



NACCHO

National Aboriginal Community  
Controlled Health Organisation  
*Aboriginal health in Aboriginal hands*

[www.naccho.org.au](http://www.naccho.org.au)

# Aged Care Rules

## Stage 2a – Funding

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Submission to  
Department of Health  
and Aged Care

December 2024

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## About NACCHO

NACCHO is the national peak body for Aboriginal and Torres Strait Islander health in Australia. We represent 146 Aboriginal Community Controlled Health Organisations (ACCHOs) and assist several other community-controlled organisations to improve health outcomes for Aboriginal and Torres Strait Islander people.

Our sector has more than fifty years' collective service. In 1971, Aboriginal people established the first Aboriginal medical service in Redfern, NSW. Mainstream health services were not working and there was an urgent need to provide decent, accessible health services for the medically uninsured Aboriginal population (pre-dating Medicare (1975)). Similar Aboriginal medical services quickly sprung up around the country. In 1974, a national representative body was formed to represent these Aboriginal medical services. That body has grown into what NACCHO is today.

NACCHO liaises with its membership (ACCHOs) and eight state/territory affiliates, governments, and other organisations, to develop policy, provide advice and advocate for better health and wellbeing outcomes for Aboriginal and Torres Strait Islander people. Together we address health issues including service delivery, information and education, research, public health, financing, and programs.

ACCHOs range from large multi-functional services employing several medical practitioners and providing a wide range of services, to small services which rely on Aboriginal health practitioners and/or nurses to provide the bulk of primary health care services. Our 146 members provide services from about 550 clinics. Our sector provides over 3.1 million episodes of care per year for over 410,000 people across Australia; about one million of these episodes of care are delivered in very remote regions.

ACCHOs contribute to improving Aboriginal and Torres Strait Islander health and wellbeing by providing comprehensive primary health care, and by integrating and coordinating care and services. They provide home and site visits; medical, public health and health promotion services; allied health; nursing services; assistance with making appointments and transport; help accessing childcare or dealing with the justice system; drug and alcohol services; and help with income support.

ACCHOs build ongoing relationships to provide continuity of care. This helps chronic conditions to be better managed and provides more opportunities for preventative health care. Through local engagement and a proven service delivery model, our clients 'stick'. Cultural safety in our services is a key factor of our success.

ACCHOs are also closing the employment gap. Collectively, we employ about 7,000 staff – 54 per cent of whom are Aboriginal or Torres Strait Islanders. This makes us the third largest employer of Aboriginal or Torres Strait people in the country.

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## Acknowledgements

NACCHO welcomes the opportunity to provide a submission to this Consultation. We support submissions from our Affiliates and members. Our focus is on health and wellbeing for Aboriginal and Torres Strait Islander people and improving their ability to deliver and access culturally safe aged care. We acknowledge support from the Office of the Interim First Nations Aged Care Commissioner, Aboriginal Community Elders Services (ACES), Aboriginal Health Council Western Australia (ACHWA) and the Institute for Urban Indigenous Health (IUIH) in preparing this submission.

## Recommendations

NACCHO recommends:

1. the Aged Care Rules align with and support the National Agreement and its four Priority Reform Areas.

We reiterate our recommendations to the *Senate Inquiry into the Aged Care Bill 2024* which are also relevant to the Aged Care Rules, and recommend:

2. that in line with Priority Reform 2 of the National Agreement, regulatory controls and associated legislation provide flexibility to support ACCHOs and ACCOs to provide aged care services that support their local cultural and service delivery needs.
3. that Aged Care Rules support funding policy and mechanisms that recognise that 'best practice in aged care' in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and adjust provider obligations accordingly.

