NACCHO
National Aboriginal Community Controlled Health Organisation
Aboriginal health in Aboriginal hands
www.naccho.org.au

Aged Care Rules

Stage 2b – Funding

Submission to
Department of Health
and Aged Care

February 2025

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 (AHCWA), Queensland Aboriginal and Islander Health Council (QAIHC), Victorian Aboriginal Community Controlled Health Organisation (VACCHO), and Aboriginal Health Council South Australia (AHCSA) 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 2b, 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 Reforms 1 and 3 of the National Agreement, the Department consults more broadly with the ACCHO/ACCO sector, nationally, regarding Aged Care Funding models and rules. This includes consulting directly with the Office of the Interim First Nations Aged Care Commissioner, NATSIAACC, NACCHO, and Aboriginal Community Controlled Aged Care providers of both home and residential care services.
7. that in line with the Interim First Nations Aged Care Commissioner recommendations [1], the Department should develop tailored pathways for Aboriginal and Torres Strait Islander people that acknowledge historic and ongoing economic disadvantage and provide safety net settings in response to the proposed introduction of increased co-contributions for Aged Care services.

[1] Australian Government, Final report of the Aged Care Taskforce, Australian Government, 2024.

8. NACCHO recommends that to ensure Aboriginal and Torres Strait Islander applications are not overlooked, that any references in the Aged Care Rules to the Department's Care Finder program also include the Elder Care Support program.
9. NACCHO recommends that unless already accounted for, 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.
10. 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.

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.'[2]

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 (The National Aboriginal and Torres Strait Islander Health Plan 2021-2031 refers)[3]. 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."[4]

[2] 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).
[3] (n.d.). https://www.health.gov.au/topics/aboriginal-and-torres-strait-islander-health/how-we-support-health/health-plan

[4] *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

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[5]. 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 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.

Whist 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[6], and the Productivity Commission's recommendation[7] 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[8], 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

[5] Royal Commission into Aged Care Quality and Safety, 2021, Final Report: Care, Dignity and Respect, https://agedcare.royalcommission.gov.au/publications/final-report

[6] Productivity Commission 2024, Review of the National Agreement on Closing the Gap, Canberra, fact sheets, Priority Reform 2, p3.

[7] Productivity Commission 2024, Review of the National Agreement on Closing the Gap, Study report, volume 1, Canberra.

[8] NACCHO Core Services and Outcomes Framework https://csof.naccho.org.au/

- Supporting management of comorbidities and social complexities experienced by many older Aboriginal and Torres Strait Islander people through holistic services that incorporate social supports.[9]

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.

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."[10]

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.[11]

We welcome regulatory frameworks for aged care that support:

- a person-centred approach, as this aligns with the ACCHO model of care[12]
- 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.

[9] 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

[10] Community Healing | The Healing Foundation, accessed 31/10/2024

[11] Department of Health and Aged Care New Aged Care Act Exposure Draft consultation webinar, 18 January 2024

[12] NACCHO Core Services and Outcomes Framework https://csof.naccho.org.au/

- 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.

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.

The National Aboriginal and Torres Strait Islander Aged Care (NATSIFAC) program, block funded by the Department of Health and Aged Care, and delivered by the Aboriginal community controlled sector, has proven to be a very successful model. Currently only offered in remote settings, this program should be expanded for Aboriginal community control delivery nationally, including in urban settings. This would address the issue of *culturally thin* service provision in urban, rural and remote settings.

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.[13]

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.

Programs managed by the Aboriginal Community Controlled sector, such as NACCHO's Elder Care Support program are successfully addressing issues around access to aged care services. Other workforce initiatives that could be funded and managed by the community controlled sector to address issues of aged care service access include Aboriginal and Torres Strait Islander Aged Care Assessors and embedding Aboriginal Health Practitioners into aged care service delivery.

"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

[13] 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/

model for aged care was therefore determined to be important in driving a transparent, accessible, sustainable and affordable aged care system."[14]

Inadequate Consultation

NACCHO expects the Department of Health and Aged Care to be transparent about methodologies employed when determining aged care subsidies and supplements. 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.

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.

