Operational Guideline – Planning and Assessment – Supports in the Plan – Motor Vehicle Modifications

Legislation

1. Read ss.3, 4 and 34 of the National Disability Insurance Scheme Act 2013 (NDIS Act 2013) and the National Disability Insurance Scheme Act 2013 (Supports for Participants) Rules 2013 (Supports for Participants Rule).

General principles

2. People with disability should be supported to participate in and contribute to social and economic life to the extent of their ability.

See s.4(2) of the NDIS Act

3. People with disability should be supported to exercise choice, including in relation to taking reasonable risks, in the pursuit of their goals and the planning and delivery of their supports.

See s.4(4) of the NDIS Act

4. Reasonable and necessary supports for people with disability should:
   a. Support people with disability to pursue their goals and maximise their independence; and
   b. Support people with disability to live independently and to be included in the community as fully participating citizens; and
   c. Develop and support the capacity of people with disability to undertake activities that enable them to participate in the mainstream community and in employment.

See s.4(11) of the NDIS Act

5. The preparation, review and replacement of a participant's plan should so far as reasonably practical be individualised; directed by the participant; where relevant consider family, carers and significant others; consider availability of informal support, access to mainstream and community supports; and build individual capacity to increase participation and inclusion in community with the aim of achieving individual aspirations.

See s.31 of the NDIS Act

6. Plans should maximise choice and independence of the participant and facilitate tailored and flexible responses to individual goals and needs.

See s.31 of the NDIS Act

7. The statement of participant supports specifies the general supports (if any) and the reasonable and necessary supports (if any) that will be funded. In deciding whether to approve a statement the delegate must:
a. Have regard to the legislation and rules, participant statement, relevant assessments,

b. Be satisfied that all clauses of s.34 of the NDIS Act on reasonable and necessary are met including that the support is most appropriately funded by the NDIS and offers value for money;

c. Have regard to the principle that a participant should manage their plan to the extent they wish and the operation and effectiveness of any previous plans of the participant.

See ss.33, 34 and 35 of the NDIS Act

Vehicle modification supports

8. Vehicle modifications include changes to a vehicle or installation of equipment in the vehicle that enable a participant to:

a. Get in and out of a vehicle with or without a wheelchair;

b. Carry their wheelchair in or on the vehicle without lifting;

c. Be transported safely whilst seated in their wheelchair;

d. Drive with specialised controls or other adaptations.

Reasonable and necessary supports

9. Before specifying any general support, or reasonable and necessary support, in a participant’s plan the delegate has to:

a. Be satisfied that all the criteria set out in s.34(1) of the NDIS Act are met in respect of each funded support before it is included in a participant’s plan;

b. Ensure the support:
   
i. Will not cause harm to the participant or pose risk to others; and

ii. Is due to the effect of the disability on the participant and does not duplicate supports available from other systems; and

iii. Does not relate to day to day living costs (e.g. rent, groceries, utility fees) unless directly attributable to the impact of the disability on the participant; and

iv. Is not illegal or consist of income replacement

See Operational Guideline – Planning and Assessment – Supports in the Plan
See Rs.5.1, 5.2 and 5.3 of the Supports for Participants Rules

c. Consider the additional guidance for delegates provided by the National Disability Insurance Agency (NDIA) set out in this Operational Guideline in relation to vehicle modifications (see below).

10. This Operational Guideline lists the matters that delegates are to consider under headings which refer to the paragraphs of s.34(1). For example, value for money (s.34(1)(a)) and effective and beneficial having regard to current good practice (s.34(1)(b)). Delegates are to note that the matters to be considered may fall across more than one paragraph of s.34(1) and need to be considered in relation to more than one paragraph of s.34(1).
Goals and aspirations

11. Before including a support in a participant’s plan the delegate must be satisfied that the support will assist the participant to pursue their goals. Motor vehicle modifications will need to be considered when a participant has identified a goal that requires such support.

See s.34(1)(a) of the NDIS Act

Supports that will not be funded or provided by the NDIS

12. The Supports for Participants Rules provide that a support will not be funded by the NDIS if it;
   a. Is likely to cause harm to the participant or pose a risk to others, or
   b. Is not related to the participant’s disability, or
   c. Duplicates other supports delivered under alternative funding through the NDIS or other systems, or
   d. Relates to day-to-day living costs

See r.5.1 of the Supports for Participants Rules

13. The NDIS will not be responsible for:
   a. Ensuring that public transport options are accessible to a person with disability, including through the funding of concessions to people with disability to use public transport; or
   b. Compliance of transport providers and operators with laws dealing with discrimination on the basis of disability, including the Disability Standards for Accessible Public Transport 2002; or
   c. Transport infrastructure, including road and footpath infrastructure, where this is part of a universal service obligation or reasonable adjustment (including managing disability parking and related initiatives); or
   d. Support to compensate for the lack of a public transport system.

