



Women
With
Disabilities
Australia
(WWDA)



**Australian
Women's
Health Alliance**

Joint Submission

Menstrual Products as NDIS Supports

Submission to the Department of Social Services and National Disability Insurance Agency

25 August 2024

Acknowledgment

The authors acknowledge the traditional owners of the land on which this publication was produced. We acknowledge First Nations people's deep spiritual connection to this land. We extend our respects to community members and Elders past, present and emerging.

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About the author

The following organisations worked together to produce this joint submission:

Women with Disabilities Australia (WWDA) is the National Disabled People's Organisation (DPO) and National Women's Alliance (NWA) for women, girls, feminine identifying, and non-binary people with disabilities in Australia. As a DPO and an NWA, WWDA is governed, run, led, staffed by, and constituted of, women, girls, feminine identifying, and non-binary people with disabilities. Our organisation operates as a transnational human rights organisation - meaning that our work, and the impact of our work, extends beyond Australia. WWDA's work is grounded in a human-rights based framework which links gender and disability issues to the full range of civil, political, economic, social and cultural rights.

Signatories to this submission

The following organisations endorse this joint submission:

- Women With Disabilities Australia (WWDA)
- Australian Women's Health Alliance (AWHA)
- Inclusion Australia (IA)
- Women with Disabilities ACT (WWDACT)
- Women with Disabilities Victoria (WDV)

Introduction

Women With Disabilities Australia and the Australian Women's Health Alliance welcome the opportunity to provide feedback on the draft lists of NDIS Supports. Our organisations write to express deep concern about the potential exclusion of menstrual products from the National Disability Insurance Scheme (NDIS), and their categorisation as 'lifestyle related' items within the draft lists.

Background

The Department of Social Services (DSS) and the National Disability Insurance Agency (NDIA) have released draft lists outlining the supports that will be included and excluded under transitional rules if the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024* is passed. Women With Disabilities Australia and the Australian Women's Health Alliance are deeply concerned about the draft lists and the impact they will have on women, girls and gender diverse people with disabilities.

Our organisations have a number of concerns about the lists, and about a lists-based approach to disability supports. In our view, the proposed lists do not align with the objects of the Scheme (as set out in section 3 of the National Disability Insurance Scheme Act 2013), the underlying principles of 'reasonable and necessary supports' or Australia's obligations under the Convention on the Rights of Persons with Disabilities. As set out below, the NDIS is intended to fund supports that are related to a person's disability and to exclude the use of funding for mainstream and everyday items and living costs - even where they are effective ways to meet disability-specific needs. In many cases, this establishes a framework that perpetuates segregation, whereby people with disabilities must use funding on specialised disability-related products, supports and services, rather than mainstream supports and services.

A key concern for our organisations relates to access to menstrual products under the Scheme. The draft lists specify that 'Assistive Products for Personal Care and Safety' will be NDIS Supports. This is defined to include 'specialist products for personal care or safety including beds and pressure mattresses, toilet and bathroom equipment, specialised clothing and continence needs'.ⁱ However, menstrual

products are explicitly excluded from being NDIS Supports under the draft lists, and are listed within the 'lifestyle-related' category of day-to-day living costs.

Access to menstrual products under the Scheme

The NDIS is intended to fund a range of supports and services that are related to a participant's disability, and to exclude the use of funding for everyday items and day-to-day living costs. Pursuant to the NDIA's guidelines, the Agency will not fund day-to-day living costs that are not attributable to or caused by a participant's disability support needs.ⁱⁱ This carve-out is critical because many people with disabilities require everyday items for disability-specific reasons. Many people with disabilities also require specific everyday items, including at a greater cost, to meet disability-specific needs. For example, people with disabilities who menstruate might require specific products to manage menstruation (such as period underwear rather than sanitary pads), and many use menstrual products to manage incontinence.

