



National Injury Insurance Scheme (NIIS) Motor Vehicle Accidents Consultation Regulation Impact Statement

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Preamble

Limbs 4 Life is a non-profit organisation and the national peak body providing advocacy and practical and emotional support to individuals (the consumer) who have undergone an amputation and or experienced limb loss.

The organisation works to empower amputees with the provision of information, support and access to resources for all individuals and their families irrespective of the cause of limb loss. Limbs 4 Life recognises the benefit of early intervention processes as a major priority in an individual's recovery, together with the need to obtain access to equitable services which work to support and promote quality of life outcomes.

Limbs 4 Life welcomes the opportunity to provide this submission to The Treasury in relation to the National Injury Insurance Scheme (NIIS) Motor Vehicle Accidents Consultation Regulation Impact Statement.

Nature of the problem

Limb loss severely impacts an individual's mobility and independence. Any form of amputation should be viewed upon as catastrophic, irrespective of the cause relating to the amputation.

The Victorian Minister for Health (now the Victorian opposition leader) Mr Daniel Andrews stated in May 2009; *'The loss of a limb is a personal tragedy and has an enormous impact on the person and their family'*.

(1)

Currently in Australia there are many different funding streams for people who lose limbs or face amputation. This was clearly identified in the Productivity Commissioners Report. It was also identified that a person's ability to access support greatly depends on the State or Territory that the individual resides in. Limbs 4 Life's understanding of the National Disability Insurance Scheme (NDIS) and the supporting scheme NIIS was to enable individuals to have an easier transition into funding supports, promote quality of life outcomes and create a fair and equitable system to support people living with, or impacted by disability. Additional no fault insurance based funding streams which do not offer the same or similar outcomes for individuals and are inclusive for individuals involved in motor transport accidents; similar to the model that the Victorian Transport Accident Commission (TAC) currently provide; will increase levels of distress for all persons attempting to navigate the system and regain their independence, gain access to support and lead independent and productive lives.

Limbs 4 Life identifies the nature of the problem as the following;

- Only certain States and Territories currently offer a no fault scheme
- There is a lack of national consistency relating to support for individuals impacted by motor vehicle catastrophic injury
- Lump sum payments do not necessarily allow for the advancements in technology for individuals impacted by amputation in the future.
- Under payment (or under funding) can further impact an individual's ability to contribute to the economy and regain their independence and add to the financial strain of the public system
- The NDIS does not support individuals over the age of 65 and the scheme will take time to be fully operational therefore no fault schemes need to be implemented prior to the full roll out of the NDIS
- Lengthy litigation processes can compound the distress of an individual with permanent physical disabilities and can have a negative impact upon an individual's mental health while they are still trying to adapt to life with a disability following a catastrophic injury
- The adoption of no fault insurance based schemes which carry specific limitations and restrictions for individuals facing amputation will only further contribute to the costs of the NDIS and or for those over 65 years; further burden the public health-based funding system, thus leading to an increase in current wait times, delays regaining mobility and independence, delays in potential return to work, impact their ability for social inclusion and in turn, re-integration with community.

Objectives of government action

Primarily Limbs 4 Life agrees with the objectives of government; however requires additional information relating to the following;

- is equitable in its impact on each State and Territory and their residents
 - is consistent with the implementation of the NDIS
- a) meaning that State and Territories will adopt a no fault model similar to TAC whereby all individuals who experience a catastrophic injury are eligible for funding and support irrespective of their level of impairment.
- b) that the full roll out of the NDIS will take time and there is a need to direct individuals into a scheme which is sustainable and will support individuals return to independent living via an early intervention hospital and rehabilitative supportive scheme.

The Productivity Commission identified the following:

The NIIS would also need to involve the following:

- *Transitions through the health system would need to be as seamless as possible, and care and supports coordinated over a person's duration of need. Rehabilitation and early interventions should be appropriately timed (informed by rigorous data analysis) and, where necessary, supported by clinicians and allied health professionals.*
- *The stream of funding provided would also help develop specialist health services necessary for rehabilitation, which tend to be under-developed and under-funded in the health system (such as specialised brain injury centres).*
- *Key life transition points would be anticipated and planned for, to facilitate independence and participation goals — including, where appropriate, by connecting with community groups (as under the NDIS (chapter 4)). Such developments should facilitate the continuity and coordination of care and supports, leading to better health and participation outcomes over the course of an injured person's life. (2)*

Limbs 4 Life questions why the RIS has moved away from objectives outlined by the Productivity Commission's recommendations relating to an NIIS (as outlined above) and if the model outlined in the RIS is to promote a fair and equitable system that is; moving away from the postcode lottery regularly referred to during the course of consultations during the Productivity Commissions Inquiry, then why are there limitations to accessing the scheme/s?