See r.7.22 of the Supports for Participants Rules

14. In relation to motor vehicle supports, delegates need to specifically consider whether a support relates to a participant’s disability rather than being the kind of support that any Australian may need. It is expected the NDIA will generally be unlikely to fund:
   a. The purchase of a motor vehicle
   b. Regular insurance, registration or running costs
   c. Non-standard items e.g. auto docking where the person or their attendant is able to manually dock
   d. Driving supervision in order for the person to accrue hours to pass a driving test.
Supports most appropriately funded by the NDIS

15. The NDIS Act requires that a delegate must be satisfied that a support is most appropriately funded or provided through the NDIS and not appropriately funded or provided through other service systems.

See s.34(1)(f) of the NDIS Act

16. The NDIS will be responsible for:

a. Supports for a person that enable independent travel, including through personal transport-related aids and equipment, or training to use public transport; and

b. Modifications to a private vehicle (i.e. not modifications to public transport or taxis); and

c. The reasonable and necessary costs of taxis or other private transport options for those not able to travel independently or use public transport.

Social and economic participation

17. Before including a support in a plan, the delegate must be satisfied that the support will assist the participant to undertake activities, so as to facilitate the participant’s social and economic participation.

See s. 34(1)(b) of the NDIS Act

Value for money

18. Before a support is added to a plan the delegate must be satisfied that it represents value for money in that the costs of the support are reasonable and necessary to make progress on goals relative to both the benefits achieved and the cost of alternative support.

See s.34(1)(c) of the NDIS Act

19. Delegates are also to consider whether:

a. The proposed modifications are the best alternative for effectively achieving the participant’s driving or transport needs and whether those needs can be achieved using a less costly alternative; and

b. The cost of the modifications compared to the cost of other funded transport supports over the life of the vehicle. For example, modified taxi fares, modified vehicle hire or personal assistance.

20. Additionally, delegates should also consider the suitability of the type of vehicle being proposed to be modified in terms of:

a. Whether the vehicle is of a type that will require a novel engineering solution; and

b. Whether the vehicle is of an age and mileage that is cost effective to modify relative to the cost of modification, anticipated use and expected longevity of the modified vehicle. Vehicles less than 3 years old and under 45,000kms are generally considered suitable to modify. Older vehicles and those with higher mileage may, however, still be considered.

21. The NDIS may fund modifications that exist on a second hand vehicle at a rate commensurate with the depreciated value of the modifications.
Effective and beneficial

22. Before including a support in a plan the delegate must be satisfied that the support will be, or is likely to be, effective and beneficial for the participant, having regard to current good practice.

23. NDIS would only fund vehicle modifications where:
   a. The support was prescribed by a suitably qualified occupational therapist and installed by a supplier in line with the relevant standards and state or territory regulations;
   b. The participant owns the vehicle, or in the case that it is owned by a family member, where the participant has use of the vehicle for their transport needs; and
   c. The participant is able to fund ongoing vehicle running costs including registration, regular insurance, fuel, repairs and maintenance.

24. It is expected the NDIS will generally fund supports that are related or incidental to vehicle modifications such as:
   a. Modifications already installed on a second hand vehicle purchased by the participant provided it can be demonstrated that it is value for money to purchase an already modified vehicle in view of things like the condition of the modifications, the vehicle age, mileage, expected life of the vehicle, the participant’s needs and expected use;
   b. Driver assessment(s) for the purposes of obtaining an endorsed license;
   c. Driving lessons where for when a participant requires lessons to establish skills to use modifications or additional lessons where a participant’s disability results in them taking longer to learn to drive;
   d. Additional insurance costs where an additional amount is payable to cover the modifications. The additional amount payable and not the total cost of the insurance would generally only be funded;
   e. The cost of engineering certification and other checks required for initial registration;
   f. The cost of removal of modifications and reinstallation on a new vehicle when it is value for money and practicable to do so;
   g. Repairs of modifications above covered by warranties or insurance.

25. Self-drivers must have an endorsed licence to drive a modified vehicle. For the NDIS to consider funding vehicle modifications, the participant must have an endorsed licence at the time of the request or be assessed as having the capacity to obtain an endorsed licence by:
   a. An evaluation by a medical practitioner using the national “Assessing Fitness to Drive” medical standards; and
   b. A driving assessment by a Driver Trained Occupational Therapist; or
   c. A driving assessment by the State licensing authority.

Reasonable expectation of families

26. Delegates must take into account what is reasonable to expect of families and carers of participants. The NDIS would generally not fund supports where that might be reasonably be expected to be provided by the participant’s family and friends or community members.
Considering additional vehicle modifications

27. Where practicable, minor modifications (less than $10,000) should be removed from an old vehicle and reinstalled in a new vehicle when the participant purchases a new vehicle.

28. The NDIS will not fund major modifications (over $10,000) to a new vehicle for eight years after the most recent funding unless the participant’s situation has significantly changed and updating of modifications is required.