

Appeals and Review Guide

A practical guide to assist
people with psychosocial
disabilities prepare for NDIS
Appeals and Internal Reviews

This guide has been designed to assist you to prepare for an NDIS Internal Review and Appeal. When people receive a letter from the NDIS informing them that their application has been denied, feelings of helplessness and confusion often come into play. The good news is that you don't have to face this alone, there are appeals and review advocates that can offer advice and assistance throughout the whole process.

Contact an Appeals and Review Advocate as soon as possible after receiving your notification. They will be able to discuss the options available to you.

See attachment 1 for Appeals and Review Advocate contact details

Appeals and reviews are also available to participants regarding their plan. This can relate to decisions made by the National Disability Insurance Agency (NDIA) for the provision of reasonable and necessary support that you may disagree with. In fact the NDIA, who is the government body that oversees the NDIS, provides a whole list of 'decisions' that can be reviewed. These decisions are known as 'reviewable decisions' and can be found as an attachment at the back of the **NDIS Application for a review of a reviewable decision** form.

<https://www.ndis.gov.au/participants/reasonable-and-necessary-supports/decision-review/application-review-reviewable-decision>

If the lingo is starting to confuse you, don't worry – you are not alone. We will guide you step-by-step to unpack the government lingo relating to the appeals and review process.

Basically, this whole process is about you applying to become a participant of the NDIS, or you are a participant but did not get the supports you needed, and the NDIA has denied you access or supports. You disagree with their decision to do this, so you are wanting them to relook (and hopefully change their mind) at the decision they made.

Let's start with an overview of the appeals and review process...



Seems simple doesn't it? Now we will look at each of these steps, breaking them down and provide information on what the NDIA doesn't tell you and what you will need to do to prepare for this process.



TIP:

START A FILE TO KEEP ALL THE INFORMATION TOGETHER.

Receive a decision from NDIA that you don't agree with...

If you have been refused access to the NDIS, the NDIA must send you written notification of this decision. Included in this notification will be a reason/s why you have not been accepted. The NDIA will reference their decision making to the:

- NDIS Act 2013 (legislation)

- NDIS (Becoming a Participant) Rules 2016
- NDIS Operational Guidelines

The reasons given in the letter will provide clues as to what you will need to do next. Most decisions are made because there has not been enough evidence provided, or the evidence provided has not been written in a way that demonstrates the mental health 'disability' is permanent and significant.



TALK TO AN APPEALS AND REVIEW ADVOCATE. DISCUSS WHAT EVIDENCE HAS BEEN PROVIDED, THE REASONS THE NDIA HAVE GIVEN FOR THEIR DECISION AND WHAT FURTHER EVIDENCE YOU MAY NEED

This stage is important as the NDIA will allow for further information (also known as evidence) to be provided before you request a formal internal review. It's like getting a second chance and hopefully, with the new evidence provided, you will not have to go down the path of a review and appeal.

How the information regarding your psychosocial disability has been written is crucial. Whether the information has been provided by your doctor, psychiatrist, occupational therapist or support worker – it all comes down to how it has been written up.

An advocate can provide you with the latest example on how to write reports suited for the NDIA

Next, we need to look at the wording. The NDIA has its own special language using words such as remedy (really meaning 'cure'), permanent and severe (meaning the functional impact to your life). Even the section on 'treatments' need to be written, after the list of treatments is scribed, with wording to the effect: '... This is the most appropriate treatment for *_(mental illness)*_____'. It would even be more helpful if medical professional

could make a statement as to why other methods of treatment aren't being utilized.

Medical Practitioners are still learning how to write to the NDIS speak. The focus is no longer on what you can do and what your strengths are – the focus is on what you are unable to do. It's really important that any reports written for you also focus on what you are unable to do. In fact, due to the episodic nature of mental illness, it is suggested that you focus on the times you need the most support and reiterated that your mental health issues are 'permanent'.

*YOU HAVE 3 MONTHS TO APPLY FOR AN INTERNAL
REVIEW FROM THE TIME YOU **FIRST** RECEIVE
NOTIFICATION OF YOUR ACCESS DENIED
(REMEMBER TO KEEP YOUR ENVELOPE FOR PROOF OF TIME)*

Requesting a review of a decision

You can request a review of a decision in a number of ways by:

- Talking to someone in an NDIA office
- Calling 1800 800 110
- Sending an email to enquiries@ndis.gov.au
- Submitting a written request to:
Chief Executive Officer
National Disability Insurance Agency
GPO Box 700
Canberra, ACT 2601 *(see attachment 2 for application)*

Tip: VMIAC suggests you either request the decision via email or application as this way you will have written evidence of the request made

You will need to explain why you think the decision the NDIA made was incorrect.

Back up your explanation with further evidence.

Administrative Appeals Tribunal

Once you receive the outcome of the internal review, if you are still not happy with the outcome, you will then be able to apply for an appeal of this decision to the Administrative Appeals Tribunal (AAT).

You must have had an internal review before you can take the next step of an AAT appeal.

Once again, the letter the NDIA sends you to inform you of their decision will outline reasons as to why they believe you have not met the criteria (either for access or a plan).

*YOU HAVE **28 DAYS** TO APPLY FOR AN ADMINISTRATIVE APPEALS
TRIBUNAL REVIEW FROM THE TIME YOU **FIRST** RECEIVE NOTIFICATION
OF THE INTERNAL REVIEW OUTCOME
(REMEMBER TO KEEP YOUR ENVELOPE FOR PROOF OF TIME)*

Visit the AAT website for further information or contact them on 1800 800 110

At this stage, we suggest you definitely contact an
Appeals and Review Advocate...

- Information needed will be very specific to you
- You may need legal representation
- There are a number of steps to be completed before an AAT hearing including mediation

Attachment 1

Victorian NDIS Appeals and Review Advocates

Victorian Mental Illness Awareness Council 9380 3900

Action on Disability within Ethnic Communities

Action for More Independence & Dignity in Accommodation

AED Legal

Regional Disability Advocacy Service

Disability Justice Advocacy

Gippsland Disability Advocacy

Grampians Disability Advocacy (Central Highlands and Loddon)

Leadership Plus

Rights Information and Advocacy Centre (Central Highlands, Loddon, Geelong, Colac)

Southwest Advocacy Association

Villamanta Disability Rights Legal Service

Please refer to these organisations individual websites for further information and contact details