> *I am concerned to see that so many decisions are being made for and about older Aboriginal and Torres Strait Islander people without proper consultation to gain community perspectives and input, and without adequate data and evidence to rely on. This means that the Government applies non-Indigenous perspectives to its policies, which results in Indigenous-specific programs being little more than minor tweaks to broad mainstream programs, rather than being designed with and for older Aboriginal and Torres Strait Islander people.*[15]
>
> Andrea Kelly, Interim First Nations Aged Care Commissioner

The Department's consultation process for Aged Care Rules is flawed and offers limited opportunity for peak bodies and other organisations to offer meaningful feedback relative to their constituents. Issues include:

- No direct notification of Consultation releases or updates to the consultation timetable – meaning several days elapsed before discovering consults were open
- Only after the release of Stages 1, 2a, 2b and 3, were the Aged Care Act Rules consultation details consolidated onto a single consultation webpage.
- Significant movement of the goal posts reducing time available to respond due to successive consultations overlapping. This is problematic for small organisations with limited policy resources.
- When Bills are tabled, an accompanying Explanatory Memorandum offers a comprehensive, plain English explanation of clauses and how they apply in practice. Aged Care Rules consultations by contrast provide supporting documentation that is inadequate for organisations to have certainty around the impact of the rules on constituents (Aged care recipients and providers).

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[14] *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

[15] Health. (2025, February 10). *Transforming Aged Care for Aboriginal and Torres Strait Islander people*. Australian Government Department of Health and Aged Care. https://www.health.gov.au/resources/publications/transforming-aged-care-for-aboriginal-and-torres-strait-islander-people?language=en

- **Stage 2b, for example, delivered 136 pages of rules, and 'supporting' documents which do not necessarily reference the applicable rules make it very difficult to confirm whether claims such as 'equity of access' are being adequately implemented by the Rules and/or to identify the issues that are buried deeply within the detail of the Rules.**
- **Questions raised and clarifications sought in previous Rules consultation submissions are neither acknowledged nor answered.**

NACCHO recommends that in line with Priority Reforms 1 and 3 of the National Agreement, the Department consults more broadly with the ACCHO/ACCO sector, nationally, regarding Aged Care Funding models and rules. This includes consulting directly with the Office of the Interim First Nations Aged Care Commissioner, NATSIAACC, NACCHO, and Aboriginal Community Controlled Aged Care providers of both home and residential care services.

Impacts of fees and individual contributions on Elders' health

Extract from Supporting Document, *Overview of the New Aged Care Act Rules – Release 2…* p20

Individual contribution rates will be set as a percentage of the price of each service. This means an individual will pay an individual contribution equal to the individual contribution rate, and the Government will pay the remainder of the price as a subsidy to the provider.

The rate will be based on the type of service:

- *There will be no contribution for services in the Clinical category, with assessed clinical care needs to be fully funded by Government.*
- *Contributions for services in the Independence category (e.g. personal care) will be moderate, recognising that many of the services in this group play an important role in keeping people out of hospital and residential aged care.*
- *Everyday living services (e.g. domestic assistance and gardening) will attract the highest contribution rates, recognising that the Government does not typically fund these services for people at other stages of life.*

Means testing class	Means testing category – clinical supports	Means testing category – independence	Means testing category – everyday living
Full pensioner	0%	5%	17.5%
Part pensioner and Self-funded Commonwealth Seniors Health Card (CHSC) Holder	0%	Subject to independence rate means test (Between 5% and 50%)	Subject to everyday living rate means test (Between 17.5% and 80%)
Self-funded non-CSHC holder	0%	50%	80%

For those who are already struggling financially, transferring to a system requiring financial contributions will be very difficult for many and will see Elders neglect their health.

Our affiliates advise that currently:

- NATSIFAC residential aged care providers do not seek financial contributions from aged care residents. They are very uncomfortable about having to do so under the new Act.
- Many home care support providers waive the means tested care fee for clients who on part or full pensions. There is concern that reducing the cap on Care Management fees for providers from 20% to 10% will reduce their ability (financially), to continue to waive means tested care fees, and will have an unintended consequence of them no longer doing this to support their clients. This may impact Elders to choose not to receive the services they need.

Fees and co-contributions are a significant barrier and deterrent to older Aboriginal and Torres Strait Islander people accessing the aged care support they need. Many having ongoing caring responsibilities for family members and have kinship obligations to share their resources within extended family and community. Those with limited means will often choose to keep their money to support family and community rather than spend it on their own care needs.

- Not accessing care to support independence, such as support for mobility, medication management, hygiene, showering or continence management will increase risk of falls, hospitalisation and declining health.
- Accessing support for social and community engagement, particularly to engage in cultural activities is integral to maintaining good health. Losing this, due to limited financial means, would be detrimental.
- Not accessing services provided with Everyday Living (home maintenance, domestic assistance etc.) could potentially see more older people at risk of losing their tenancies if they cannot afford to co-contribute to keep their homes in a 'liveable state' due to impacts of declining health and aging.
- Not being able to access healthy meals will impact diet and general health issues.