Under its Operational Guidelines, the NDIA recognises that some participants require support with menstrual care. Currently, 'menstrual care' is recognised as an aspect of 'personal care supports' (i.e., 'assistance with daily personal activities including assistance with, or supervision of, personal tasks of daily life') that can be funded.ⁱⁱⁱ

The Operational Guidelines also recognise the importance of assistive products for personal care, particularly where they promote independence. The Guidelines state:^{iv}

When personal care supports are being considered, the NDIA will have regard to the degree to which these supports:

- *maximise the independence and functional skills of the participant;*
- *are appropriate to the participant's age and circumstances; and*
- *whether alternative arrangements or supports could meet a participant's needs in a less intrusive manner. For example, aids and equipment may enable a participant to complete tasks for themselves or the provision of training may increase the participant's independence in the tasks.*

It is therefore surprising and deeply disappointing that menstrual products have been excluded from the category of 'Assistive Products for Personal Care and Safety' in the draft lists. For many participants who require specific menstrual products to manage menstruation and incontinence because of their disabilities, these products fall clearly in line with 'alternative arrangements or supports [that] meet a participant's needs in a less intrusive manner', within the context of personal care, as 'aids and equipment [that] enable a participant to complete tasks for themselves'.

In our view, NDIS participants must be able to use NDIS funding to purchase menstrual products, where the need for such products is related to the participant's disability. Not all participants who menstruate will require specific menstrual products because of their disability-specific needs. However, for many participants, standard menstrual products such as sanitary pads and tampons are inaccessible, inappropriate, and pose a risk to health and safety.

The draft lists do provide that in some cases, day-to-day living costs may be funded under the Scheme if they relate to reasonable and necessary supports, including where they are 'additional living costs that are incurred by a participant solely and directly as a result of their disability support needs'. However, how this is to be assessed and applied to menstrual products remains uncertain. For example:

- How will 'additional living costs' be assessed? Does this assess overall cost across a particular timeframe, or cost per purchase? Reusable period underwear will incur an additional cost per purchase, but will be purchased less frequently than disposable items.
- How will 'solely and directly' be assessed? The use of the word 'and' requires that a person's disability support needs are **both** solely **and** directly the cause of incurring the additional costs (rather than **either** solely **or** directly).
- How will 'disability support needs' be defined and assessed?
- What process will the participant be required to undertake to demonstrate that they are incurring an additional cost solely and directly as a result of their disability support needs?

Our organisations are concerned that the default exclusion of menstrual products from the definition of NDIS Supports will place the onus on participants to demonstrate to the Agency that they incur additional costs for menstrual products

solely and directly due to their disability supports needs. This may have the effect of deterring or indeed preventing participants from seeking to use their funding for menstrual products even where they are reasonable and necessary disability supports. This could be due to administrative burdens, cultural factors, or shame and stigma associated with menstruation and personal care needs - in a system that is already difficult to navigate.

Including menstrual products in the list of 'assistive products for personal care' which are eligible for funding under the Scheme, would reverse this onus and allow participants continued access to appropriate, accessible and adaptive menstrual products through the Scheme, if and when required.

The broader context

Importantly, the issue of access to appropriate products and support for menstruation sits within a broader social context:

1. **Broader menstrual activism**, which aims to challenge menstrual taboos and ensure that all people who menstruate have access to appropriate menstrual products and care. In 2018, Australian Governments agreed to remove the Goods and Services Tax ('GST') on tampons and other menstrual products, recognising that access to menstrual products is consistent with rights to health and hygiene, and is not 'lifestyle'-related. Indeed, the World Health Organisation has called for menstrual health and management to be framed as a human rights issue.^v Menstrual activism has drawn attention to the growing body of evidence that poor menstruation education and management is linked to 'gender disparities and poor health and wellbeing outcomes that include barriers to participating in education and contributing to the workplace'.^{vi} It is now broadly recognised that menstrual management affects 'participation and opportunities, including rights to health, safety and dignity, gender equality, education and employment'.^{vii} This is particularly the case for people with disabilities who already experience additional barriers to independence and participation in the community, and poorer outcomes across many areas of life.

