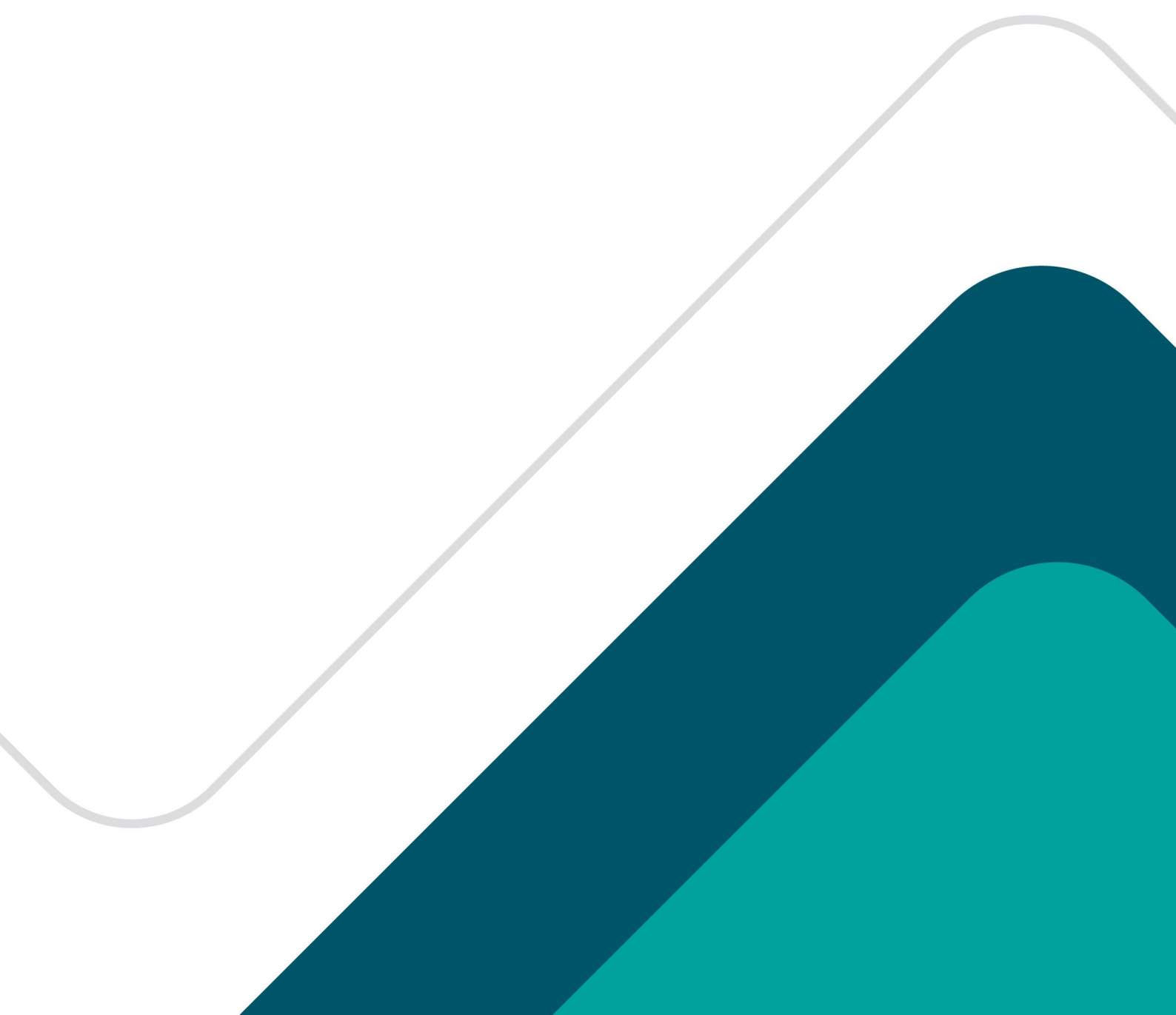




Variation and Reassessment Rules

Plain English summary

DSS December 2024



Variation and Reassessment Rule

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.

