an NDIS participant

- If more information can be accessed to prove eligibility, submit a new NDIS access request form (There is no limit to the amount of times you can apply)

- If all information has been supplied and you think there is an error in the decision participant can submit an internal review
- NDIA initiates an internal review process

Internal Review

- NDIA internal review staff member makes a decision to confirm, vary or set aside earlier decision
- NDIS participant is notified of decision
- If the NDIS participant remains dissatisfied with the decision, an application for review by the Administrative Appeals Tribunal (AAT) is lodged – this must be done within 28 days

NB: The NDIS has to make a decision in a reasonable and practicable timeframe. There is not set amount of time that a decision has to be made.

Administrative Appeals Tribunal (AAT)

If applying to AAT without an Appeals Officer

- AAT contact officer makes contact within three days of receiving application to review NDIA decision
- AAT contact officer notifies NDIA of application
- NDIA provides relevant documents to AAT and to participant (Tribunal Documents)
- AAT organises a teleconference to determine what needs to be done and creates a case plan
- If agreement cannot be made the AAT will:
 - AAT organises conciliation to determine if case can be resolved by agreement
 - If not resolved, AAT will conduct a hearing

Note: The NDIS participant can access an NDIS Appeals Support Officer to assist them to go through the AAT process and to apply for funding for a legal aid lawyer, or they can work with an advocate, family member, support person, or legal representative

(continued over)

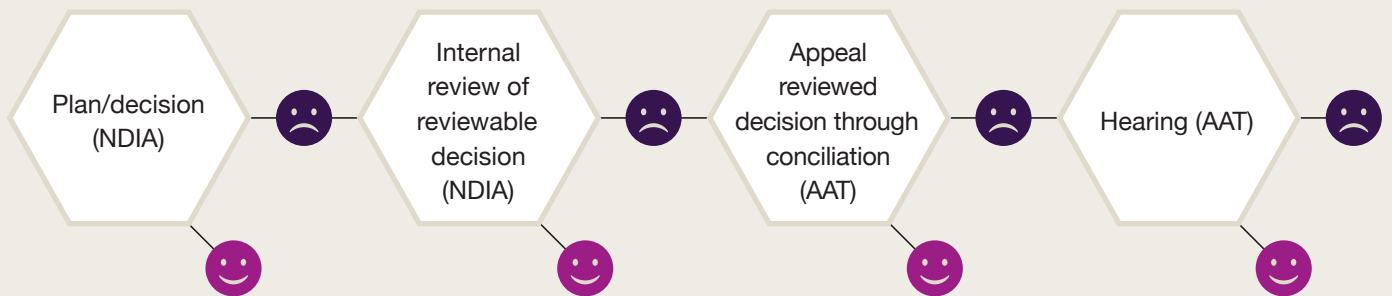
Accessing a NDIS Appeals Officer

- NDIS participant contacts NDIS Appeals agency
<https://disabilityadvocacyfinder.dss.gov.au/disability/ndap/>
- NDIS participant will need to go through an intake process with their chosen NDIS Appeals agency who will allocate an NDIS Appeals Officer when one is available
- NDIS Appeals Officer meets with NDIS participant
- NDIS Appeals Officer applies to Victoria Legal Aid (VLA) for funding for a legal aid lawyer
- NDIS Appeals Officer supports NDIS participant through the AAT process

Victoria Legal Aid

- If funding for legal support is approved participant is notified in writing
- A VLA lawyer will be allocated you case
- Victoria Legal Aid lawyer meets with NDIS participant to receive instructions and work through case
- VLA lawyer will receive Tribunal Documents

Quick reference summary process



References

NDIS Act: <https://www.comlaw.gov.au/Details/C2013A00020>
(List of reviewable decisions – Chapter 3, Part 6, Section 99)

“Internal review of a decision” fact sheet: <http://www.ndis.gov.au/participants/reasonable-and-necessary-supports/decision-review>

“Review of National Disability Insurance Scheme decisions” fact sheet: <http://www.aat.gov.au/applying-for-a-review/national-disability-insurance-scheme-applicants>

“External Merits Review Support (EMRS)” fact sheet: <http://www.riac.org.au/training.php>

Central Assessment Provider (CAP) guidelines: https://www.dss.gov.au/sites/default/files/documents/10_2015/central_assessment_provider_guidelines_.pdf



Contact DARU

Level 8/128 Exhibition Street
Melbourne 3000
Phone (03) 9639 5807
Email admin@daru.org.au
Web www.daru.org.au
Twitter @daruvc