Specifically in relation to the Aged Care Rules Consultation – Stage 2a, we recommend:

4. that Aged Care Funding Rules support all funding-related recommendations made by the Aged Care Royal Commission.
5. that Aged Care Rules and funding models support *all* Aboriginal and Torres Strait Islander people to access culturally appropriate care, regardless of where they live.
6. that in line with Priority Reform 1 of the National Agreement, the Department consults more broadly with the ACCHO/ACCO sector, nationally, regarding Aged Care Funding models and rules, including direct consultation with the Interim First Nations Aged Care Commissioner, NATSIAACC, NACCHO, and Aboriginal Community Controlled Aged Care providers.
7. that subsidies and supplements include appropriate loadings to support specific cultural needs, relative disadvantage, remoteness, and consideration of additional costs associated with having to move house.
8. that unless already accounted for in 314CA, when valuing an individual's assets, for the purpose of means testing in a home or community setting, monies that have been paid under:
  - compensation schemes relating to withholding, underpayment and non-payment of Aboriginal and Torres Strait Islander Stolen wages and welfare entitlements, or
  - reparation or redress schemes which recognise the harm and trauma experienced by Stolen Generations survivorsshould be disregarded. This should be prospective.
9. NACCHO seeks to consult with the Department in relation to the questions we have raised regarding methodologies and rationales to determine subsidies and supplements.

## National Agreement on Closing the Gap

At the meeting of National Cabinet in early February 2023, First Ministers agreed to renew their commitment to Closing the Gap by re-signing the National Agreement, first signed in July 2020. The reforms and targets outlined in the National Agreement seek to overcome the inequality experienced by Aboriginal and Torres Strait Islander people and achieve life outcomes equal to all Australians.

The Government's first Closing the Gap Implementation Plan commits to achieving Closing the Gap targets *through implementation of the Priority Reforms*. This represents a shift away from focussing on the Targets, towards the structural changes that the Priority Reforms require, and which are more likely to achieve meaningful outcomes for our people in the long term.

The four Priority Reforms offer a roadmap to meaningfully impact structural drivers of chronic disease for Aboriginal and Torres Strait Islander people. This is particularly pertinent to older people.

### Priority Reform Area 1 – Formal partnerships and shared decision-making

This Priority Reform commits to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap.

### Priority Reform Area 2 – Building the community-controlled sector

This Priority Reform commits to building Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap. In recognition that Aboriginal and Torres Strait Islander community-controlled services are better for Aboriginal and Torres Strait Islander people, achieve better results, employ more Aboriginal and Torres Strait Islander people, and are often preferred over mainstream services.

### Priority Reform Area 3 – Transformation of mainstream institutions

This Priority Reform commits to systemic and structural transformation of mainstream government organisations to improve to identify and eliminate racism, embed and practice cultural safety, deliver services in partnership with Aboriginal and Torres Strait Islander people, support truth telling about agencies' history with Aboriginal and Torres Strait Islander people, and engage fully and transparently with Aboriginal and Torres Strait Islander people when programs are being changed.

### Priority Reform 4 – Sharing data and information to support decision making

This Priority Reform commits to shared access to location-specific data and information (data sovereignty) to inform local-decision making and support Aboriginal and Torres Strait Islander communities and organisations to support the achievement of the first three Priority Reforms.

## Review of Closing the Gap

In its first review of the National Agreement on Closing the Gap, the Productivity Commission found that governments are not adequately delivering on their commitments. Despite support for the Priority Reforms and some good practice, progress has been slow, uncoordinated, and piecemeal.

The Commission noted that to enable better outcomes, the Australian government needs to relinquish some control and acknowledge that Aboriginal and Torres Strait Islander people know what is best for their communities. It needs to share decision making with Aboriginal Community Controlled Organisations (ACCOs), recognise them as critical partners rather than passive funding recipients, and then trust them to design, deliver and measure government services in ways that are culturally safe and meaningful for their communities.

‘Without external perspectives, government organisations will not be able to overcome any blind spots relating to institutional racism, cultural safety and unconscious bias.’<sup>1</sup>

NACCHO recommends that the Aged Care Rules align with and support the National Agreement and its four Priority Reform Areas.