2. **Widespread and persistent period poverty in Australia**, defined as ‘a lack of access to menstrual products, hygiene facilities, waste management and menstrual education’.^{viii} According to Share the Dignity’s 2024 Bloody Big Survey Report, 78% of people with disability struggle to afford period products, with over a third changing to less suitable period products due to cost.^{ix}
3. **A landscape of persistent violations of the sexual and reproductive rights of women and girls with disabilities** through practices including forced menstrual suppression and forced sterilisation, under the guise of ‘menstrual management’.

The need for access to accessible, adaptive, and appropriate menstrual products under the NDIS is inherently linked to these broader systemic issues.

Ensuring access to safe and appropriate menstrual products is also consistent with Australia’s international human rights obligations, including those under the Convention on the Rights of Persons with Disabilities related to accessibility (Article 9); health (Article 25); and an adequate standard of living and social protection (Article 28). Article 6 of the Convention also requires that States Parties recognise that women and girls with disabilities are subject to multiple discrimination, and must take measures to ensure their full and equal enjoyment of all human rights and fundamental freedoms.

Menstruation is well-recognised as a key site for discrimination and violence against women and girls with disabilities.^x The Committee on the Rights of Persons with Disabilities, along with other treaty monitoring bodies, has clearly identified that forced and coerced sterilisation and suppression (as methods of ‘menstrual management’) are in violation of multiple provisions of the Convention and other international human rights obligations, and constitute gender-based violence.

WWDA Survey on Period Products and the NDIS

To respond to the open consultation on the draft lists, Women With Disabilities Australia developed a survey on menstrual products and disability. The questions were then distributed via social media for recruitment purposes. The survey was

open for 9 days, given the short timeframe afforded for public consultation on the lists. Over 180 people responded to the survey. Approximately 70% were NDIS participants. Participant disabilities varied and participants were able to select more than one disability type. Neurodivergence, psychosocial disability/mental illness, physical disability and chronic illness or medical condition were the most common types of disability.

Respondents were asked a range of multiple choice and open-ended questions, including the following:

1. Do you get support from the NDIS?
2. Do you identify as having a disability? If so, what type of disability do you have?
3. Do you know where to find help or information to manage your period?
4. Does your disability impact the kind of products or support that you need to manage your period?
5. Is it hard for you to afford the period products you need?
6. Do you use your NDIS funding for products that help you manage your period?
7. How does your disability impact the kind of products or support that you need to manage your period?
8. What products or support do you use with your NDIS funding, to help you manage your period?
9. What products or support do you use with your NDIS funding, to help you manage your period?

There were some significant limitations to this survey, including that it was only delivered online, was not made available in Easy Read format due to the timeframe provided for Government consultation, and it is unlikely to have been completed by NDIS participants in segregated settings. People with intellectual disabilities are less likely to receive accessible information and education about menstruation. Critically, those who live in segregated settings (who are most often people with intellectual disability) are more likely than other people with disabilities to experience forced menstrual suppression and forced sterilisation, and to be denied choice and control

in managing their menstruation. It is regrettable that the consultation timeframes did not allow for further engagement with this community.

Why do some people with disabilities need specific menstrual products and support?

Approximately 70% of respondents were NDIS Participants, and 78% reported that their disability impacts the kind of products or support they need to manage their period:

“Before developing a physical disability at age 35 I was able to choose my period products, and I chose a cup. I had used this for many years. I no longer have the dexterity or sensation to safely use a cup, or a tampon, and pads are difficult to manage. The only type of period product that is accessible is period underwear, which is not something I am choosing, it is entirely due to my disability.”

75% also reported that it is hard for them to afford the period products they need.