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

Background

The ability to vary a plan was introduced to the *National Disability Insurance Scheme Act 2013* (NDIS Act) on 1 July 2022. The NDIS Amendment (Getting the NDIS Back on Track No. 1) Act 2024 made changes to what kinds of variations are allowed. We are making this rule to provide more detail and clarity around:

- when the NDIA **can** or **cannot** do a plan variation
- the things the NDIA **must** consider when deciding whether to vary or reassess a plan.

This rule applies to how NDIS plans are made now.

There will be a new approach to planning in 2025 and we will consider rules about how variations and reassessments are made for the new approach, also.

Engagement

The Department of Social Services and the NDIA held 10 consultation sessions about plan variations and reassessments from 11 – 25 November 2024. The sessions focused on the purpose of the rules and how they will be used.

The stakeholders for these sessions included members of:

- Independent Advisory Council (IAC)
- 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
- Joint Disability Representative and Carers Organisations (DRCOs)
- Neurodegenerative, Palliative Care and Rare Diseases Advisory Group

The disability community gave feedback on several themes including:

Variations:

- **Consideration of change of circumstances:** Participants' circumstances need to be considered as a whole, noting the impact to the individual participant.

- **Prioritisation of circumstances:** Circumstances such as deterioration in condition or failure of equipment should be able to be prioritised.

Reassessments:

- **Key life stages and transitions:** acknowledging reassessments are more appropriate at major life stages, or sudden changes to caring arrangements or family unit compared to a variation.

The department also consulted with state and territory governments through the Disability Reform Ministerial Council.

We used this feedback to shape the variation and reassessment rules and how they will be used by the NDIA.

Variations (47A)

Significant change requiring crisis or emergency funding

Variations to change a participant's funding are allowed if a participant needs crisis or emergency funding because of an important change in their life.

The conditions listed below must be met for the NDIA to **be able to** vary a participant's plan. The conditions are:

- a) there was an important change to the participant's support needs.

AND

- b) the participant's support needs have changed because of a change in the participant's:
 - i) functional capacity – the things they can do.
 - ii) informal supports – friends or family members who support the participant.
 - iii) living arrangements.

For example, a participant with a degenerative condition who experiences a sudden and significant decline in their functional capacity may need a wheelchair urgently for mobility while a reassessment is undertaken.

A change in informal supports could be circumstances like the sudden death or hospitalisation of a carer or family member. A change in living arrangements might be circumstances like a sudden move into a new home or a shared living environment. If the change is permanent or long term, a plan reassessment and new plan may also be needed for the longer term.

AND

- c) either:
 - i) the support is for a specific time.

OR

- ii) the support is a once off.

A specific time may be a length of time, such as one month, or it may be the time until an agreed event occurs, such as until the participant's family member is home from hospital or until the participant's plan is reassessed.

A once off support could be the wheelchair in the example above.

AND

d) the change to support needs requires an urgent change to the plan.

AND

e) the funding is best provided by the NDIS, and not another Commonwealth or state or territory service.

For example, a participant's home might be damaged by a storm. The crisis or emergency funding they needed would be provided by natural disaster payments and possibly crisis accommodation funding. Both these payments would be funded through programs other than the NDIS. So, funding for the same supports would not be funded by the NDIS.

The participant might also need a higher level of assistance with daily living while staying in alternative accommodation. The NDIS would fund extra support worker hours through a plan variation until the participant could return home.

Minor variations that lead to an increase in funding in the plan

Variations to change the amount of a participant's funding are allowed if the change is small and will increase the funding in a plan.

If the increase in funding will add an additional support to the plan, the NDIA can vary a participant's plan if:

a) the additional supports must be:

i) for a specific time

OR

ii) a once off.

For example, a family might decide to start their child at school one year earlier than written in their child's plan. To support the child in this transition, a variation might be made to provide funding for capacity building to support the child to prepare for this change and over the first term.

b) the additional support must be different to, or have different outcomes, from other supports already in the plan.

