

From: Kairsty Wilson [mailto:kairsty.wilson@aed.org.au]
Sent: Monday, 31 July 2017 1:07 PM
To: AMOD
Cc: Leigh Svendsen; Paul Cain; Malcolm Harding; Stephen.Bull@Unitedvoice.org.au;
mpatrick@disabilitylaw.org.au
Subject: SESA 2010 (AM2014/286)

Dear Sir/Madam,

Please find attached AED's Draft Determination of the proposed variation to the Award in accordance with Clause 1 of his honour, Vice President Hatcher's directions dated 10 July 2017.

Please note that our Draft Determination refers to and adopts Appendix D1 of Schedule D as proposed in the draft determination filed by the HSU at 12:46 this afternoon.

Regards,

Kairsty Wilson
Legal Manager

Winner of the 2016 National Disability Excellence in Justice and Rights Protection Award

Winner of the 2014 Hesta Social Impact Award

Winner of the 2013 Tim McCoy Award

Winner of the 2011 LIV Community Lawyer of the Year Award

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FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

(AM2014/286)

Supported Employment Services Award 2010

[MA000103]

Health and Welfare

[A] Clause 14.4 of the *Supported Employment Services Award 2010* is varied as follows:

[1] By deleting clause 14.4(a) and in lieu thereof inserting what follows:

An employee with a disability may from time to time be required by an employer to undergo assessment under and in accordance with the Supported Wage System referred to in Appendix D1 of Schedule D.

[2] By deleting clauses 14.4(b)-(e) and in lieu thereof inserting a clause, numbered as clause 14.4(b), as follows:

If an employee with a disability is assessed under clause 14.4(a), the employer may, subject to clause 14.4(c), pay the employee a rate of pay that accords with the most recent Supported Wage System assessment undertaken under clause 14.4(a), provided that this rate of pay is a pro rata amount (which may be 100% or less) of the minimum rate prescribed by clause 14.2 for the grade that applies to the work performed by the employee.

[3] By deleting 14.4(f) and in lieu thereof inserting a clause, numbered as clause 14.4(c), as follows:

If the most recent Supported Wage System assessment undertaken under clause 14.4(a) discloses a reduction in the employee's productivity when compared with the immediately prior assessment for the same work, the employer must not reduce the employee's rate of pay unless:

- (i) the reduction in productivity is solely due to a regression in the employee's disability; and
- (ii) the employer has first exhausted all reasonable training options and options to allocate the employee work that would avoid the reduction in the employee's rate of pay; and

(iii) if (i) and (ii) apply, any reduction occurs in accordance with any method prescribed by the Supported Wages System in Appendix D1 of Schedule D.

[4] By deleting clause 14.4(g).

[5] By deleting clause 14.4(h) and inserting a clause in the same terms but numbered as clause 14.4(d).

[6] By deleting clause 14.6.

[B] The determination shall operate on and from xxx 2018