

# Administrative Review Tribunal (ART) ruling summary — Responsibility for supports

A recent case — [Santagada and CEO, National Disability Insurance Agency \(Practice and procedure\) \[2025\]](#) — before the Administrative Review Tribunal (ART) [formerly Administrative Appeals Tribunal (AAT)] clarifies the responsible bodies for funding supports.

## The case

Mr. Santagada, a 56-year-old man, was granted access to the National Disability Insurance Scheme (NDIS) in February 2019 following an acquired brain injury (ABI) in a 2015 workplace accident. After a seizure and fall from a ladder while working as an electrician, he underwent acute care and rehabilitation in a brain injury unit. Since then, he has been unable to work and continues to experience cognitive fatigue, headaches, memory and concentration difficulties, impaired executive functioning, emotional dysregulation, as well as anxiety and depression. He lives in Melbourne with his wife and adult daughter.

On 9 December 2021, his statement of participant supports (SOPS) was approved under the NDIS Act. He requested an internal review of the decision. On 12 January 2022, the decision was confirmed at the internal review. He sought external review through the former Administrative Appeals Tribunal (AAT). With the abolition of the AAT in October 2024, the matter was automatically transferred to the Administrative Review Tribunal (ART). The applicant sought extensive additional supports, including short-term accommodation, house and yard maintenance, domestic assistance, community participation, personal care (e.g., remedial massage), therapies (e.g., occupational and physiotherapy), dietetics and meal preparation, neuropsychology, assistive technology, and transport.

During mediation process that occurs prior to a full hearing of the ART, the NDIA became aware that the applicant was receiving supports from [WorkSafe Victoria \(WSV\)](#) in relation to his workplace injury. This raised a legal issue as to whether the requested supports should properly be funded under the NDIS or by WorkSafe Victoria. At the hearing, the applicant argued that supports from WSV were inadequate compared to the NDIS, which had funded his needs for over six years, and maintained that the additional supports sought were reasonable and necessary for his ABI. He explained that he did not seek out the NDIS but was approached by an organisation that enrolled him.

## Evidence about the applicant

The applicant stated that his WSV supports reduced a few years after his injury and that he had appealed twice, most recently in 2018. He emphasised that NDIS supports were more flexible, noting that WSV often left him with out-of-pocket costs, such as covering the full hourly rate for a gardener. He claimed that his current NDIS-funded supports were unavailable through WSV or were provided at a lower level or rate.

## The NDIA's position

The NDIA argued that WSV is legislatively responsible for funding the applicant's care and support. On 24 June 2024, the applicant's advocate advised the NDIA that he received WSV-funded supports, including fortnightly neuropsychology, brief chiropractic consultations, several neurology sessions per year, and occasional taxi travel to medical appointments. The NDIA was aware that additional supports may be available to the applicant but argued he had not fully pursued available supports from WSV. At the ART hearing, the applicant



confirmed he had only made a last-minute phone request for short-term accommodation to WSV but had not requested funding for the supports requested from the NDIA.

### **The ruling**

Section 7(3) of [the Miscellaneous Provisions Rules](#) requires that a support be most appropriately funded by the NDIS, and not by another service system, universal service obligation, or disability discrimination law adjustment. The Tribunal held that the key issue of the current case under section 7(3) was whether the applicant's supports should be funded by the NDIS or another body, such as WSV. The Tribunal found that the applicant had not made a comprehensive request to WSV for the current or requested NDIS supports, noting only limited ad-hoc requests and no recent appeals.

Considering the presented evidence and some other similar cases, the Tribunal was not satisfied that the applicant's current and requested supports are more appropriately funded by the NDIS than by WSV under section 7(3) of the Miscellaneous Provisions Rules. Accordingly, the NDIA was not responsible for funding the current supports.

### **What can we learn from this case?**

The principle of shared responsibility is central to how supports are funded, recognising the role of agencies such as insurance schemes and compensation arrangements across Australia. While different schemes may offer varying types and levels of support—sometimes creating inequities between participants—such issues fall within the responsibility of Commonwealth, State, and Territory parliaments rather than the Tribunal. The transitional nature of the current rules indicates that further policy development is needed to address these broader challenges.

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