The RIS is not conducive to best placed outcomes when it imposes limitations on an individual based on the level of their amputation via percentages of amputated limb or limbs and or what results as a remaining residual limb or limbs. Additionally, Limbs 4 Life question the impact of 'measurable diagnostics' on healthcare professionals treating the person in question and carrying the responsibility of advising their patient that; due to remaining 'length or percentage' (residual limb) of their patients tibia or femur is dependent on the scheme that they are eligible for.

Options

The base case fails to outline support for whole of person care;

"By the end of 2019-20, all people who are catastrophically injured in motor vehicle accidents will be able to access support regardless of fault, as the NDIS acts as a safety net for the different State and Territory schemes". (3)

The base case places strict limitations on a large section of the population who could possibly be impacted by amputation and only works to serve and support 'significant amputations' thereby further impacting

upon an already fragmented system funding stream. In addition, the NDIS only supports individuals under the age of 65, leaving a large group of the population at risk of not being supported should they incur a motor vehicle accident and therefore become ineligible for access to NIIS support.

If an NIIS is going to be established then Limbs 4 Life would not expect that there would be any reliance on the NDIS. States and Territories adopting an NIIS should ensure that their respective schemes are sustainable, fair and promote quality of life health based outcomes for long time care and support such as the model TAC currently provides.

Impact analysis

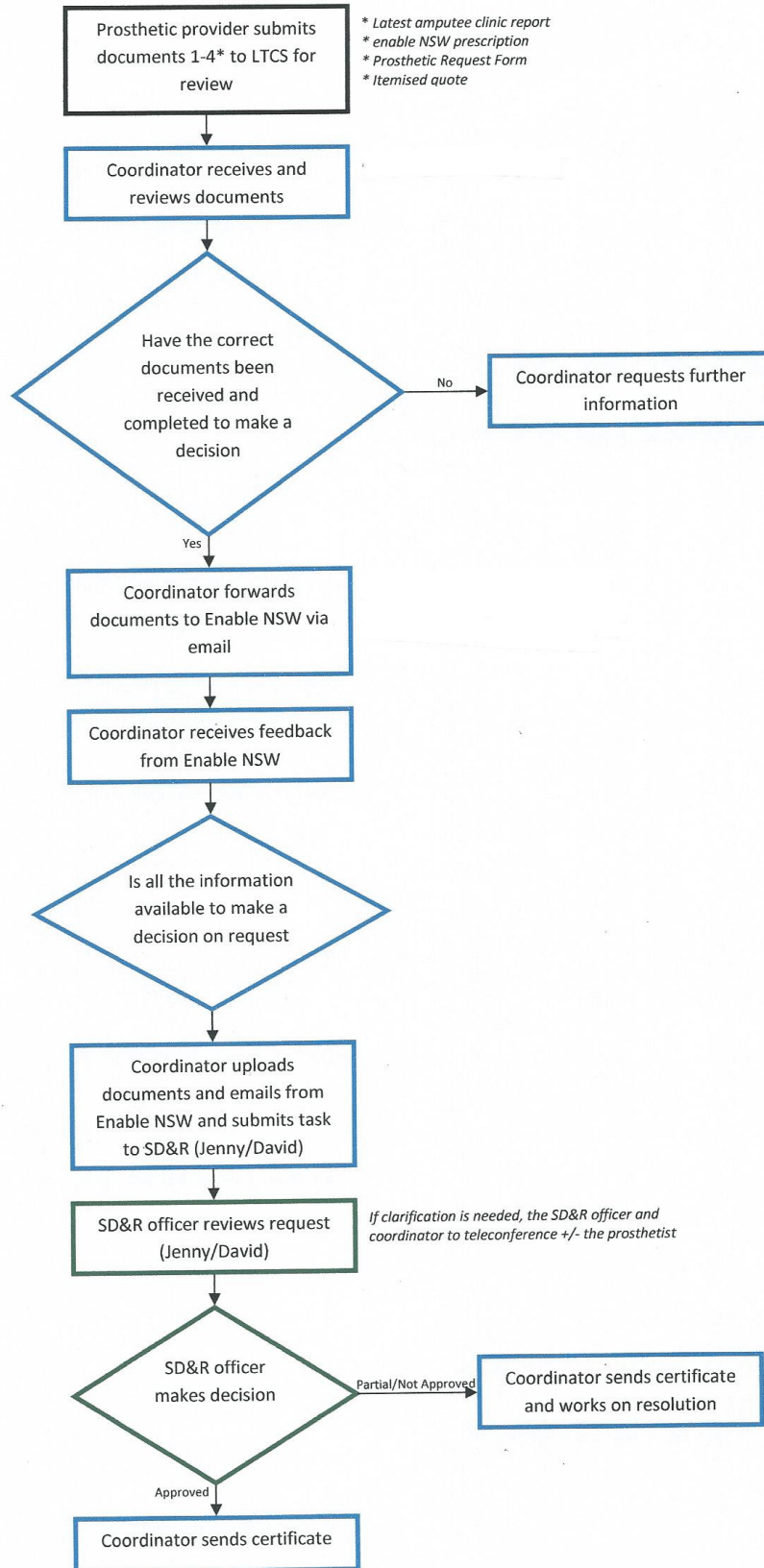
The NSW Lifetime Care and Support (LTCS) model may meet agreed minimum benchmarks as outlined in the RIS however this model is subjective to providing person centred care and highlights concerns relating to a model which proves not only difficult to navigate but leads to uncertainty relating to an individual's future support. *(See the NSW LTCS process flowchart below).* (5) The NSW LTCS model is restrictive by nature omitting individuals who are subjective to catastrophic injury by any means other than a motor vehicle.