Respondents reported that they had disability-specific needs regarding period products and support, related to:

- Sensory sensitivities
- Connective tissue disorder
- Fine motor impairment
- Developmental coordination disorder
- Limited hand function
- Vision impairment
- Genital sensation
- Reproductive trauma
- Executive function
- Incontinence
- Skin conditions and skin tearing
- Chronic pain
- Dissociative identity disorder
- Spinal cord injury

- Memory impairments
- Neurological conditions, including MS and epilepsy
- Mobility

For example, some participants reported that:

- They were unable to insert tampons or change sanitary pads, due to limited hand function, chronic pain, or motor impairment
- They experienced complications and significant health risks when inserting tampons or using sanitary pads, due to skin conditions, connective tissue disorder, skin tearing, and lack of genital sensation
- They experienced significant risk of risk of toxic shock syndrome when using tampons or sanitary pads related to memory, dissociation or executive function
- They required support from a support worker or family member with changing period products or purchasing products
- They experienced heavy periods due to their disabilities or medications they used for their disabilities or chronic health conditions
- They used period underwear every day to manage incontinence
- They were unable to identify if pads and tampons were leaking, due to vision impairment
- They required additional protection against leakage to minimise stains on their wheelchair

What are the impacts of having the required products and support?

Participants reported that access to appropriate period products and support improved their health and hygiene and prevented health risks:

- *“I have routines of changing my underwear morning and night meaning that I no longer suffer from UTIs and skin infections related to prolonged use of period products.”*
- *“Experience extreme pain with any internally inserted products, and disposable products cause tearing around my vaginal canal due to my*

condition, so am only able to use reusable pads or period underwear that also meet my sensory needs.”

- *“Wearing period products every day also means that [person’s name] is more susceptible to irritation or infections (such as yeast) and therefore non-breathable options are not realistic.”*
- *“I have a spinal cord injury (T2), which impacts genital sensation. I have experienced autonomic dysreflexia from tampons (and struggle with insertion due to dexterity, lack of sensation and balance). I have had a pressure area from a menstrual pad getting caught on clothing, which I couldn’t feel. This meant I had to rest off it for two weeks and increased my support worker use, which had a great impact of my mental and physical health.”*
- *“I have a condition that makes my skin fragile and prone to tearing so inserting tampons is not possible. I also have a connective tissue disorder which makes my fingers prone to dislocation. This makes tampons and pads tricky. I have been allergic to adhesives used on pads before and if they come unstuck they damage my skin. I also have mild incontinence so the period underwear is a double support. I have endometriosis as well which means my bleeding is irregular and copious.”*
- *“Due to my autoimmune psoriasis I have significant allergies which directly impact my disability as any increase in psoriasis or rashing or thrush will flare the autoimmune arthritis. I have not been allowed access to anything through NDIS regarding these issues and instead have to manage as best I can with pads that cause minimal rashing as I cannot afford to try menstrual cups etc in hope.”*

Participants also reported that access to appropriate period products and support increased their independence, and facilitated greater participation in the community:

- *“I am actually able to leave the house during my period.”*
- *“The best option I have is to use adaptive period underwear, which can be expensive. They increase my independence and reduce the risk of my having complications.”*
- *“It is challenging for my daughter to manage the use of traditional period products. Using period underwear has given her the independence to manage her periods every month maintaining her privacy & dignity.”*

