



Modified NDIS audit pathway for residential aged care providers supporting NDIS participants

Background

The daily accommodation and care/support costs for NDIS participants living in residential aged care (**'RAC'**) are paid for by the National Disability Insurance Scheme (NDIS) through a cross billing arrangement between the Department of Health and the NDIA. The NDIS funds for these participants are incorporated within Department of Health payments to RAC facilities. Participants' plans record that they are supported for daily supports in group living under registration group 0115.

On 1 December 2020, all RAC providers supporting NDIS participants were automatically registered with the NDIS Commission. These transitioned providers are registered for class of support 15 (i.e. registration group 0115) under section 20 of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018 ('the Rules')*. Providers must subsequently apply to renew NDIS provider registration before their renewal date and be assessed as meeting the relevant NDIS Practice Standards in order to maintain that registration.

After 1 December 2020, RAC providers commencing delivery of daily accommodation and care/support to an Agency managed NDIS participant must apply for registration with the NDIS Commission as a new applicant.

Modified NDIS RAC audit

This document sets out a modified NDIS audit pathway for RAC providers supporting NDIS participants in their facilities.

A RAC providers who may be eligible for a modified NDIS audit is:

- (a) An approved provider within the meaning of the *Aged Care Act 1997*; and
- (b) Operates one or more sites (facilities) with NDIS participant(s) approved as a recipient of residential care under Part 2.3 of that Act.

The modified NDIS RAC audit provides a pathway for an eligible RAC provider to be assessed against the NDIS Practice Standards through a review by an approved quality auditor of their most recent audit against the Aged Care Standards undertaken by the Aged Care Quality and Safety Commission (**'ACQSC'**). This is in accordance with section 5(3) of the Rules which states: *'the Commissioner may, in writing, authorise an approved quality auditor to assess an applicant or a registered NDIS provider against an applicable standard by conducting a review of the outcomes and evidence from a comparable quality audit process undertaken in relation to the applicant or provider, if the Commissioner considers it is appropriate to do so.'*

The previous acting Commissioner agreed that the existing aged care audit processes through the ACQSC is a ‘comparable quality audit process,’ for the purposes of section 5(3) of the Rules.

Mapping of the Aged Care Standards against the NDIS Practice Standards and Quality Indicators (commissioned jointly by the Department of Social Services, Department of Health, NDIS Commission and the ACQSC and undertaken by JAS-ANZ) identified a high degree of alignment between the two sets of requirements. Around half of the NDIS Practice Standards were identified as being ‘met’ or ‘equivalent’ to the Aged Care Standards with the remainder ‘partially met’ and a small number as ‘gap’. The modified NDIS RAC audit utilises mapping of the standards to guide auditors’ assessment of the provider against the NDIS Practice Standards.

The modified NDIS RAC audit pathway applies only for transitioned RAC providers who are providing daily accommodation and care/support for an NDIS participant in their facility under class of support 15, or RAC providers applying to do so after 1 December 2020.

Under section 20 of the Rules, class of support 15 requires assessment against the NDIS Practice Standards in the Core module (Schedule 1 of the Rules).

Some providers may also require assessment against additional modules of the NDIS Practice Standards depending on the nature of supports provided for participants:

- class of support 4 (registration group 0104) high intensity health-related supports (Module 1 of the Rules) where such supports are funded under a participant’s plan.
- to implement regulated restrictive practice included in a specialist behaviour support plan developed through the NDIS through the delivery of any class of support (Module 2A of the Rules)
- to provide specialist behaviour support services where such supports are funded under a participant’s plan (including behaviour support assessment of the participants and developing a behaviour support plan for the participant, noting that only behaviour support practitioners assessed as suitable by the NDIS Commission may undertake these activities) (Module 2 of the Rules).

Where the provider is providing daily accommodation and care/support for a participant in residential aged care and they also seek to be registered to provide other NDIS supports and services to NDIS participants (in residential aged care or otherwise) the modified audit pathway does not apply. Rather, usual audit processes apply under existing *National Disability Insurance Scheme (Approved Quality Auditor Scheme) Guidelines 2018* (**‘AQA guidelines’**).

Steps in the modified NDIS RAC audit pathway and process

Step 1: RAC provider applies for NDIS registration (new or renewal)

As per the NDIS Commission's usual application process, the provider makes an application online through the Applications Portal (new applicants) or NDIS Commission Portal (renewing applicants), which generates an Initial Scope of Audit document. This document sets out the details of the provider and its key personnel, type of audit required (i.e. certification audit for RAC providers), the NDIS Practice Standards to be assessed, number of participants and sites where NDIS participants are supported. The provider uses this document as the basis for seeking quotes and engaging an approved quality auditor (refer AQA guidelines, section 8).

