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Let's Get Technical: NDIS v Life risk insurance

Financial advisers report that their existing and, in particular, prospective clients often ask them how the National Disability Insurance Scheme (**NDIS**) operates and whether it replaces the need for Total and Permanent Disability (**TPD**), trauma and even income protection cover. Discussion of this topic is particularly relevant given the changes to the National Disability Insurance Scheme Act 2013 (Cth) (NDIS Act) that took effect on 3 October 2024.

Let's have a look:

NDIS

The NDIS is a national disability scheme that provides funding for reasonable and necessary supports and services for people with a permanent (or likely permanent) and significant disability and that helps a person with a disability enjoy an ordinary life (see Eligibility criteria below). There is a misunderstanding in the community about what the scheme provides as compared to personal risk insurance. Part of the confusion is the misnomer of 'insurance' in the title of the scheme.

In 2008 the Commonwealth Government and the Australian states and territories signed the National Disability Agreement, which took effect from 1 January 2009, and work began on developing a National Disability Strategy 2010-2020. In March 2013, the Federal parliament passed the NDIS Bill and the NDIS Act came into effect. It established the National Disability Insurance Agency, which launched the first four trial sites, in New South Wales, Victoria, South Australia and Tasmania. A further four sites were launched in 2014 and 2015, with the trials ending on 1 July 2016, the start of the NDIS rollout across the country. From 1 July 2020 the NDIS is available throughout all of Australia. It currently supports over half a million people[1].

Changes to the NDIS Act on 3 October were a result of a comprehensive independent 2023 review of the scheme, examining the design, operations and sustainability of the NDIS (Part 1) and examining ways to build a more responsive, supportive and sustainable market and workforce (Part 2)[2].

The main outcome of the new legislation is the creation of lists of what NDIS participants can and cannot spend their funding on and an update to current guidelines and practices. The list include items that are NIDS supports and item that are not. There will be a 'transition period' for the first year of the new NDIS supports lists to ensure participants aren't penalised for simple mistakes[3].

1 https://www.ndis.gov.au/about-us/history-ndis

2 https://www.ndisreview.gov.au/about/terms-of-reference

3 1 October 2024 media release by The Hon Bill Shorten MP: sourced at: https://ministers.dss.gov.au/media-releases/16211

Eligibility criteria

Age

Applicants need to be aged between 9 and 65, in which case a local area coordinator can assist in applying and connecting with other government and community supports (if entered prior to age 65, coverage is potentially for life). For a child younger than 9, an early childhood partner can provide supports to children before they apply and let families know if the NDIS is right for their child.

Residency

The NDIS is only available to Australian citizens, permanent residents or holders of Protected Special Category Visas, and only available to people living in Australia (however, there is provision for those travelling overseas for up to 6 weeks to use NDIS funding to buy supports and services).

Disability

The NDIS is only available to people who have a disability caused by a permanent, or likely permanent, impairment, which may be intellectual, cognitive, neurological, sensory, physical or psychosocial. This permanent impairment substantially reduces a person's functional capacity to undertake one or more specified activities such as communication or mobility or affects their ability to work, study or take part in social life and the person will likely need support under the NDIS for their whole life.

Early intervention

People who will likely benefit by early intervention support to reduce disability supports in the future may also be funded by NDIS following assessment.

The NDIS is not designed to fund supports more appropriately funded or provided by the Australian health system. Assessment, diagnosis and treatment of health conditions, along with medications and hospital care, remain the responsibility of the health system.

Supports may only be funded by the NDIS if they meet certain criteria and are reasonable and necessary.

The types of supports that the NDIS may fund for participants, depending on the circumstances, include:

- daily personal activities
- transport to enable participation in community, social, economic and daily life activities
- workplace help to allow a participant to successfully get or keep employment in the open or supported labour market
- therapeutic supports including behaviour support
- help with household tasks to allow the participant to maintain their home environment
- help to a participant by skilled personnel in aids or equipment assessment, set up and training
- home modification design and construction
- mobility equipment, and
- vehicle modifications.

The NDIS cannot fund a support that is

- the responsibility of another government system or community service
- not related to a person's disability
- relates to day-to-day living costs that are not related to a participant's support needs
- likely to cause harm to the participant or pose a risk to others

So, NDIS funding doesn't cover general everyday living expenses that people without disability would be required to pay, such as train travel, rent, mortgage payments, groceries, mobile phone bills or movie tickets.

As of 30 June 2024, 661,267 NDIS participants had approved plans. This represents a 1.8% net increase from last quarter (a net increase of 11,644 participants since March this year).

The five most common NDIS-funded disabilities by percentage of active participant plans at 30 June 2024 were[4]:

1. Autism (36 per cent)
2. Intellectual disability (16 per cent)
3. Developmental delay (12 per cent)
4. Psychosocial disability (10 per cent)
5. Hearing impairment (4 per cent)

TPD

The life risk product that most resembles NDIS is the ClearChoice non-occupational TPD. As you may know, ClearView's ClearChoice TPD cover offering can be divided into two broad categories: occupational and non-occupational TPD.