Whilst Aboriginal and Torres Strait Islander people can access aged care services from age 50, they are disproportionately affected financially, because unlike older non-Indigenous Australians receiving aged care services, they cannot access the Age Pension or their superannuation from that younger age, and so those aged under 65 years who rely on lower income support payments, are financially worse off.[16]

> NACCHO supports the Interim First Nations Aged Care Commissioner recommendations[17], that the Department should develop tailored pathways for Aboriginal and Torres Strait Islander people that acknowledge historic and ongoing economic disadvantage and provide safety net settings in response to the proposed introduction of increased co-contributions for Aged Care services.

Aligning Elder Care Support referrals with Care Finder program referrals

Aboriginal and Torres Strait Islander people should receive the same benefits and service regardless of which referral program they choose to engage with.

Extract from Supporting document re Subdivision C - Provider based subsidy. Subsection 205(1)

> *The base provider amount to be prescribed under section 204 will be equivalent to 10% of the base individual amount for each individual.*

[16] Transforming aged care for Aboriginal and Torres Strait Islander people, First Nations Aged Care Commissioner

[17] Australian Government, Final report of the Aged Care Taskforce, Australian Government, 2024.

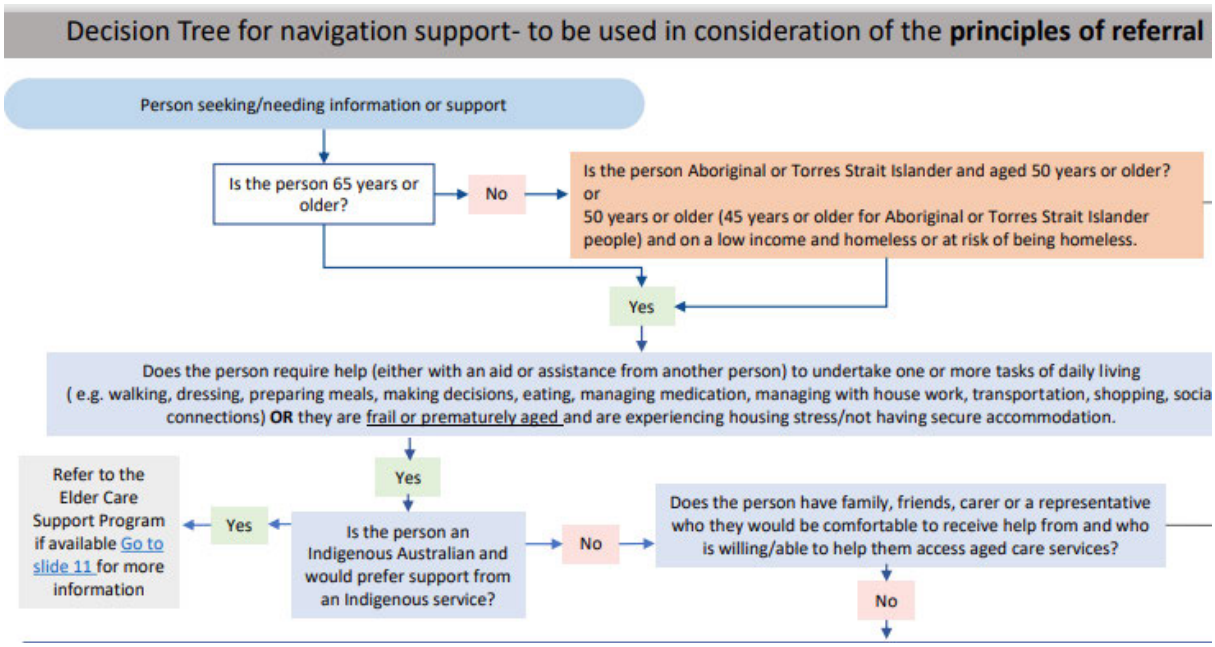
*The Rules (subsection 205(1)) will provide that the provider-based supplement is defined as the care management supplement. The circumstances in which the **care management supplement** for a service delivery branch of a registered provider will apply are if the individual (as prescribed under subsection 205(2)):*

- *is an Aboriginal or Torres Strait Islander person; or*
- *is homeless or at risk of homelessness; or*
- *is a care leaver; or*
- *is referred from the Care Finders Program through the department to an aged care needs assessment; or*
- *is a veteran with a mental health condition that the Department of Veterans' Affairs (DVA) accepts is related to their service and has been approved for the primary person-centred supplement for Veterans under section 196.*

Given that Aboriginal and Torres Strait Islander people can choose either the *Elder Care Support (ECS)* or the *Care Finders* referral pathway, as per the Department's Decision Tree for navigations support, below, dot point number 4 above, should be amended to say 'is referred from the *Care Finders* Program or the *Elder Care Support* Program through the department to an aged care needs assessment'.