A variation is less likely to be made if the child was already receiving enough capacity building supports their plan. It would be a duplication of supports to provide additional capacity building to achieve the same outcome.

c) the additional support is either:

- i) replacing, maintaining or repairing assistive technology already in the plan (or previous plan)
- ii) needed urgently to support the participant's economic participation for a time.
- iii) needed urgently to support capacity building or a life transition for a time.

Continuing the above example, additional capacity building supports are included in the child's plan for a specified six-month period to build their capacity to transition to school. The additional support would be urgently required as it must be in place in time to support the child with preparation for and attendance at school.

If the variation will increase the funding for a specific support already in a plan and the support is:

- i) home modifications, design or construction
- ii) vehicle modifications
- iii) assistive technology,

The NDIA can make the variation if one or more of the following are met:

- a) the support is not available at the same cost as expected in the plan.

For example, a participant might have funding in their plan for vehicle modifications based on an approved quote. When they contact the provider to arrange the modifications, they are told the cost of the modifications has increased due to increased cost of one of the parts. Additional funding is needed to cover the increased cost.

- b) the support is not available in the same way expected in the plan.

For example, a participant might be booked to have their assistive technology provided and fitted by a provider who travels to their region regularly. If the provider stopped coming to the area, the participant would need to pay for delivery of the assistive technology. They would also need a local physiotherapist to assist with fitting the equipment. These arrangements and costs would be more than the quoted fees from the original provider.

- c) getting the support needs extra information, services or materials than were expected in the plan.

For example, a participant may have home modifications funded in their plan. However, after the work began, they discovered they needed to repair the floor substructures due to termite damage. As a result, additional funding would be needed due to unforeseen extra services needed to complete the home modification.

Variations that change the participant's plan reassessment date

Variations are also allowed to change the date for plan reassessment. The variation of a plan must not result in the plan going longer than 5 years without a reassessment.

Reassessments

Things the NDIA must consider

The NDIA can decide to do a reassessment of a participant's plan when conditions in the NDIS rules are met. A participant can also request a reassessment of their plan at any time.

In deciding whether to do a reassessment of a participant's plan, the NDIA must consider:

- a) if the participant's support needs have significantly changed because of a change relating to:
 - i) functional capacity
 - ii) informal supports
 - iii) living arrangements
 - iv) a major life change or transition.

For example, a participant receives supports for a degenerative neurological condition such as multiple sclerosis. Their plan was prepared and approved based on what they could do (their functional capacity) at the time. The participant's condition progresses, and they find they can no longer use fine motor skills independently. The participant applies to the NDIA for a reassessment of their plan. After the reassessment is done, they have access to the additional supports they now require.

- b) if there has been a change to the participant's right to compensation

For example, a participant receives an entitlement of a personal injury amount under an insurance claim following a car accident. The NDIA must consider this amount when deciding whether to reassess the participant's plan. If there has been a change to these entitlements, it is likely to be a factor in favour of a reassessment being done. If a participant is no longer entitled to receive supports or compensation, this may also be a reason to perform a reassessment of the participant's plan.

- c) when the NDIA will have to do the next plan reassessment

For example, if a participant's planned reassessment is less than one month away, it is likely a planning meeting has already been scheduled. It would be more efficient to continue with the existing reassessment process. However, if a participant's scheduled reassessment is 6 months away, it may be more appropriate to do an unscheduled reassessment.

- d) anything else the participant asks to be considered that the NDIA agrees is important.
- e) anything else the NDIA thinks is important to be considered.

This a reviewable decision

The following are reviewable decisions under section 99 of the NDIS Act:

- Decision to vary a plan
- Decision not to vary a plan
- Decision not to conduct a reassessment

The new rule does not change the review rights of participants in any way. If a participant is not happy with a decision to vary, not to vary or not reassess their plan, they can ask the NDIA to review the decision.