## Aged care services for Aboriginal and Torres Strait Islander people

In the continuum of receiving care to maintain wellbeing throughout life, aged care and primary health care become inextricably linked. Maintaining links with primary health care providers and other therapeutic and non-clinical care services that are familiar, can be important for people as they age. Being able to access care and support from trusted providers, can provide comfort and reassurance. For Aboriginal and Torres Strait Islander people, this means receiving care from their family and community. A rights-based Aged Care Act that focuses on person-centred care, should respect and support peoples’ right to receive care from a trusted source. “The aged care system must reflect the fact that for many Aboriginal and Torres Strait Islander people, health is grounded in connection to Country, culture, family and community.”<sup>2</sup>

We know that Aboriginal and Torres Strait Islander people do not access aged care at a rate commensurate with or appropriate to their level of need<sup>3</sup>. They trust and prefer to access community-controlled services, however there is a lack of access to community-controlled aged care services, and aged care services generally, across remote and very remote areas.

The nature of care provided in Aboriginal community-controlled settings is such that, despite resourcing challenges to meet service needs, people in need are not turned away when they need help. In situations, particularly in thin markets in rural and remote regions, where community providers face huge challenges meeting service needs, having adequate staffing, having access to housing, and face other local, environmental challenges, problems and issues of aged care compliance should be met with understanding of the setting and place-based context. Addressing

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<sup>1</sup> Productivity Commission, Review of the National Agreement on Closing the Gap, Study Report, Canberra, 7 Feb 2024 [Study Report - Closing the Gap review - Productivity Commission \(pc.gov.au\)](https://www.pc.gov.au/research/indicators/closing-the-gap).

<sup>2</sup> Royal Commission into Aged Care Quality and Safety Final Report: Care, Dignity and Respect Volume 1 Summary and recommendations. (n.d.). <https://www.royalcommission.gov.au/system/files/2024-03/aged-care-rc-final-report-volume-1.pdf>

<sup>3</sup> Royal Commission into Aged Care Quality and Safety, 2021, Final Report: Care, Dignity and Respect, <https://agedcare.royalcommission.gov.au/publications/final-report>

problems should be strengths-based and begin with offering support, education, resources etc. to help resolve and improve the situation, with a focus on continuous quality improvement.

ACCHOs' holistic, person-centred approach to care prioritises individual client needs. The multidisciplinary care model naturally supports people as they age and have growing needs for different types of care to maintain wellness. The ACCHO model of care incorporates wraparound services that are not generally available through mainstream services. It ensures clients receive all the care they need.

Whilst it is critical that the ACCHO sector is strengthened to begin offering aged care services, ensuring cultural competence in aged care should not rest solely with the ACCO sector. Mainstream services also need to provide culturally safe services. This includes having leaders who embrace cultural competence and understand cultural intelligence so they can instil this in staff and be accountable to enforceable key performance indicators. Without a whole of organisation approach, no amount of staff training will deliver cultural safety for Aboriginal and Torres Strait Islander clients.

## Supporting ACCOs/ACCHOs to deliver aged care services

Recognising that ACCOs achieve better results for Aboriginal and Torres Strait Islander people<sup>4</sup>, and the Productivity Commission's recommendation<sup>5</sup> that governments need to take steps to strengthen the capability of ACCOs in key sectors, it is essential that the new Aged Care Rules support the ACCO sector to deliver aged care services.

Integrated aged care services delivered in line with NACCHO's Core Services and Outcomes Framework<sup>6</sup>, a successful, well-established model of ACCHO primary health care, offer many benefits for Aboriginal and Torres Strait Islander people needing aged care services. These include:

- Promoting elder wellbeing and safety through intimate knowledge of and connections to family and community
- Better access to aged care by reducing complexities of needing to navigate multiple services and systems
- Maintaining Indigenous identity
- Providing navigation supports across My Aged Care through the ECS program
- Supporting management of comorbidities and social complexities experienced by many older Aboriginal and Torres Strait Islander people through holistic services that incorporate social supports.<sup>7</sup>

NACCHO recommends that in line with Priority Reform 2 of the National Agreement, regulatory controls and associated legislation provide flexibility to support ACCHOs and ACCOs to provide aged care services meet the cultural and service delivery needs of their local community.

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<sup>4</sup> Productivity Commission 2024, Review of the National Agreement on Closing the Gap, Canberra, fact sheets, Priority Reform 2, p3.

<sup>5</sup> Productivity Commission 2024, Review of the National Agreement on Closing the Gap, Study report, volume 1, Canberra.