- *“Limited hand function means that changing pads or using tampons is challenging and so being able to just use period underwear allows them to be independent with their menstrual hygiene.”*
- *“My disabilities mean that I have much higher needs to safely manage independent living during my period and other peak times of my cycle. Do not artificially separate our periods from our disabilities because we don’t have the capacity to do that so we’ll be left doubly disadvantaged.”*
- *“Modibodi & products like these to keep me out in the community. Having bladder issues that are related to my disability have a huge psychological impact on my self-esteem. Using these type of products give me the confidence to go out of the house with reduced fear of leakage & incontinence.”*
- *“I am in my 30s and living a fulfilling life with a career and a family. Period undies are one useful support that help me sustain this. I think that the NDIS might suggest that a support worker or setting reminders on my phone would be a replacement, but this is not appropriate. These supports were embarrassing and unreliable when I was a kid, and at this stage of my life they would be humiliating and degrading. I would like to be able to get on with my life when I have my period.”*
- *“I’m not able to regularly change tampons or pads due to disability so I bought a few pairs of period pants as I can have them on all day long. Also affords dignity to me as I wouldn’t get a support worker to help with this.”*
- *“I use modi bodi heavy period undies on all other days to help with bowel continence. I’m a teenage girl and I couldn’t go to my mainstream high school independently without these products... If I lose independence and confidence with this I would have so much trouble with independence and confidence in my life.*
- *“If I wear the undies I feel like everyone else.”*
- *“What about someone who only has a carer in the morning and evening to change their clothes, does 12 hr period underwear not become a disability need or should they lie in bed and bleed through their pad? What about an autistic person with a period who cannot tolerate the feelings of pads due to their neurological sensory profile but NDIS wont fund adequate period*

underwear so becomes house bound 1 week a month because they don't have access to sensory modified period underwear? Or what about a person with severe arthritis who can't access tampons and needs modified options but lives on a pension and can't afford alternatives? Yes period care is a daily need but when a person must buy a modified product that is more expensive directly because of their disability, and directly to obtain their human rights and engage in the world, this is the bare minimum the NDIS can be funding."

What are the risks of removing access to NDIS-funded menstrual products?

Approximately 43% of survey respondents reported that they are currently using NDIS funding for period products. We are concerned that removing access to these supports could have significant and harmful consequences for participants. This includes, as respondents identified, denial of choice and control, risks to health and safety, decreased independence, and further barriers to full participation in the community.

Critically, we are also concerned that removal of these supports could lead to increased risk of other forms of 'menstrual management'. This includes practices like forced menstrual suppression and sterilisation, which constitute significant violations of sexual and reproductive rights. These practices have been recognised by human rights treaty monitoring bodies – and indeed in the National Plan to End Violence against Women and Children 2022–2032 - as forms of gender-based violence.

As we have outlined elsewhere, there are often economic and other incentives for providers to subject people with disabilities to forced menstrual suppression. We are concerned that non-consensual long-acting contraceptive medications are being used to suppress the menstruation of women with disabilities for organisational convenience (of service providers and staff; for example, to avoid staff discomfort from having to deal with menstrual blood) and for organisational efficiency (for example, to reduce labour costs involved in personal care and supporting people to learn about menstruation).^{xi}

As WWDA has outlined in our submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability on Sexual and Reproductive Rights of Women and Girls with Disability:^{xii}

... the use of Depo Provera and other long acting contraceptive medications, used to suppress menstruation in women and girls with disabilities living in institutions or other residential settings, often occurs through an 'arrangement' between the institution or residential setting and a doctor. These types of contraceptives are used to suppress menstruation in women and girls with disabilities as a first and only response to what is deemed by others as 'inappropriate behaviour', such as removing sanitary pads in public or not disposing of them appropriately in a waste-bin. Sex education, menstrual management strategies and supports for the individuals and families concerned are rarely available or even considered. WWDA has also observed use of LARC in disability residential settings to increase efficiency of care provision: A male disability support worker from a government funded group home, boasted that the female residents in the group home where he worked, were all "given the Primolut" without the placebo tablets so that they didn't get their periods. When asked why this was the practice, the disability support worker replied that "It's not our job to deal with periods" and that it "makes it easier for us to look after them."

This problem is exacerbated because there is little legal oversight or independent monitoring, and these practices are subject to incomplete regulation by the NDIS Quality and Safeguards Commission. Medication for menstrual suppression is only regulated as a restrictive practice where it is used 'due to behaviours of concern for example, distress and hygiene (e.g. smearing)'. It is not considered a chemical restraint or restrictive practice when 'prescribed for the treatment of a diagnosed medical condition'.

Our organisations are deeply concerned that use of these practices could increase as a direct consequence of the removal of appropriate, safe and accessible menstrual products from the Scheme – including under the guise of concerns about hygiene.

