



Fair Work Commission

Matter No: AM2020/12

s.157- Variation of awards on the Initiative of the Commission

Nurses Award 2010

Aged Care Award 2010

SUBMISSION OF THE AUSTRALIAN NURSING AND MIDWIFERY FEDERATION

1. The Australian Nursing and Midwifery Federation (ANMF) makes these submissions in response to the Full Bench in Variation of awards on the initiative of the Commission [2020] FWCFB 1760 (Statement) at [125].
2. The Statement sets out the provisional view of the Full Bench that model clauses for unpaid pandemic leave and annual at half pay be inserted into selected awards. The ANMF has a primary interest in two of those awards:
 - *Nurses Award 2010*
 - *Aged Care Award 2010*
3. The ANMF makes this submission in relation to the *Nurses Award* and *Aged Care Award*, but indicates it has some interest in the following health awards and that it supports variations to all awards that impact health care workers:
 - *Aboriginal Community Controlled Health Services Award 2010*
 - *Health Professionals and Support Services Award 2010*
 - *Medical Practitioner Award 2010*
 - *Pharmacy Industry Award 2010*
 - *Social, Community, Home Care and Disability Services Industry Award 2010*
 - *Supported Employment Services Award*
4. The ANMF supports the Commission's provisional view that the above awards should be varied to:
 - (i) Provide all employees (including full-time, part-time and casual employees) with a new entitlement of up to 2 weeks' unpaid pandemic leave; and
 - (ii) Provide for employees by agreement with their employer to take twice the amount of their accrued annual leave at half pay.



5. The ANMF supports the variations being made as a matter of urgency to provide minimum safety net entitlements under the proposed awards.
6. The ANMF agrees that the proposed variations will address the 'regulatory gap' and allow more people to remain in employment while also providing a measure to limit the spread of COVID-19 in workplaces and the community more generally.
7. The ANMF refers to the submission of the ACTU dated 6 April 2020 and notes that the ACTU asks the Commission to consider three further issues. The ANMF supports the ACTU with respect to each of the additional issues and seeks to make particular reference to the issue raised at paragraph 9(a).
8. The ANMF submits it is critical that the Commission allow representatives of health care workers to be heard as a matter of urgency on making further amendments to the relevant awards to provide for paid pandemic leave on a per occasion basis.
9. The ANMF submits that it is a matter of public health importance that health care workers be provided with paid pandemic leave on a per occasion basis.

Public health considerations

10. As is evident in countries throughout the world, front-line health care workers, of whom nurses make up a large proportion of the workforce, are contracting the COVID-19 virus due to high levels of exposure.
11. There is evidence to indicate that health care workers are being infected at higher rates than the general public – even acknowledging that testing rates are also higher. In addition, there is evidence that health care workers are experiencing more serious symptoms as a result of contracting COVID-19 than the general public.
12. As the pandemic progresses in the coming months, it will be essential that health care workers are available to work treat patients infected with COVID-19. Periods of self- isolation to minimise the spread of infection for front-line health care workers will be an ongoing necessity to ensure the workforce remains healthy. Prevention of spread of the virus must be a forefront consideration.
13. Other health services, such as emergency departments, cancer wards, aged care and disability services are essential services that must continue to operate. Recipients of care in these environments are highly vulnerable to the impact of contracting COVID-19. Staff who care for these vulnerable people who have been exposed to COVID-19 are and will continue to be required to self-isolate to minimise the risk of infection in vulnerable groups of people.



14. It is highly likely that health care workers may be required to self-isolate on more than one occasion to minimise the spread of infection.

Award reliance

15. The ANMF notes that many employers are providing paid special leave to employees required to self-isolate. This is not universally the case and some areas of the health sector are more award reliant than others. The ANMF submits nurses and care workers working in general practices, aged care and diagnostic services are amongst those who more likely to be award reliant employees.
16. The ANMF considers it is also possible that registered health practitioners returning to the workforce or entering the workforce in response to the pandemic may also be engaged under awards as they enter the workforce without a pre-existing employment relationship.

Conclusion

17. The ANMF submits that the above factors support the argument for further variation to the relevant awards so as to provide for paid pandemic leave on a per occasion basis for health care workers.
18. The ANMF respectfully requests the Commission initiate an urgent process to allow interested parties to make submissions on enhancements to the proposed variations with respect to all relevant health awards as outlined above.
19. The ANMF reiterates its support for the variations provisionally proposed in AM2020/12 to proceed as a matter of urgency.

Dated 6 April 2020