

# Management of Funding Rule amendment

# Variations and Reassessment Rule

Stakeholder information pack

DSS January 2025

## Introduction

This stakeholder information pack has been developed to support disability representative organisations to support their members with information on the upcoming Management of Funding Rule amendment and the Variation and Reassessment Rules.

## Key Messages

### What is the change?

#### Management of funding rule amendment:

#### [Management of funding rule amendment-Plain English Summary.docx](https://socialservicesau.sharepoint.com/%3Aw%3A/r/sites/NDISPLE/_layouts/15/Doc.aspx?sourcedoc=%7B360A1B41-EDF3-45C2-98DE-94D9C330F9EA%7D&file=20250116%20PES%20-Management%20of%20Funding%20Amendment%20rules.docx&action=default&mobileredirect=true)

The *National Disability Insurance Scheme Act 2013* (NDIS Act) is the law that sets out how the NDIS works. This law allows the Minister for the National Disability Insurance Scheme (NDIS) to make rules.

NDIS participants can request that their plan be managed by a particular person or in a particular way. A participant can ask for their plan to be managed by:

* themselves, as a participant
* their plan nominee or child representative
* a registered plan management provider
* the NDIA.

The National Disability Insurance Agency (NDIA) must accept the participant’s plan management request unless the NDIS Act, or rules, gives a reason not to.

There are new rules in the NDIS Act that explain the things the NDIA needs to consider when deciding if a participant, nominee or plan manager managing a participant’s plan would create an unreasonable risk to the participant. The Amendment Rules include extra things the NDIA needs to consider when making a plan management decision.

These rules also tidy up the NDIS rules by bringing all rules about plan management together under the new name of Management of Funding and Plan Management Rules.

#### Variation and Reassessment Rules:

#### [Variation and Reassessment Rules – plain English summary](https://www.dss.gov.au/system/files/documents/2025-01/20250115-pes-variation-and-reassessment-rules.pdf)

NDIS participants can request a variation or reassessment at any time and the NDIA can decide to vary or reassess a plan at any time.

**Variations** are when changes to a participant’s NDIS plan can be made without replacing the plan with a new one.

**Reassessments** are when the NDIA creates a whole new plan with a participant that has a new end date.

The ability to change a plan (make a variation) instead of reassessing a plan and replacing it with a new plan, was introduced to the *National Disability Insurance Scheme Act 2013* (NDIS Act) on 1 July 2022. Under the 2022 changes, the NDIA may only change a participant’s plan if the variation is allowed by the NDIS Act, and any conditions set out in NDIS rules are met. The *NDIS Amendment (Getting the NDIS Back on Track No. 1) Act 2024* (Getting the NDIS Back on Track Act) made changes to what kinds of variations are allowed.

The Variation and Reassessment Rules set out when the NDIA can change a participant’s plan through a variation. It also sets out things the NDIA must consider when deciding whether to vary or reassess a plan.

## The communications and engagement approach

* The Commonwealth, state and territory governments remain committed to working collaboratively with the disability community in the development of new rules under the NDIS Act.
* Rules, such as the needs assessment and the budget process, will require collaborative work with the disability sector to ensure we get it right.
* Other rules, that only add more detail to a decision already made in the NDIS Act, will have a light touch engagement approach.
* The Department of Social Services (DSS) and the NDIA will work closely with disability representative organisations (DROs) and state and territory governments on the light touch consultation or communication approach.
* We will consult with advisory and NDIA co-design groups, disability representative and carer organisations (DRCOs), the Participant Reference Group and the Independent Advisory Council to the NDIS.
* The next new rules are ones that adds more detail to a decision already enabled in the NDIS Act.
* We are progressing it quickly and building on the information and feedback we have already received from the disability community through:
	+ NDIA held external engagement sessions with participants, nominees, child representatives and members of Disability Representative and Carer Organisations (DRCOs) from July to September 2024. The sessions covered how decisions are made about the management of funding in a participant’s plan and how supports and safeguards can be used to reduce the risk of inappropriate spending and the risk of harm due to a participant’s circumstances.
	+ The department and the NDIA held 10 consultation sessions about plan variations and reassessments from 11 – 25 November 2024. The sessions focussed on the intent of the policy underpinning the proposed rules and how it should be operationalised.
	+ Consultation with states and territories utilising establish governance arrangements under the Disability Reform Ministerial Council.
* Information about the new rule was published on the Department’s website on 15 January 2025 and enquiries can be sent to NDISConsultations@dss.gov.au. As we develop the new rules, we will test them with the disability community, listen to feedback and keep testing them through implementation.
* We are working to finalise our Engagement Strategy, which will be published on the department’s website by the end of January 2025. The Engagement Strategy will let you know how we will work with the disability community, as we engage on other rules such as the needs assessment and budget process.