The online application includes a self-assessment by the provider against the relevant NDIS Practice Standards and opportunity for the provider to upload supporting documents (policies and procedures).

Step 2: RAC provider engages their preferred Approved Quality Auditor (AQA)

In accordance with existing AQA guidelines (section 8(4)), once the provider has selected a preferred AQA, the provider authorises the AQA to link with them in the Applications Portal or NDIS Commission Portal. This action gives the chosen AQA access to the provider's online self-assessment and uploaded documents; and details of participant numbers, sites and key personnel. The AQA uses this to confirm the scope of audit with the provider and then plan the audit.

In confirming the scope of audit, the AQA will:

- ascertain whether the provider is a RAC provider supporting an NDIS participant under class of support 15 (0115)
- discuss with the RAC provider what supports they are providing as part of NDIS participant's plans to determine whether any additional modules need to be included for assessment in addition to the Core module.

The AQA will request the following information from the RAC provider at the start of their engagement for the purposes of assessing whether a modified NDIS RAC audit may be applicable:

- (a) evidence of holding current accreditation(s) as a residential aged care service;
- (b) the most recent aged care accreditation audit report for each site (facility) where one or more NDIS participant(s) are currently supported, or otherwise received supports, in the past 12 months, written by accreditation assessment teams appointed by the ACQSC. Where there are more than ten sites (facilities), the AQA shall request a sample of ten of these reports.

Key information of interest in seeking these reports is the issuance of any non-compliance notices or application of sanctions in sites providing supports to NDIS participants, where these notices and/or sanctions are potentially relevant to the provider's conformity to the NDIS Practice Standards.

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- (c) the current version of the provider's written plan for continuous improvement, and any feedback on the written plan, from the ACQSC in the past three years;
Key information of interest is if the plan has any areas of non-compliance identified through their audit against the Aged Care Standards as well as continuous improvement requests from the ACQSC.
 - (d) the status of any complaints received regarding its residential aged care services in the past two years;
 - (e) a signed declaration of whether it is currently subject to sanctions for non-compliance with aged care responsibilities by the ACQSC;
 - (f) confirmation of whether the NDIS Commission has specified any requirements for the types and timing of audits it is to undergo (*for example, a condition imposed under section 73G(3) of the NDIS Act 2013*); and
 - (g) clarification of whether it has previously undergone a modified NDIS RAC audit under the NDIS AQA Scheme in the past four years, and if so, evidence of this decision.

Step 3: NDIS Commission authorises the AQA to undertake modified NDIS RAC audit

Where the AQA is satisfied the RAC provider may be eligible to be assessed using the modified NDIS RAC audit process following a review of the information requested in step 2, the AQA will seek authorisation from the NDIS Commission to proceed to assess the provider using the modified NDIS RAC audit process. AQAs will use an NDIS Commission template for this purpose.

NDIS Commission authorisation of an AQA to assess a provider against the relevant NDIS Practice Standards by conducting a review of the outcomes and evidence from an audit against the Aged Care Standards using the modified NDIS RAC audit process will be contingent on a RAC provider:

- having undergone an assessment against the Aged Care Standards at least once within the last three years (i.e. within a typical NDIS registration and ACQSC accreditation period);
- not having sanctions imposed against it or one of its facilities for non-compliance with the Aged Care Standards where such sanctions are relevant to supports provided to NDIS participants; and
- not being subject of compliance and enforcement action under the *NDIS Act 2013* (the Act).

Where the NDIS Commission issues a notice of authorisation to the AQA to proceed assessing the provider using the modified NDIS RAC audit process, the AQA will confirm with the provider in writing that its audit can proceed under a modified NDIS RAC audit. The AQA can then move to commence planning to undertake a modified Stage 1 and 2 audit as detailed in steps 5 and 6 below.

If authorisation is not given, the AQA will undertake a full audit against the NDIS Practice Standards with no modifications and in accordance with the existing AQA guidelines.

Step 4: The AQA puts an agreement in place with the provider

It is usual practice for AQAs to establish a written agreement with the provider for undertaking the audit. While this is not explicitly included in the AQA guidelines, agreements are referred to at various points of the guidelines (for example, agreement on the audit plan).

