

Australian Industry Group

Work Value Case – Aged Care Industry

Submission – Classification Issues
(AM2020/99, AM2021/63 & AM2021/65)

23 November 2023



AM2020/99, AM2021/63 & AM2021/65

WORK VALUE CASE – AGED CARE INDUSTRY

1. The Australian Industry Group (**Ai Group**) files this submission in accordance with paragraph 11 of the directions issued by the Fair Work Commission (**Commission**) on 2 August 2023.
2. As indicated in our position paper of 15 September 2023, Ai Group’s interest in these proceedings lies primarily in the following three areas:
 - (a) Potential variations to the classification structure of the *Social, Community, Home Care and Disability Services Industry Award 2010* (**SCHCDS Award**) and associated matters.
 - (b) The maintenance of relativities between minimum wage rates, *inter-award* and *intra-award*.
 - (c) The relevance and application of the ‘*C10 Metals Framework Alignment Approach*’.
3. Having regard to the material filed pursuant to paragraph 8 of the aforementioned directions, Ai Group seeks to advance the following short submission. If, as the proceedings continue to unfold, any party seeks, or the Commission proposes, to vary any awards in a way that differs from the proposals advanced to date, Ai Group may seek an opportunity to be heard. This includes, in particular, any proposals that would directly impact employees who provide disability support under the SCHCDS Award.
4. In its submission dated 1 November 2023, the Health Services Union (**HSU**) identified that one of the ‘*significant features*’ of the variations it seeks is ‘*mov[ing] home care workers performing work in the aged care sector out of the SCHCDS Award and into the Aged Care Award [2010]*’.¹

¹ HSU submission dated 1 November 2023 at [2](a).

5. Many employers covered by the SCHCDS Award provide aged care and disability services. Moreover, it is not uncommon for an employee of such an employer to provide both types of services. Indeed, they may do so within the course of a single day.
6. If the HSU's proposal is adopted, this would give rise to significant complexities regarding the employment of such employees. For example, which award would cover the employment of such employees and what factors would influence this assessment?
7. Naturally, the proposed variation would also disturb the existing arrangements implemented in respect of such employees. To the extent that it results in employers seeking to engage employees on the basis that they perform only one or the other type of service, this may cause significant disruption to the delivery of the employers' services, interrupt the continuity of care that their clients were otherwise receiving and create labour market distortions. Of course, in many cases, it may not be practicable for employers to rearrange work in this way.
8. For the reasons set out above, the Commission should decline to adopt the HSU's proposal.