



Office of the Interim First Nations Aged Care Commissioner

Submission on the new Aged Care Act Rules – Release 4a

April 2025

Overarching Comments

- It is not clear that National Aboriginal and Torres Strait Islander Flexible Aged Care (NATSIFAC) Program providers are specialist aged care providers. This makes it very unclear which rules relate to NATSIFAC providers.
 - For example, there are several sections in which NATSIFAC providers might be exempt along with all specialist aged care programs, including Sections 14910(2), 149-20(2), 166-105(2), 175-5, 177-10(2), 177-15(2), 177-20(2), and 3125(2)(a). However, without being explicit, it is not immediately clear.
- Consideration needs to be given to how all new obligations are communicated to NATSIFAC providers, including which rules apply and how it differs from pre-1 July 2025 arrangements.

Specific Feedback

149-46(2) Requirements for ceasing delivery of funded aged care services – notice to the new registered provider about account balances

(2) The registered provider must give notice to the individual's new registered provider specifying what the provider estimates will be the available balance of the individual's: [various account balances] ...

- Why is it the responsibility of the outgoing provider to provide details about remaining account balances to a new provider?
- Wouldn't Services Australia be better placed to provide the details of an individual's remaining budget?
- The Office of the Interim First Nations Aged Care Commissioner has heard concerns about the administrative burden on providers who will only be able to use 10% of the client's budgets for care management.
- Providers have shared that other administrative costs will be passed on to the individual in the service prices. Any opportunity to reduce the administrative burden on providers should be pursued.

166-125 Quality indicator – restrictive practices

(1) A quality indicators report must include the following information on restrictive practices: (d) the number of individuals subjected to the use of restrictive practices other than chemical restraint through the collection period: ...

- Why are chemical restraints exempt from being reported in the quality indicators report? **166-925 Report for a closure of a service delivery branch**

(3) The report must include the following information:

- (a) the name of the service delivery branch;*
- (b) the date the provider proposes to close the service delivery branch;*



(c) in relation to the individuals (if any) accessing funded aged care services through the service delivery branch;

- (i) whether the provider has notified the individuals of the proposed closure; and*
- (ii) whether the provider has given a cessation notification to the System Governor and the Commissioner for each individual.*

- Without asking providers to detail a reason for the closure of a service delivery branch there is a missed opportunity to monitor local access to aged care services and evaluate the broader impact of the reforms.
- Providers should be required to report a reason for closing a service delivery branch so that the data can be collated and analysed for future policy decision making.

288-5 Provisions that do not apply in relation to certain specialist aged care programs

Aged Care Act 2024

288 Rules that may deal with the application to specialist aged care programs

(1) Provisions of this Part do not apply in respect to the delivery of the funded aged care services to an individual if:

- (a) the provisions are specified in the rules; and...*

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NATSIFACP

(2) For the purposes of paragraph 288(1)(a) of the Act, the provisions of Part 4 of Chapter 4 of the Act are prescribed in respect of the delivery of funded aged care services to an individual under the NATSIFACP.

- Paragraph 288(1)(a) of the Aged Care Act 2024 refers to the rules to prescribe which specialist services are not applicable to the provisions of Part 4 of Chapter 4 of the Act. However, the wording of section 288-5 of the rules, in saying that the provisions “are prescribed”, makes it unclear if Part 4 of Chapter 4 is applicable to NATSIFAC providers or not.

Additional Feedback

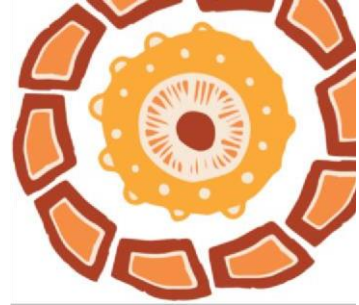
149-35(2)(d) Requirements for ceasing delivery of funded aged care services – general

(2) The circumstances in which a registered provider may cease to deliver funded aged care services to an individual are:

(d) the individual:

- (i) has not paid to the provider, for a reason within the individual’s control, any fee or contribution specified in the service agreement between the individual and the provider; and*
- (ii) has not negotiated an alternative arrangement with the provider for payment of the fee or contribution...*

- With the introduction of co-contributions for all services other than clinical care, there have been significant concerns raised by Aboriginal and Torres Strait Islander Community Controlled Organisations (ACCO) and the broader aged care sector about the capacity for their clients to pay the contributions.



- Co-contributions have been specifically identified as a likely deterrent for older Aboriginal and Torres Strait Islander people accessing the care they need. Rates of aged care access and outcomes are already significantly lower for Aboriginal and Torres Strait Islander people, who do not access aged care at rates in line with their level of need or proportionate to non-Indigenous older people.
- In this section of the rules, there is an opportunity for data collection to evaluate the impact of co-contributions for older Aboriginal and Torres Strait Islander people.
- Consistent with Priority Reform 4 under the National Agreement on Closing the Gap, the Department should commit to collecting and using this data to inform evidence-based policy and program decisions in a transparent way. This includes working with communities and providers on the collection, use, analysis and distribution of the data.
- For example, if registered providers were required to document the reason they ceased delivering aged care services to an individual, from the list in the rules, and communicate that with Services Australia or the Department of Health and Aged Care, these responses could be collated and analysed.
- It is imperative that the impact of co-contributions is evaluated, and there is an opportunity in these rules to do so.