In establishing an agreement with the provider for whom the AQA has been authorised by the NDIS Commission to undertake a modified NDIS RAC audit, the AQA will seek that the provider:

- (a) advise the AQA as soon as practicable where it:
 - i. loses its accreditation(s) as a residential aged care service (noting this may be at facility or site level) ;
 - ii. is subject to compliance activities including sanctions
- (b) make available its written plan for continuous improvement on an ongoing basis;
- (c) provide the AQA with access to all information for governance and operational management responsibilities relevant to NDIS supports, including where these responsibilities overlap with those for residential aged care services.

The agreement will also establish expectations for the provider to confirm certain information with the AQA prior to inform the mid-term audit required to commence 18 months after the date of registration by the NDIS Commission in accordance with section 13B of the Rules. This includes:

- (a) evidence of holding current accreditation(s) as a residential aged care service; and
- (b) a signed declaration of whether it is currently subject to sanctions for non-compliance with aged care responsibilities by the ACQSC.

Step 5 – Auditor commences Stage 1 planning and undertakes Stage 1 audit

In planning and conducting the modified NDIS RAC audit, auditors will refer to the mapping specified in the document *'Advisory: Mapping and evidence tool for modified NDIS RAC audit to the NDIS Practice Standards/Quality Indicators'* (**'the mapping advisory'**).

In undertaking Stage 1 of the modified NDIS RAC audit, the AQA will refer to the ACQSC website and the myagedcare portal to:

- (a) confirm evidence that the provider holds current accreditation(s) as a residential aged care service for each facility/site supporting NDIS participants and that it is not currently subject to sanctions for non-compliance with aged care responsibilities by the ACQSC; and
- (b) evaluate the published performance reports, consumer experience reports, and any other reports available for the provider for any information to indicate the occurrence in the past three years of any 'critical risk' as outlined in the definitions in the AQA guidelines. This evaluation will be used to inform the use of the mapping advisory.

Stage 1 audit reports shall record:

- (a) that the NDIS Commission approved the AQA to undertake a modified NDIS RAC audit; and
- (b) any modifications to the default standards of assumed equivalence in the mapping advisory. This may include additions and/or subtractions of standards in the mapping advisory being considered during the audit activities. All NDIS Practice Standards are still 'in-scope' for a modified NDIS RAC audit.

Audit Team

In determining the composition of the audit team in accordance with the existing AQA guidelines, the AQA will need to include personnel who have demonstrated qualifications and experience in residential aged care service settings. Such personnel will be involved in assessing eligibility for the modified NDIS RAC audit and undertaking Stage 1 and Stage 2 audits under the modified audit.

The audit team composition shall also comply with the requirements of 11(7) and/or section 32 of the AQA Guidelines, as applicable to the scope of audit.

Sampling

Sampling will be conducted as per Annexure B of the AQA Guidelines.

Aged care residents who are not NDIS participants shall be excluded from the tally of the total number of participants receiving NDIS supports or services from the RAC provider at that time.

For RAC providers eligible for the modified NDIS RAC audit, sampling for workers in governance, management and service delivery roles excludes those solely contributing to aged care service provision or other activities arising from compliance specifically for the *Aged Care Act 1997*.

For RAC providers eligible for the modified NDIS RAC audit, sites that only provide services to aged care residents and not NDIS participants, or solely undertake operations solely to support the delivery of such services, are to be excluded from the tally of the number of sites operated by the RAC provider.

In addition to the head office and high risk registration group site sampling requirements in Annex B, clause B.6, all sites providing supports to NDIS Participants subject to Aged Care Quality and Safety Commission non-compliance notices or sanctions potentially relevant to the NDIS Practice Standards shall be attended as part of the site sampling. Where the combination of this requirement and other risk-based methodology produces a number of site attendances greater than the minimums in B.6 (Step 2), the sample shall be considered to have been expanded, and justification recorded.

Note: Where undertaking an audit of a provider who operate RAC and other NDIS supports and services, and is not eligible for the modified NDIS RAC audit, the AQA will include RAC facilities with NDIS participants in the sample.