<sup>6</sup> NACCHO Core Services and Outcomes Framework <https://csof.naccho.org.au/>

<sup>7</sup> Dawson, A., Harfield, S., Davy, C., Baker, A., Kite, E., Aitken, G., Morey, K., Braunack-Mayer, A., & Brown, A. (2021). Aboriginal community-controlled aged care: Principles, practices and actions to integrate with primary health care. Primary Health Care Research & Development, 22(e50). <https://doi.org/10.1017/s1463423621000542>



## Rules to support Aboriginal and Torres Strait Islander people

Aged care regulatory mechanisms should reflect that ‘best practice in aged care’ in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and adjust provider obligations accordingly. Furthermore, Aboriginal and Torres Strait Islander community-led pathways may vary across communities, in line with local customs and preferences.

“For Aboriginal and Torres Strait Islander people, healing is a holistic process, which addresses mental, physical, emotional and spiritual needs and involves connections to culture, family and land.

Healing works best when solutions are culturally strong, developed and driven at the local level, and led by Aboriginal and Torres Strait Islander people.”<sup>8</sup>

*Trauma informed healing therapy* and *Social and Emotional Wellbeing (SEWB)* care should be factored into services offered.

NACCHO supports aged care regulatory mechanisms that take a more supportive and less punitive approach. We welcome the Aged Care Quality and Safety’s Commission’s stated support for innovation and openness to aged-care provider discretion as to how they achieve compliance.<sup>9</sup>

We welcome regulatory frameworks for aged care that support:

- a person-centred approach, as this aligns with the ACCHO model of care<sup>10</sup>
- an aged care system where all services are centred around and culturally appropriate for the person receiving care
- aged care services that are free of discrimination and racism and delivered flexibly to optimise health outcomes for the person receiving care
- aged care services that reflect the collective, holistic view of family, community, relationships with Elders, and connections with Country including the Torres Strait Islands or other islands as central to Aboriginal and Torres Strait Islander wellbeing
- an aged care system where Aboriginal community-controlled aged care providers are supported to determine and deliver an integrated model of care to meet the aged care, disability care and primary health care needs within their community.
- equitable access to assessment or reassessment of needs for funded aged care services in a manner which is culturally safe, culturally appropriate, trauma-aware and healing-informed
- Aboriginal or Torres Strait Islander people to stay connected with community and Country.

NACCHO recommends that Aged Care Rules support funding policy and mechanisms that recognise that ‘best practice in aged care’ in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and adjust provider obligations accordingly.

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<sup>8</sup> [Community Healing | The Healing Foundation](#), accessed 31/10/2024

<sup>9</sup> Department of Health and Aged Care New Aged Care Act Exposure Draft consultation webinar, 18 January 2024

<sup>10</sup> NACCHO Core Services and Outcomes Framework <https://csof.naccho.org.au/>



## Aligning Aged Care funding with ACRC Recommendations

NACCHO reiterates its support for the Aged Care Royal Commission (ACRC) recommendations relating to Aboriginal and Torres Strait Islander people and aged care service providers. With respect to funding, we support Aged Care Rules and funding models that align with the ACRC recommendations outlined below:

*ACRC Recommendation 50: Prioritising Aboriginal and Torres Strait Islander organisations as aged care providers.*

*ACRC Recommendation 54: Ensuring the provision of aged care in regional, rural and remote areas, and to support equity of access to aged care services.*

*ACRC Recommendation 47a: Aboriginal and Torres Strait Islander people receive culturally respectful and safe, high quality, trauma-informed, needs-based and flexible aged care services regardless of where they live.*

*ACRC Recommendation 47c: Regional service delivery models that promote integrated care are deployed wherever possible.*

*ACRC Recommendation 47f: Access to interpreters on at least the same basis as members of culturally and linguistically diverse communities when seeking or obtaining aged care, including health care services.*

In line with Priority Reform 2, these recommendations will support the Aboriginal Community Controlled sector to grow capability providing aged care services.