In comparison, entry into the TAC Victorian model is seamless, straightforward and extends support to all catastrophic injuries involving a variety of transportation means such as trains and trams. The agreed minimum benchmark for motor vehicle accidents would service to support an extremely minor part of the population based the level of amputations and by excluding clients who only have a single 'non-significant' amputation. It would therefore be valuable to ascertain how many individuals impacted by a motor vehicle catastrophic injury actually undergo amputations to the extent outlined in the RIS.

In Limbs 4 Life's experience and that of its stakeholders, there a very few members of the amputee community who experience multiple limb amputations from motor vehicle accidents and or who experience forequarter and shoulder disarticulation and or hindquarter amputation as a resulting from this occurrence; therefore is it viable to establish an NIIS for such a small percentage of the population. If no fault schemes under and NIIS are not going to support all individuals with permanent disabilities then surely a person impacted by a catastrophic injury will be unable to gain meaningful employment and or regain their independence.

'Compared with other OECD countries, Australia has one of the lowest employment participation rates for people with a disability. In fact, across a continuum of employment performance for 29 OECD countries (where 1=best and 29=worst), Australia was ranked 21st, with an employment rate of 39.8% for people with a disability compared to 79.4% for people without a disability'. (4)

Prosthetic Request - Process Flowchart



Eligibility and Assessment

Limbs 4 Life is concerned that the eligibility restrictions for amputees outlined in the RIS are not conducive to the practise of care and support and are therefore not based on quality of life outcomes to achieve functional mobility. The RIS sets a very low benchmark in relation to no fault access into the scheme for any individual facing amputation due to a motor vehicle accident; when in fact the opposite can be said for the original purpose of developing a scheme which would provide support and care to those in need with a permanent disability. Limbs 4 Life does not support the following inclusion criteria;

“Multiple amputations of the upper and/or lower extremities or single amputations involving forequarter amputation or shoulder disarticulation, hindquarter amputation, hip disarticulation or ‘short’ transfemoral amputation involving the loss of 65% or more of the length of the femur”.

and, how can the above work to promote positive based quality of life outcomes and provide an effective method of support? By any definition limb loss (amputation) is both significant and catastrophic to the individual in question, their families and primary care givers.

Areas of Concern

In line with the Productivity Commissions statement that the system is underfunded, fragmented, unfair and inefficient the adoption of such restricted barriers will only exempt more people from a system specifically designed to suit their long-term needs.

Moreover, the adoption of additional schemes in WA, SA, Qld and Tasmania will only create greater confusion. The purpose behind the architecture and structure of an NDIS and accompanying NIIS was to ensure consistency of care and support.

Recommendations

Limbs 4 Life makes the following recommendations to ensure streamlining of support and ease of access into systems of lifetime care and support for recipients with a clear and concise access to fair and equitable funding streams in their respective states and territories;

- Remove the restriction of eligibility for people with limb loss /amputation which relies on percentages of residual limb length and be open to a flexible approach
- Benchmark services in line with the delivery of fair and equitable lifetime care and support
- Adopt a focus toward positive health based outcomes rather than the restrictive entry processes outlined in the RIS

- Encourage the adoption of a sustainable model such as the TAC in Victoria which works to promote successful health based outcomes of long time care and support for individuals involved in transport accidents and not restrictive specifically to motor vehicles.
- Promote a model which supports medical (acute care) outcomes; such as limb salvage procedures and life saving techniques leading to positive health based and quality of life outcomes.

Limbs 4 Life would be willing to discuss this submission and or any supporting documentation in greater detail and provide feedback from stakeholder consultations relating to the proposed adoption of the NIIS.

References

1. The Age Newspaper – May 2009
2. Disability Care and Support Productivity Commission Inquiry Report Australian Government July 2011
3. Disability expectations investing in a better life, a stronger Australia November 2011.
[pwc/industry/government/assets/disability-in-australia](#).
4. OECD. (2010). *Sickness, Disability and Work: Breaking the Barriers - A Synthesis of Findings across OECD Countries*; cited in Appendix K The disability support pension. Productivity Commission Inquiry Report. No. 54, 31 July 2011.
5. Supplied by LTCS in NSW 2013

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