Including ECS as an option will provide a safeguard for Aboriginal or Torres Strait Islander people who:

- might not want to disclose indigeneity to a mainstream provider employee but would be comfortable being referred automatically via the ECS program
- may not wish to disclose their Aboriginal or Torres Strait Islander status before they have built a relationship
- may not disclose their status as Aboriginal or Torres Strait Islander because they have cognitive decline or dementia.



NACCHO recommends that to ensure Aboriginal and Torres Strait Islander applications are not overlooked, that any references in the Aged Care Rules to the Department's Care Finder program also include the Elder Care Support program.

No-worse off principle

*CLARIFICATION IS REQUIRED around how the 'no-worse off principle' will apply to individuals currently accessing the NATSIFAC program who enter mainstream residential care after the new Act commences. (*Supporting document*: Aged Care rules Consolidated Draft Rules Relating to Funding p7, refers)*

Equity of Access, Financial Hardship, Thin Markets

Extract from *Overview of the New Aged Care Act Rules – Release 2…* p7

Similar to the hardship supplement for the Home Care Packages program under sections 48-10 to 48-12 of the 1997 Act, the Rules (section 197) will prescribe a fee reduction supplement as a secondary person-centred supplement that may be applicable in the following circumstances:

- ***Financial hardship grounds** – the System Governor considers that the individual paying the individual contribution would cause them financial hardship.*
- ***Equity of access** – the individual is an Aboriginal or Torres Strait Islander person.*

NACCHO recommends that the Aged Care Rules ensure that Aboriginal and Torres Strait Islander people will have equity of access to aged care services and not be denied services due financial hardship or be disadvantaged because of Thin Markets (lack of availability of services/culturally safe services and or workforce to support services).

During COVID-19, there were exemptions enabling Aboriginal locals or family members to be paid as aged care providers. This could be considered as an option for ensuring 'equity of access'.

Value of an individual's assets – excluded amounts (re-iterating from Stage 2a)

Clause 330-10 Other amounts

CLARIFICATION IS REQUIRED as to why, if Veterans compensation and Redress payments made under National Redress Scheme for Institutional Child Sexual Abuse can be excluded from assets, why redress from Stolen Generations can't also be excluded.

NACCHO recommends that unless already accounted for, 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.

Specialised status (for providers): Aboriginal and Torres Strait Islander or Homeless

Clause 243-10 Specialised Aboriginal and Torres Strait Islander status – criteria

CLARIFICATION IS REQUIRED What is the modelling for including: '(b) whether the registered provider that delivers funded aged care services in the home, or a responsible person of the provider, has

demonstrated experience in providing, or the capacity to provide, specialist Aboriginal or Torres Strait Islander programs' in the criteria for being granted Specialised Aboriginal and Torres Strait Islander status?

With regards to criterion (c) (ii): whether the provider has given a written undertaking that the provider will begin delivering specialist Aboriginal or Torres Strait Islander programs in the home within 3 months after the application is made,

> *We recommend that this should be **3 months after the application is approved** rather than 3 months after the application is made.*
>
> *How long will it take the Department to approve the application? – time to approve could significantly impede the provider from complying with this criterion.*

Part 2 Subsidy for home support, Division 1 - Person-centred subsidy, Subdivision C – Base individual amounts (re-iterating from Stage 2a)

194-5 Classification type ongoing

> *QUESTION: 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?*

194-10 Classification type short-term

> *QUESTION: 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 (re-iterating from Stage 2a)

Care management supplement, applicability and amounts

NACCHO welcomes the inclusion of applicable **Care management supplements** (Clauses 205-5 and 205-10 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 205-15).

> *QUESTION: When will consultation relating to supplements be released?*
>
> *QUESTION: 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 (re-iterating from Stage 2a)

QUESTION: 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?

QUESTION: 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 (re-iterating from Stage 2a)

213-5 and 222-5 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.*[18]

*QUESTION: 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.[19] 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.

[18] Explanatory Memorandum to the Aged Care Bill 2024, The Parliament of the Commonwealth of Australia, p218.
[19] *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.