In line with Priority Reform 1, governments must share power with Aboriginal and Torres Strait Islander people in determining service types and funding models that can support ACCHOs to grow their workforce and implement aged care services to support their local cultural and service delivery needs and care for ageing community members. This includes:

- funding additional staff to provide navigation support, such as Aged Care Connectors and Aged Care Support Coordinators, through NACCHO's Elder Care Support program which supports both ACCHOs and ACCOs
- ensuring funding models support ACCHOs and ACCOs to deliver aged care services, nationally, including in urban and metropolitan areas.

NACCHO supports funding rules and funding models that would provide greater flexibility, particularly in rural, remote, and regional areas, but also in thin markets, which in terms of delivering *culturally safe* care, extends to urban and metropolitan areas. This may translate to needing additional funding or to be funded in different ways than mainstream aged care providers.

NACCHO recommends that the Aged Care Rules support all funding-related recommendations made by the Aged Care Royal Commission.

NACCHO recommends that Aged Care Rules and funding models support *all* Aboriginal and Torres Strait Islander people to access culturally appropriate care, regardless of where they live.

## Aged Care Funding models and rules in an under-developed sector

Aged care Funding models and rules should account for the needs of people who experience disadvantage.

Aboriginal and Torres Strait Islander suffer disproportionate rates of disadvantage against all measures of socio-economic status. Stolen Generations survivors and their descendants carry higher levels of disadvantage across life outcomes when compared to other Aboriginal and Torres Strait Islander people, and their numbers are rising. Currently approximately one in three adult Aboriginal and Torres Strait Islanders are Stolen Generation survivors or descendants. All Stolen Generation survivors are now aged over 50 and so are eligible for aged care.<sup>11</sup>

ACCHOs and ACCOs that deliver aged care services are overburdened and unable to meet the demand for services from their communities. One ACCO service recently advised that despite having access to around 70 in-home aged care packages, they had taken 40 more local clients who they support at their own expense. They have a waitlist of more than 60 clients who they currently are unable to support.

ACCHOs have told us that Elders are experiencing significant wait times to access their plans. Some Elders entitled to higher level care plans are only receiving lower-level supports. Several Elders have passed away whilst waiting to receive the care plan for which they were entitled.

“The Royal Commission identified that one of the key limitations of the aged care system is the funding model, with funding levels that are based largely on historical precedents and ad hoc decisions, which bear little direct relevance to the actual cost of delivering care. A new funding model for aged care was therefore determined to be important in driving a transparent, accessible, sustainable and affordable aged care system.”<sup>12</sup>

The Independent Health and Aged Care Pricing Authority (IHACPA), established following the passage of the Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022, explicitly outlines, on its website, what will be considered when developing pricing advice for the Support at Home service list. It advises that Support at Home pricing advice will be provided to government in February 2025 ahead of implementation from 1 July 2025. This raises some concerns about the timing of this consultation.

Given that the Department of Health and Aged Care, and not IHACPA, is responsible for determining aged care subsidies and supplements, we expect the Department to be transparent about the methodologies employed. Some member services have told us that the Department appears to prefer to consult with organisations with whom they have relationships. Consulting with only a small segment of the sector, will not necessarily reflect the breadth of sector-wide concerns.

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<sup>11</sup> HFAdmin. (2021, June 1). *Significant increase in Stolen Generations survivor numbers signals urgent need for government solutions in health, aged care, and other services*. The Healing Foundation.

<https://healingfoundation.org.au/2021/06/02/significant-increase-in-stolen-generations-survivor-numbers-signals-urgent-need-for-government-solutions-in-health-aged-care-and-other-services/>

<sup>12</sup> Royal Commission into Aged Care Quality and Safety | IHACPA. (2023). Ihacpa.gov.au.

<https://www.ihacpa.gov.au/aged-care/background/royal-commission-aged-care-quality-and-safety>, accessed 27/11/2024

Without consultation and collaboration with the Aboriginal Community Controlled stakeholders on funding models and rules, there is a risk of eroding already limited aged care services for Aboriginal and Torres Strait Islander people.

NACCHO recommends that in line with Priority Reform 1 of the National Agreement, the Department consults more broadly with the ACCHO/ACCO sector, nationally, regarding Aged Care Funding models and rules, including direct consultation with the Interim First Nations Aged Care Commissioner, NATSIAACC, NACCHO, and Aboriginal Community Controlled Aged Care providers.

