



# ANNOUNCEMENT

## HOW TO APPEAL AN NDIS DECISION

The **National Disability Insurance Scheme (NDIS)** offers eligible people access to funding to help cover the costs of their disability. The NDIS does this by approving a 'plan' for each person, which will provide them with access to funding for one, two or three years. The NDIS determines how much funding you will get based on reports from your doctors – but they don't always get it right.

If a person does not agree with an NDIS decision, they can apply for an **internal review**. NDIS staff who were not involved in the original decision will look over the documentation and decide if the original decision needs to be changed. Sometimes, they might decide that the original decision was correct, and will not provide extra funding.

If this occurs, people can go to the **Administrative Appeals Tribunal (AAT)** to appeal the NDIS decision. The AAT can be used by NDIS participants who want extra funding or people who have been rejected by the NDIS. The AAT is independent of the Australian Government and reviews decisions made by government agencies (like the NDIS). During an AAT review, a person can represent themselves, or can be represented by a support person.

Alternatively, they can apply through the **NDIS Appeals Program Support** for a skilled advocate or legal services. Decisions made by the AAT are considered final unless a person appeals them in a higher court in Australia.

However, on the 16th of December 2022, the Australian Government announced that the AAT will be abolished and replaced with a new federal administrative review body. The body is currently unnamed and it is unclear when it will come into effect, but here's what you need to know:

- The AAT is still operating, and cases will still be reviewed by the AAT until the new body takes over.
- Decisions made by the AAT are still final. If the AAT makes a determination on a case, it cannot be appealed and reviewed again by the new body.
- New appeals can still be submitted. They may be reviewed by the AAT or by the new body.

# ARTICLE CONTINUED...

It is also important to note that the AAT is currently increasing its staff to handle the backlog of cases and, hopefully, means that cases will be heard earlier.

Additionally, the NDIS is trialling the **Independent Expert Review (IER) program** to reduce the number of cases that have to go to the AAT or its replacement body. Anyone who has appealed to the AAT may be contacted by the IER. The IER is free and independent. Its staff do not work for the NDIS but have the relevant experience to make recommendations. They will meet with an individual to discuss their appeal, and then provide a **non-binding** recommendation. This means that the recommendation does not have to be followed by you or the NDIS.

Because the IER recommendation is non-binding, both the individual and the NDIS must agree with it for it to take effect. The benefit of this process is that a resolution can be reached without having to go to the AAT. This is faster and reduces the AAT workload. If either party disagrees with the recommendation, the AAT will review the case and the IER's recommendations cannot be used as evidence.

Participating in an IER is voluntary and will not delay an AAT hearing. An individual can stop the IER at any time and any documentation held by the IER will be destroyed.

## **References or Further Reading:**

[Changes to the AAT \(NDIS\)](#)

[A new Federal Administrative Review Body \(AAT\)](#)

[NDIS Appeals Program \(DSS\)](#)



The NDIS provides funding to people with disability. The funding plans last for one, two or three years. Sometimes, you may not agree with the plan the NDIS has provided you. It is your right to ask the NDIS to review it.



First, the NDIS will do an internal review. Different people from the NDIS will look over your plan and decide if the first people made a mistake.



If they agree with the first people, it is your right to appeal the NDIS decision to the **Administrative Appeals Tribunal (AAT)**. During an AAT review, you can be represented by yourself or someone you know, or the NDIS can provide an advocate or legal assistance.



Late last year the Australian Government announced that the AAT would be replaced by a new body. This new body will do the same thing, although we don't know its name or when it will start.

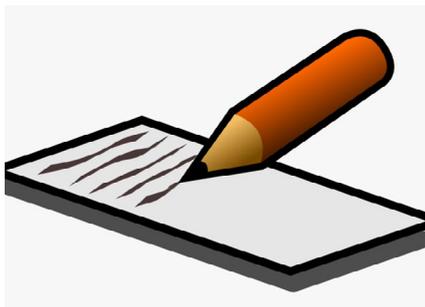
# QUICK READ CONTINUED...



If you currently have an appeal in progress, it will still be seen by the AAT and the AAT's decision will still be final. If you are thinking of making an appeal, you can still do so at any time.



The NDIS has also introduced the **Independent Expert Review (IER) program**. You may be asked to see this board if you have lodged a case with the AAT. The IER is optional and free.



IER staff are independent and do not work for the NDIS. An IER agent will meet with you and make a **non-binding** recommendation.



If you like this recommendation, and the NDIS accepts it, you will not have to go to the AAT. If you do not like this recommendation, you can reject it and it will not affect the AAT's decision.



If you do choose to take part in the IER and want to pull out, you can do so at any time and any records the Independent agent has will be destroyed. If you take part in the IER, your AAT hearing will not be delayed.