## Light touch engagement approach

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| **Attachments** | Description |
| **Plain English summary and Easy Read** | Plain English summaries of the two draft rules published on DSS website:<https://www.dss.gov.au/national-disability-insurance-scheme-review-and-reforms/resource/management-funding-amendment-rules><https://www.dss.gov.au/national-disability-insurance-scheme-review-and-reforms/resource/variation-and-reassessment-rules> |
| **Draft email content**Drafted language you may wish to use (some or all) to provide your members with information about the new rules | **Good morning/afternoon Members,**We would like to provide you with some information about two new NDIS rules that are being made. The Department of Social Services is working with the states and territories on the development of two new rules made under sections 44(3) and 74(6), and 47A of the NDIS Act.**Management of Funding Rule amendment****Newest Rules Under the NDIS Act**We are pleased to be working with the state and territory governments on the development of two new rules under sections 44(3), 74(6) and 47 of the NDIS Act 2013.**Management of Funding Rules**NDIS participants can request that their plan be managed by a particular person or in a particular way. We call this a plan management request. The National Disability Insurance Agency (NDIA) must accept a participant’s plan management request unless the NDIS Act or rules give a reason not to. The NDIS Act sets out things the NDIA needs to consider when deciding if a plan management request would create an unreasonable risk to a participant. The new management of funding rules add detail to support the NDIA’s decision making.These rules also bring all rules about plan management together.**More information**For more information about the management of funding rules, read our:[Plain English and Easy Read summaries](https://www.dss.gov.au/national-disability-insurance-scheme-review-and-reforms/resource/management-funding-amendment-rules)**Variation and Reassessment Rules**NDIS participants can request a variation or reassessment at any time. The NDIA can decide to vary or reassess a plan at any time.  **Variations** are when changes to a participant’s NDIS plan can be made without replacing the plan.  **Reassessments** are when the NDIA creates a whole new plan with a participant that has a new end date.  The NDIA may only change a participant’s plan if the variation is allowed by the NDIS Act, and if any conditions set out in NDIS rules are met.The variations and reassessments rules set out when the NDIA can change a participant’s plan through a variation. It also sets out things the NDIA must consider when deciding whether to vary or reassess a plan. This rule applies to how NDIS plans are made now. We will consider rules about how variations and reassessments are made in the new approach to planning in 2025. **More information**For more information about the variation and reassessment rules, read our: [Plain English and Easy Read summaries](https://www.dss.gov.au/national-disability-insurance-scheme-review-and-reforms/resource/variation-and-reassessment-rules)**Is this a reviewable decision?**Both the management of funding rules and the variation and reassessment rules are reviewable decisions under section 99 of the NDIS Act. The new rule does not change the review rights of participants in any way. If a participant is not happy with a plan management, variation or reassessment decision, they can ask the NDIA to review the decision.  **What engagement has there been with the disability community about this new rule?**The NDIA held engagement sessions with participants, nominees, child representatives and members of Disability Representative and Carer Organisations to hear their views on these issues. The sessions ran from July to September 2024. They covered how decisions are made about managing funding in a participant’s plan. They also discussed supports and safeguards to reduce the risk of inappropriate spending and the risk of harm due to a participant’s circumstances. The department and NDIA held 10 consultation sessions about plan variations and reassessments from 11 – 25 November 2024. The sessions focused on the purpose of the new rules and how they will be used. The stakeholders for these sessions included members from the:* Independent Advisory Council
* Disability Representative and Carer Organisations
* Implementation Steering Committee
* Participant Safeguarding co-design Group
* Participant Reference Group
* National Mental Health Sector Reference Group
* Assessment and Budgeting Working Group
* First Nations stakeholders
* Integrity Working Group
* Neurodegenerative, Palliative Care and Rare Diseases Advisory Group.

The department also consulted with state and territory governments through the Disability Reform Ministerial Council. We used this feedback to shape the new rules and how they will be used by the NDIA.  You can read more about the NDIA’s consultation and co-design work on their website: <https://www.ndis.gov.au/community/making-ndis-stronger-together/co-designing-reform>**What will the new rule do?**The new rule will assist the NDIA in identifying risks and applying appropriate safeguards about risks of a person not spending in accordance with a participant’s plan.  It is based on current policy and practice and was informed by consultation with self-managers about the current [Self-management policy](https://www.ndis.gov.au/participants/using-your-plan/self-management/self-management-policy).It will introduce equity in decision making across plan management types including nominees, registered plan management providers, child representatives and participants. The section 44(5) rule supports a more proactive and consistent approach to identifying risks, applying appropriate safeguards and supporting delegate decision-making when determining the plan management decision. Implementation of the rule by the NDIA will include capability building supports for participants to support spending in accordance with their plan and reduce the risk of inadvertent or unintentional spending.**Can I ask questions or provide feedback?**If you have any questions or feedback about how the rule should be implemented, please email NDISConsultations@dss.gov.au |
| **To ask questions or provide feedback** | Contact information you can provide to your members:**DSS**Email: NDISConsultations@dss.gov.au |