## Funding aged care services Commonwealth contributions (Chapter 7)

### Part 2 Subsidy for home support, Division 1 - Person-centred subsidy, Subdivision C – Base individual amounts

#### 194A Classification type ongoing

*How do **Base individual amounts** for person-centred subsidies for each of the **Support at Home (SAH) levels 1–8**, for which the only **Supplements** are for **Oxygen, Enteral feeding, or Veterans**, account for relative disadvantage in Aboriginal and Torres Strait Islander people?*

#### 194B Classification type short-term

*How do flat rate person-centred-subsidies for **Item 1 SAH restorative care pathways and Item 2 SAH end-of-life** account for specific cultural needs of Aboriginal and Torres Strait Islander people?*

### Part 2 Subsidy for home support, Division 2 - Provider-based subsidy

#### Care management supplement, applicability and amounts

NACCHO welcomes the inclusion of applicable **Care management supplements** (Clauses 205A and 205B refer) for:

- (a) Aboriginal and Torres Strait Islander persons
- (b) Persons who are homeless or at risk of homelessness
- (c) Individuals who have spent time in institutional care or out of home care or are a member of the Stolen Generations.

NACCHO notes that the time of this consultation, Care management supplements are yet to be determined (Clause 205C).

*When will consultation relating to supplements be released?*

*How will the Department ensure Aboriginal and Torres Strait Islander providers and organisations are included in consultations around determining quantum of supplements?*

### Parts 3 & 4 Subsidies for both *assistive technology* and *home modifications*, Division 3 – Tier Amounts

*How are the Tier amounts determined and how do they account, where applicable, for specific cultural needs and/or relative disadvantage of Aboriginal and Torres Strait Islander people?*

*How will Tier amounts support additional costs which may be incurred by renters having to install and/or pay for costs of removing modifications (depending upon the jurisdiction in which they live) when they move house?*

## Parts 3 & 4 Subsidies for both *assistive technology* and *home modifications*, Division 4 - Primary person-centred supplements

### 213 Rural and Remote Supplement

NACCHO understands that supplements are always related to the delivery of funded aged care services to an individual, either *to cover the direct cost or the incidental costs of delivering those services*.<sup>13</sup>

*What is the rationale for the **Rural and Remote supplement** (Clauses 213 and 222 refer) being:*

- 1. applied at a rate of 50% of the Tier amount, and*
- 2. why MM6 and MM7 attract the same rate of subsidy, when an assumption that service delivery costs would be the same for both MM6 and MM7 regions is incorrect.*

NDIS, for example, cites that the more remote the service delivery area, the more expensive it is. It claims that MM6 costs are 40% higher than MM1-5 prices, and that MM7 costs are generally 50% higher.<sup>14</sup> This aligns with feedback from NACCHO member services in remote areas.

NACCHO recommends that subsidies and supplements include appropriate loadings to support specific cultural needs, relative disadvantage, remoteness, and consideration of additional costs associated with having to move house.

NACCHO seeks to consult with the Department in relation to the questions we have raised regarding subsidies and supplements.

## Funding of aged care services – means testing (Chapter 10)

### Part 2 Means testing, Division 1 - Means testing in a home or community setting, Subdivision C - Valuing an individual's assets

In line with the existing exclusions for valuing an individual's assets, under 314CA,

NACCHO recommends that unless already accounted for in 314CA, when valuing an individual's assets, for the purpose of means testing in a home or community setting, monies that have been paid under:

- compensation schemes relating to withholding, underpayment and non-payment of Aboriginal and Torres Strait Islander Stolen wages and welfare entitlements, or
- reparation or redress schemes which recognise the harm and trauma experienced by Stolen Generations survivors

should be disregarded. This should be prospective.

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<sup>13</sup> Explanatory Memorandum to the Aged Care Bill 2024, The Parliament of the Commonwealth of Australia, p218.

<sup>14</sup> *How to understand the NDIS MMM Pricing* | MyCareSpace. (n.d.). Mycarespace.com.au. <https://mycarespace.com.au/resources/how-to-understand-the-ndis-mmm-pricing>, Accessed 27/11/2024.