

RESPITE CARE REFUSED BY NDIS?

The Carers Australia Research Report on AAT decisions has been prepared to help carers and participants who have not been able to access (enough) respite care support or an equivalent service (for example, in home and out of home care) in their plans.

CASE STUDIES

McGarrigle v NDIA [2017] FCA 308

The FCA decided that, once the NDIA had agreed that a support was “reasonable and necessary”, the legislation required that the costs be covered in full, rather than requiring carers/family members to contribute.

PNMJ & NDIA [2015] AATA 866

In its decision, the AAT acknowledged that the care provided was well beyond that provided by most parents and increased the hours of in home care to enable the primary carer to increase his hours of work.

PNFK & NDIA [2018] AATA 692

The AAT increased the hours of in home care to enable the primary carer to return to full time work.

QZHH & NDIA [2015] AATA 866

The AAT increased the hours of in home care to enable the primary carer to increase his hours of work.

PNFK & NDIA, QZHH & NDIA, LNMT & NDIA

In each of these cases, the AAT extended in home care supports for families where a child required 24 hour care.

NDIS participants who do not agree with the support provided for in their plans are able to have planners' decisions reviewed.

- The first step in the review process is to ask for an “internal review” of the decision by the NDIA. The details of how to ask for an internal review are set out in the participants' plan and on the [NDIS website](#).
- If the participant is not satisfied with the outcome of the internal review process, they can apply to the Administrative Appeals Tribunal (AAT) for an independent review, external to the NDIA. There is also no fee charged by the AAT to review NDIS decisions, and the AAT is able to make decisions reasonably quickly.
- AAT decisions can be appealed to the Federal Court of Australia (FCA) and, from there, the full FCA.

While the AAT is more accessible and less formal than a court, NDIA participants and/or their carers/families are advised to get legal advice about their applications. There are community legal services in every state and territory that can help.