Conclusion

We call for the NDIA to ensure access to appropriate, accessible, and adaptive menstrual products and supports that preserve participant choice and control, and promote rights to health, safety, wellbeing, participation, dignity and autonomy.

Menstrual products and supports must be categorised as assistive products for personal care, and funded under the Scheme without unnecessary barriers for participants.

ⁱ Department of Social Services (2024) 'Draft list of NDIS Support': <https://engage.dss.gov.au/wp-content/uploads/2024/08/2024-08-02-draft-ndis-support-lists.pdf>.

ⁱⁱ National Disability Insurance Agency (2021) Our Guidelines, 'What supports don't we fund?': <https://ourguidelines.ndis.gov.au/how-ndis-supports-work-menu/what-principles-do-we-follow-create-your-plan/what-supports-dont-we-fund>.

ⁱⁱⁱ National Disability Insurance Agency (2022) Operational Guidelines, 'Including Specific Types of Supports in Plans Operational Guideline - Personal care supports': <https://www.ndis.gov.au/about-us/operational-guidelines/including-specific-types-supports-plans-operational-guideline/including-specific-types-supports-plans-operational-guideline-personal-care-supports>.

^{iv} National Disability Insurance Agency (2022) Operational Guidelines, 'Including Specific Types of Supports in Plans Operational Guideline - Personal care supports': <https://www.ndis.gov.au/about-us/operational-guidelines/including-specific-types-supports-plans-operational-guideline/including-specific-types-supports-plans-operational-guideline-personal-care-supports>.

^v World Health Organisation (2022) 'WHO statement on menstrual health and rights': <https://www.who.int/news/item/22-06-2022-who-statement-on-menstrual-health-and-rights>.

^{vi} Connolly, H. Commissioner for Children and Young People, South Australia (2020) 'Menstruation Matters — The impact of menstruation on wellbeing, participation and school attendance': <https://www.ccp.com.au/wp-content/uploads/2022/03/Menstruation-Matters.pdf>.

^{vii} Connolly, H. Commissioner for Children and Young People, South Australia (2020) 'Menstruation Matters — The impact of menstruation on wellbeing, participation and school attendance': <https://www.ccp.com.au/wp-content/uploads/2022/03/Menstruation-Matters.pdf>.

^{viii} Michel, J., Mettler, A., Gunz, D., and Schöenberger, S. (2022). 'Period poverty: why it should be everybody's business'. *Journal of Global Health Reports*, Vol. 6.

^{ix} Connory, Jane and WhyHive, (2024), 'Period Pride Report: Bloody Big Survey Findings: Australia's largest survey on attitudes and experiences of periods'. Share the Dignity, Brisbane, Australia. Copyright © July 2024.

^x Steele L, Goldblatt B. (2020) The Human Rights of Women and Girls with Disabilities: Sterilization and Other Coercive Responses to Menstruation. In: Bobel C, Winkler IT, Fahs B, et al., editors. *The Palgrave Handbook of Critical Menstruation Studies* [Internet]. Singapore: Palgrave Macmillan; 2020. Chapter 8. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK565613/> doi: 10.1007/978-981-15-0614-7_8.

^{xi} Women With Disabilities Australia (WWDA) (2022). 'Submission on Sexual and Reproductive Rights of Women and Girls with Disability to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.' December 2022. Written by Carolyn Frohmader and Dr Linda Steele for and on behalf of Women With Disabilities Australia (WWDA): Hobart, Tasmania. ISBN: 978-0-9876035-4-8. 6.014-6.015.

^{xii} Women With Disabilities Australia (WWDA) (2022). 'Submission on Sexual and Reproductive Rights of Women and Girls with Disability to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.' December 2022. Written by Carolyn Frohmader and Dr Linda Steele for and on behalf of Women With Disabilities Australia (WWDA): Hobart, Tasmania. ISBN: 978-0-9876035-4-8. 6.014-6.015.