

From: Mary Walsh <marywalsh6@bigpond.com>

Sent: Monday, 26 February 2018 2:19 PM

To: Chambers - Hatcher VP

Cc: 'MaryLou Carter'; Nell Brown; estelleshields@hotmail.com; 'Maree Buckwalter'

Subject: AM2014/286

Dear Associate

Further to our presentation at the Hearings into the Modern Award Review, we provide herewith:-

1. A more detailed explanation of our submission requesting the insertion of “nominee” to replace the current terminology(where it occurs) in the Award
2. Our sample copy of a form which the Commission might consider appropriate – to protect all parties. We feel it could be adjusted to suit the purposes of the Award by modernising it – in line with current practice - for this group of employees,

Thank you for giving this matter due consideration

Mary Walsh
Our Voice Australia
Regional Co-Ordinator



26 February, 2018

AMOD,
Fair Work Commission
William Street
Sydney NSW 2000

Dear Associate

AM2014/286

Further to our submissions at the Hearings last week we provide further clarification of our request to have the words “representative, if any” replaced in the Award with the word “*nominee*”.

“*Nominee*” is the terminology used in relation to those representing people who are without legal capacity by Commonwealth agencies such as Centrelink and NDIS, with Medicare recently recognising the need for representation for people who are incapacitated to access Medicare by the agency of another person. This now requires the completion of a form ‘Authorisation to act on an incapacitated person’s behalf for Medicare purposes’, We have adapted that form as a sample document which we have attached for your consideration for the purposes of Fair Work Australia.

The appointment of a nominee for a person who lacks capacity to make decisions about complex issues in a matter of workplace industrial relations would provide consistency for our members in Supported Employment Services typically our Australian Disability Enterprises (ADE’s) which are covered by the Supported Employment Services Award (SESA).

The guidelines could include a definition of “*nominee*”. This could include, but not be limited to –

parent; guardian; carer; Union representative; advocate; family member

Similar to the other Commonwealth agencies the service would have a standardised “nominee” form. This is signed off by the relevant persons and becomes part of the vulnerable person’s file.

Should a workplace situation arise in the course of the vulnerable person’s employment where informed decisions need to be made by the employee, and where there is no guardianship or other decision-making arrangement in place, – the employee’s appointed “nominee” is advised, informed and consulted in order for a decision to be made. The process would be detailed in accordance with information provided in the application to become a nominee - in whatever form the application to become a nominee takes.

In our view this process would be of assistance in resolving any conflict of interest with respect to the employer, would ensure the employee is provided with the level of assistance required to decide the issue at hand, while streamlining decision-making through the agency of a formally recognised nominee.

Our Voice Australia per Mary Walsh

Authorisation to act on an incapacitated person's behalf
for workplace/industrial relations purposes

IMPORTANT: To obtain authority to act on a person's behalf, the person must be unable to manage their own affairs because of a disability.

If the applicant herein holds a power of attorney, guardianship order, administrative order or similar legal arrangement a certified copy of such documentation should accompany this application.

For more information, go to **www.enter a relevant website/nominees**

Purpose of this form

Use this form if you want to act on behalf of someone who is incapable of managing their own affairs for Industrial Relations/Workplace purposes.

To be a nominee you need to give us all of the following (documents must be originals or certified copies). All 4 document types listed below must be provided.

1 Proof of identification

Current photo I.D. (driver license, passport or proof of age card) **and**

2 Statutory declaration

Statutory declaration stating your relationship and your responsibility to the worker with disability, **and**

3 Evidence of a similar arrangement

This can include **one** of the following:

- i. evidence of nominee appointment to receive Continence Aids,
- ii. Payment Scheme payments on the person's behalf, **or** evidence of Centrelink nominee arrangement, **or** evidence of similar arrangements with another organisation or government agency (e.g. bank or financial institution or Medicare or NDIS). **and**

4 Evidence of customer's inability to manage their own affairs

This can include **one** of the following documents (which must include the treating medical professional's name, qualification and contact details) and **must be dated within 12 months:**

- (i) letter from NDIA confirming the worker is an NDIS participant
- (ii) any recent assessment of the customer's condition or intellectual function from the specialist or psychologist **or**
- (iii) a letter from the worker's General Practitioner.

More information - Filling in this form

The person applying to be the nominee must complete this form.

- **Please use black or blue pen**
- Print in BLOCK LETTERS
- Mark boxes like this with a ✓ or X

Returning your form

Check that all required questions are answered and that the form is signed and dated. Return your completed form and all required original or certified documents

- by post to:
Fair Work Commission
Industrial Relations/Workplace Nominee Eligibility
PO Box WESTBANDYWALLUP XXXX 1234

For more information about becoming a Workplace/Industrial Relations nominee or for assistance completing this form please see the Workplace Relations Manager at the worker's place of employment or call **13X XXX**

Note: Name of Worker with decision-making incapacity

- **1** Mr Mrs Miss Ms Other

Family name

First given name

Second given name

- **2** Gender Male Female

- **3** Date of birth

- **4** Permanent address

- **5** Postal address (if different to above)

Authorised representative's details

- **1** Mr Mrs Miss Ms Other

Family name

First given name

- **2** Date of birth
- **3** What is your relationship to the incapacitated worker?
- **4** Permanent address
- **5** Postal address (if different to above)
- **6** Contact phone number

Authorised representative acceptance

I agree to:

- access, use or disclose the information only as authorised by the person to whom the information relates.

I declare that:

- I understand and accept the responsibilities and obligations to act on behalf of and in the best interests of the incapacitated worker.
- my appointment as a nominee by the Australian Government Department of Industrial Relations will be cancelled if I do not comply with my responsibilities and obligations.
- the information I have provided in this form is complete and correct.
- all 4 required documents outlined on page 1 of this form are attached.

I understand that:

- a nominee arrangement does not remove the person's right to deal with their workplace and/or the Fair Work Commission
- any personal information I am given access to under this arrangement is protected under Commonwealth legislation.
- as a nominee, general information can be sent to me if required.
- this authorisation can be cancelled or changed at any time.
- giving false or misleading information is a serious offence.
- an incomplete application and/or insufficient original or certified copies of the required documentation will be returned to me.
- My authorisation will only be in effect when presentation of all required documents and completed application is provided.

Signature of the nominee applying to act on behalf of the customer:

_____ Signature **Name**.....(print)