Step 6 – Auditor commences Stage 2 planning and undertakes Stage 2 audit

Audit plans for stage 2 shall be modified in the following ways:

- (a) Unless available information demonstrates otherwise, the NDIS Practice Standards listed in the current in-force version of the mapping advisory:
 - i. as ‘equivalent’ or ‘met’ (same or similar) or ‘partial’ (some similarities) shall be listed as likely to be met, with limited additional evidence required to conclude conformity.
 - ii. as ‘gap’ or ‘not met’ (different) shall have no presumption of conformity with NDIS Practice Standards upon entering the Stage 2 audit, and objective evidence is to be gathered as per the usual audit requirements under the AQA guidelines.
- (b) The audit plan shall demonstrate clear regard to, and utilisation of, the available information arising from the RAC provider’s compliance obligations under the *Aged Care Act 1997* as documented in assessment report(s) prepared by the ACQSC;
- (c) The audit plan shall also include terminology and concepts that are familiar to RAC providers in residential aged care settings where practicable, in addition to those used in the NDIS sector, to promote understanding of the interactions between these two areas of compliance.
- (d) The titles, dates, and any other relevant identifying information about the RAC provider and its facilities/sites with NDIS participants shall be recorded, together with clarification of whether the RAC provider was subject to a modified NDIS RAC audit.

The documented process for calculating stage 2 audit duration (subsection 15(7) of the AQA Guidelines), mid-term audits, and recertification audits, shall also include the following factors:

- (a) Starting reduction of up to **20%** for each site of the provider that is accredited as a residential aged care facility, and which is selected for site sampling.

This is an acknowledgement of proportion of NDIS Practice Standards that are in principle equivalent or partially equivalent to the Aged Care Standards.
- (b) For facilities that operate residential aged care and NDIS supports and services as a multi-site organisation:
 - i. Reductions of up to a further **30%** of the total audit duration for the head office may be applied.
 - ii. Such reductions are to be denoted on the audit plan to pertain to one or more of:
 1. Information Management
 2. Complaints Management and resolution
 3. Incident Management
 4. Human Resource Management
 5. Medication Management
 6. Emergency and Disaster Management
 7. Mealtime Management

This is an acknowledgement of the greater efficiencies for gathering audit evidence imparted by the highly uniform, well-developed complaints, incident reporting, and HR systems utilised by RACs as a mandatory condition of aged care accreditation.

- (c) That the total extent of reduction in audit time for the entire facility:
- i. does not exceed **50%** relative to the starting default for NDIS providers (i.e. prior to applying reductions), and
 - ii. Does not afford less than a planned **30** minutes per interview with each participant, or family/friend/advocate, as according to sample number minimums in Annex B.4 of the AQA Guidelines **unless** written permission to do so has been obtained from the NDIS Commissioner.

Note: Where undertaking an audit of a provider who operate RAC and other NDIS supports and services, and is not eligible for the modified NDIS RAC audit, the audit duration requirements in the existing AQA guidelines will apply.

Step 7: Auditor completes audit report and submits to the NDIS Commission

In addition to the requirements for audit reporting in section 16 of the AQA guidelines, including guidance for audit reporting issued by the Commission, Stage 2, mid-term, and recertification audit reports for RAC providers undergoing a modified NDIS RAC audit shall also include description of:

- (a) The equivalence rating applied for each NDIS Practice Standard in accordance with the mapping advisory and any modifications to the default standards of assumed equivalence in the mapping advisory.
- (b) The extent to which evidence in available information arising from the RAC provider's compliance obligations under the *Aged Care Act 1997* as documented in assessment report(s) prepared by the ACQSC was relied upon in gathering audit evidence
- (c) Whether any standards or other requirements in the NDIS Act and associated legislation that was considered to be equivalent with aged care requirements prior to the audit was found through objective evidence to be an area(s) of nonconformity with NDIS standards or requirements, and if so:
 - i. The grade(s); and
 - ii. The timing for corrective action and closure, if differing from defaults in Annex C of the AQA guidelines.
- (d) Whether there is any information of apparent concern regarding the RAC provider's obligations to requirements under the Aged Care compliance framework. The NDIS Commissioner may consider the need for such information to be disclosed to the ACQSC or other government authorities, as appropriate.
- (e) Whether eligibility for the modified NDIS RAC audit should continue.

Step 8: The NDIS Commission assessed the application for registration and makes a decision in relation to the application

This step is not part of the audit process but follows the submission of an audit report by an AQA to the NDIS Commission.

Once an application is complete with the submission of an audit report, the NDIS Commission completes an assessment of the suitability of the applicant and the key personnel in accordance with sections 9 and 10 of the Rules.

Applicants are notified by the NDIS Commission of the outcome of their application once the NDIS Commissioner (or their delegate) has made a decision on the application.

Successful applicants will receive a certificate of registration outlining the services they are registered to provide, the period of registration, and any conditions they must follow to keep their registration.

Unsuccessful applicants are provided with reasons in writing for the decision to refuse the application. Providers can request a review of the decision within three months of the decision. If the application is still unsuccessful following the review, providers may seek a further review by the Administrative Appeals Tribunal.