Self-reported evidence – Lessons from the AAT

A recent case before the AAT – Julie Williams and the NDIS – illustrates the risks that come from relying on self-reported evidence when applying to join the NDIS.

You can read the full description of the case online; we have provided a summary below.

The case

Julie Williams suffers from a learning disability, anxiety, depression and chronic fatigue syndrome, among other things. The conditions are long-standing, and in 2010 she survived two attempted suicides. Her learning disability affects her thinking, memory, reading and writing, and her fatigue and depression means that she does things slowly or in stages. Her days are variable and her energy and anxiety levels are episodic.

She lives alone on an isolated 100-acre property in rural New South Wales. She keeps around 100 chickens and has learned a lot about how to breed them from YouTube and Facebook groups.

In 2018, she completed a Certificate IV in Mental Health Peer work. She also holds a Bachelor of Applied Science, completed in the 90s/00s over a 10 year period.

The case included a report from her psychologist, Mr Finnegan, who confirmed her conditions, and the remedies tried. He confirmed her functioning is 'variable' with 'flare ups' occurring every few months, and that when her anxiety is triggered, her other conditions tend to get worse. Mr Finnegan didn't undertake any formal assessments but rather relied on what Ms Williams told him.

Ms Curdie, an occupational therapist, conducted an assessment in Ms Williams's house – she also relied heavily on what Ms Williams told her. She observed Ms Williams using lever taps, modified door handles, and kneeling down to manage her chickens. Some of the information Ms Williams gave Ms Curdie (e.g. she was sleeping fine), conflicted with the statements Ms Williams made to the AAT (e.g. she has significant difficulty sleeping).

To join the NDIS, one must meet *all* of the disability criteria in section 24 of the NDIS Act. Some criteria were not under question, so the case focused on whether Ms Williams has substantially reduced functional capacity in the areas of learning, self-care and self-management.

- Learning
  Learning includes 'understanding and remembering information, learning new things, practicing and using new skills'. Undertaking a task slowly or differently does not necessarily mean a person has a *substantially* reduced capacity to learn, and the impact of a person's disability is assessed between (rather than during) acute episodes.

  The AAT was satisfied that Ms Williams does have a learning disability; however, the precise impact of the disability remained unclear. She was able to complete studies at a tertiary level (albeit with considerable support). Her psychologist stated that she is an 'intelligent woman' and 'very practically competent'. She demonstrated her ability to learn informally, via descriptions of how she uses online resources to learn more about chicken husbandry

- Self-care
  Self care means activities relating to personal care, hygiene, grooming and feeding oneself, including

showering, bathing, dressing, eating, toileting, and caring for health needs. As per above, this is assessed *between* acute health episodes.

Ms Williams explained that she wears clothes adapted with Velcro (no buttons), and showers and toilets independently. She can sweep the floor and wipe the countertop. She drives to Bega monthly, about an hour away, for errands. She uses click and collect for her shopping. She takes her medication intermittently, and so is considering using a compounding pharmacist to help with this, and is also considering a naturopath to explore alternative health solutions.

Ms Williams can cook basic meals, and receives Meals on Wheels, and has 4 hours a week of support through a My Aged Care packaged. The support worker who visits helps her to batch cook some meals, and to do larger cleaning tasks like vacuuming.

- Self-management
  Self-management is the cognitive capacity to organise one's life, to plan and make decisions, and to take responsibility for oneself.

  Ms Williams gave evidence that she finds paperwork hard to understand and can get overwhelmed. She needs help to contact organisations and deal with bureaucracy. Her psychologist stated that she has difficulty making 'major life decisions'.

  The AAT noted that Ms Williams bought her 100 acre property in 2009 and has lived alone there since then. She pays the bills and manages 100 chickens. In particular, she managed being evacuated during the bushfires. In this period, she anticipated that she'd need to stay away from home for some time, and communicated about her chickens, enabling them to be removed to safety. She regularly attends appointments, such as osteopathy and psychology sessions, and vary rarely misses them.

Based on this information, that AAT concluded that while Ms Williams does have some reduced functional capacity in the areas outlined, she can manage most things, albeit slowly, with modifications, or some assistance. Therefore, she does not meet the level of *substantially* reduced functional capacity under subsection 24(1)(c) of the NDIS Act and is not entitled to join the NDIS at this time.

Ms Williams is currently receiving a My Aged Care Home Package, a Chronic Disease Management Plan, and may be eligible for a GP Mental Health Treatment Plan – all of which are appropriate for her level of function.

What can we learn from this case?

This case demonstrates the importance of having *objective* and *consistent* evidence when accessing the NDIS. In this ruling, Ms Williams's case relied heavily on her own self-reporting, and the psychologist and OT reports offered were at times inconsistent and not based on objective, detailed assessments. The Tribunal was quick to pick up these inconsistencies.

It also illustrates that the bar for demonstrating *substantially* reduced functioning in any area is quite high – simply doing something slowly, differently, or struggling during an episode of bad health is not enough to entitle a person to join the NDIS.

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