Occupational TPD includes Any Occupation TPD, Own Occupation TPD (non-super) and TPD Super Solutions (ClearView's flexi-linked any occupation TPD inside super and own occupation TPD outside super).

For Own Occupation TPD, the insured person needs, as a result of sickness or injury, to have been absent from, and unable to work in, their own occupation for three consecutive months and at the end of that period, be disabled to such an extent that they are unlikely to be able to engage in their own occupation ever again (or the insured satisfies the Non-Occupational TPD definition).

The definition of Any Occupation TPD is the similar, except it relates to any occupation:

- the insured is reasonably suited by education, training or experience including reasonable retraining; and
- which is likely to generate average monthly earnings of at least 25% of the insured's pre-disability average monthly earnings

For more information, see ClearChoice PDS

With Non-Occupational TPD, the insured person needs to have suffered significant permanent impairment as a result of sickness or injury. The four categories for this impairment are Loss of limbs or sight; Cognitive loss; Loss of independent existence; and Loss of functional activities.

According to a Financial Services Council Media Release of 29 July 2020[5], the top five causes of claim for TPD in 2019 were:

- Mental Disorders (25 per cent)
- Musculoskeletal System (22 per cent)
- Accidents (15 per cent)
- Nervous System (12 per cent)
- Cancer (9 per cent)

ClearView's Top 5 TPD claim causes from July 2023 (including Accidental TPD) to March 2024 have been:

- Accident (23 per cent)
- Mental Disorders (17 per cent)
- Musculoskeletal (13 per cent)
- Cancer (10 per cent)
- Nervous System (10 per cent)

When comparing the above NDIS disabilities and TPD claims, it is difficult to identify overlaps (apart from permanent and significant disabilities caused by accidents), given autism and intellectual disability are commonly diagnosed in childhood and the psychosocial disabilities are largely predicated on the abilities to carry out day-to-day activities, so more akin to Non-Occupational TPD[6].

Offsets

ClearView does not reduce a ClearChoice TPD benefit if an NDIS participant is receiving supports or services. However, NDIS may reduce or recover funding in a participant's NDIS plan if they receive 'compensation', as defined in the NDIS laws. It is unlikely that TPD benefit payments will be considered compensation for this purpose.

Trauma cover

The top five trauma insurance causes of claim for 2019 noted in the above FSC media release were:

- Cancer (58 per cent)
- Circulatory System (24 per cent)
- Nervous System (5 per cent)
- Accident (3 per cent)
- Abnormal clinical findings (2 per cent)

Trauma policies have many specified medical events. With 82 percent of trauma claimants suffering from cancer or circulatory (cardiovascular) conditions, it is unlikely that they would meet the criteria to access NDIS.

However, persons with degenerative diseases, such as Motor neurone disease, Multiple sclerosis, Muscular dystrophy, etc., may be able to access the NDIS when their conditions significantly impact their daily lives.

Income Protection

According to the FSC media release the Top 5 income protection claim causes for 2019 were:

- Accident (33 per cent)
- Cancer (14 per cent)
- Mental disorders (14 per cent)
- Musculoskeletal System (13 per cent)
- Circulatory System (9 per cent)

ClearView's Top 5 claim causes (including Accidental Income Protection) from July 2023 to March 2024 have been:

- Accident (44 per cent)
- Musculoskeletal System (19 per cent)
- Mental Illness (12 per cent)
- Cancer (7 per cent)
- Circulatory System (5 per cent)

Income protection claims may be of a short duration. In such cases, it can generally be expected that the insured person would not meet the eligibility criteria to access the NDIS, since this requires that the participant have a permanent or likely permanent impairment.

Under the terms of the ClearChoice Income Protection Cover, ClearView will not offset NDIS funding to purchase supports. Income protection or salary continuance payments are unlikely to constitute "compensation" for the purposes of the NDIS laws and so it is not likely payments of this nature received by a participant will be offset against the NDIS funding in the participant's plan or recovered from them.

Summary

Whilst NDIS is a welcome addition to helping permanently significantly disabled Australians, it should not be seen as an equivalent to, or replacement for, life risk insurance.

It is a safety net for the profoundly disabled, which in severe lifelong illness or injury cases may complement a well-constructed life risk strategy.

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4 NDIS Quarterly report to disability ministers 30 June 2024, p 85 https://www.ndis.gov.au/media/7221/download?attachment

5 https://fsc.org.au/news/media-release/media-release-downloads/2048-fsc-media-release-detailed-data-reveals-top-causes-of-claim-for-the-industry/file

6 https://www.ndis.gov.au/understanding/how-ndis-works/psychosocial-disability

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