

17 December 2019

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Ms Ingrid Stear
Associate to Vice President Hatcher SC
Fair Work Commission
80 William Street
EAST SYDNEY NSW 2010

Dear Associate,

Re: AM2014/286 Supported Employment Services Award

Please find enclosed our further submissions prepared to assist the Fair Work Commission in response to the Decision released on Tuesday 3rd December 2019.

Yours sincerely,



Andrew Donne
Chief Executive Officer
Endeavour Foundation

Encl.

FAIR WORK COMMISSION

4 Yearly review of Modern Awards

Supported Employment Services Award 2010

Matter No: AM2014/286

SUBMISSIONS OF ENDEAVOUR FOUNDATION

Response to Decision by the Fair Work Commission on 3 December 2019

Background

1. This submission is filed pursuant to the Fair Work Commission decision dated 3 December 2019 and the Directions contained therein.
2. Endeavour Foundation's response to the new proposed wage structure is set out below.

Proposed New Supported Wage System

3. Endeavour Foundation has concerns with regard to:
 - a) Schedule B - New classifications; and
 - b) Schedule D – Supported Wage System

Schedule B – New classifications

4. Endeavour Foundation supports the new classification and requests further guidance from the Fair Work Commission to clarify the delineation between the proposed new Grade A and Grade B for the following reasons:
 - a) Grade A is defined as employees who will perform a simple task or tasks consisting *of up to three sequential actions* under direction supervision and constant monitoring.
 - b) The phrase "up to three sequential actions" is open to interpretation and may not reflect the level of skill or supervision required for tasks to be completed.

- c) The Macquarie Dictionary defines “*action*” as including ‘something done an act, a deed, way or manner of moving, the mechanism by which something is operated.’
- d) Further clarity is requested as to what is considered to be an action and how practically, three sequential actions is to be interpreted in light of the tasks undertaken in the ADE environment.
- e) Without further clarity, there may be unintended consequences as a result of the definition relating to three sequential actions for Grade A and Grade B, as it may enable unscrupulous operators to hamper the opportunity for people to develop their skills and increase their pay. This would have negative consequences, not only by reducing people’s ability to increase their income, but also by reducing the opportunity to develop and expand employee skills.

Application of classifications

- 5. Applying the new classifications to the Endeavour Foundation’s operations will be challenging because of the wide variety in skill level and tasks undertaken by supported employees.
- 6. For example, under the current system, an employee who works on the bird seed line at Wacol and is tasked with dealing with rejects (by which they are required to open the packet, place a stick in the container and throw the wrapper in the bin), is classified at Grade 2 and paid at Wage level A. Under the new system, as they are arguably performing three sequential actions, they would be classified as Grade A.
- 7. In contrast, an employee whose job is to pack the container (by which they take the product off the conveyor belt and place it into a box) is currently classified as Grade 2 and paid at Wage Level B. Under the new system, arguably they are only doing 2 sequential actions and therefore will be classed as a Grade A.
- 8. Endeavour Foundation welcomes the opportunity to explore anomalies such as the above in the trial, so as to properly assess the impact of the new system.
- 9. The Endeavour Foundation invites trials that include:
 - a) Grade A tasks defined as “simple” vs Grade B tasks defined as “complex”.
 - b) Grade A tasks defined as “manual” vs Grade B tasks defined as “mechanised”.
 - c) ‘Action’ defined as one act of doing – if necessary guidelines would assist to ensure consistency.

Schedule D – Supported Wage System

10. The Full Bench proposes at Schedule D5.1 that for the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee be assessed in accordance with the Supported Wage System by an approved assessor. Further, that the productivity benchmarks(s) used for the conduct of an SWS assessment take into account the major tasks(s) performed by the employee and be independently verified by an SWS assessor as being valid and appropriate.
11. Endeavour Foundation submits that it is extremely challenging to effectively apply a productivity wage assessment method when the work being carried out changes significantly from day to day, or even within the space of a single work day, having regard to the commercial arrangements that underpin ADE work. For example, it is difficult to gather suitable data to enable assessors to compare evidence over time when the job tasks being done can change frequently.
12. In the circumstances, Endeavour Foundation recommends that a standardised method be established for determining a productivity benchmark, that will give supported employees and their families' confidence that wages are being assessed fairly and account for the wide range of tasks undertaken or potentially being undertaken by each supported employee.
13. Without wishing to delay the proposed trial, Endeavour Foundation welcomes further consultation as to how a productivity benchmark will be established to ensure consistency.
14. Endeavour Foundation supports the proposal at Schedule D5.3 that the approved assessor will assess the productive capacity of an employee having regard to workplace data that an employer may have collected, and that this workplace data shall be given a 50% weighting.

Trial of new wage determination

15. Endeavour Foundation supports the Fair Work Commission in its aim of achieving an agreed wage determination.
16. Endeavour Foundation welcomes the opportunity to participate in the trial of the new wage determination. It requests that the trial be carried out in at least two different sites so as to consider application to the wide variety of job tasks and work environments that is reflective of its organisation.
17. Endeavour Foundation believes participation in the trial will require the following:
 - a) Training of Employment Coaches in how to gather evidence and complete assessments.

- b) Employment coaches complete four 15-minute timings for each supported employee in the trial sites, in order to have adequate data for comparison.
 - c) Employment Coaches collate and report results.
18. Endeavour Foundation proposes that funding for participating providers under the Australian Disability Enterprise program be increased to cover these costs for the duration of the trial.

Ongoing costs

19. Following the trial, Endeavour Foundation expects to incur ongoing costs directly related to the implementation and administration of the wage assessment tool, over and above those currently incurred with respect to current regime. These additional costs would include:
- a) Recruitment and training of a centrally-managed implementation team.
 - b) Development of an implementation plan, training materials, policy and procedure quality documentation, communication plans and tracking tools.
 - c) Roll-out of the implementation plan.
 - d) Staffing of regular assessments to gather productivity evidence.
 - e) Managing scheduling of assessments, consultation with supported employees and families, managing data collection, review and recording assessments, administering payroll changes, quality checking of assessments and data etc.
20. Endeavour Foundation foreshadows that funding for affected providers under the Australian Disability Enterprise program will need to be increased to cover the costs of implementation and any gap between the costs of completing wage assessments under the current regime.
21. Endeavour Foundation proposes that the Department of Social Services funds previously set aside to cover the costs of transition to new wage assessment tools be made available to ADEs on a pro rata basis, having regard to headcount and/or the number of operating locations, so as to offset the increased costs of the new wage determination.
22. Endeavour Foundation proposes that the Department of Social Services give consideration to the development of a software tool to be implemented throughout the supported employment sector. Such software could enable greater efficiency by

way of single entry of data which can then be utilised throughout the system to complete wage assessments and assist validation by the Department of Social Services and NDIA.

23. Such software would need to have inbuilt data protections allowing sites to enter data for their own supported employees without being able to see confidential information relating to other supported employees. The implementation of a single data management system for all ADEs would increase transparency and visibility of employment outcomes and program governance for ADEs.
24. The development of additional software to link wage assessments to provider payroll systems would also help reduce additional staffing hours required to input wage assessment outcomes and would provide better visibility of outcomes across the sector.
25. Endeavour Foundation understands the Commonwealth Government is seeking greater efficiency from ADEs and submits that the development and implementation of such a software solution would greatly enhance efficiency.
26. Endeavour Foundation welcomes the decision to provide a stable classification and associated wages framework for the industry.



Andrew Donne
Chief Executive Officer
17 December 2019