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## Interactions between the National Injury Insurance Scheme (NIIS) and the National Disability Insurance Scheme (NDIS)

### Summary

- Over time a fully implemented NIIS will increasingly relieve a significant part of the cost of a full NDIS.
  - The Productivity Commission (PC) estimated that when the NIIS is fully mature, the direct offset to the NDIS would be in the order of \$720 million per annum (in 2011 dollars).
  - An alternative way to think about the saving to the NDIS is that the NIIS eventually will provide care and support to around 30,000 people at an annual cost of care and support of around \$70,000 to \$100,000 per person.
  - The NIIS is prospective, and there are expected to be around 30,000 people in a mature scheme. The PC expects that this will take anywhere between 40 to 50 years.
- We expect that people who suffer a catastrophic injury will generally be higher cost cases, compared to the NDIS.
  - According to the PC, around 900 to 1,000 people are catastrophically injured each year.
  - Using the PC's numbers, this implies that each new entrant to the NIIS costs around \$1.8 million over their lifetime (2011 dollars) which broadly equates to \$70,000 per person per annum for 30 years. Other estimates suggest that this could be as high as \$100,000.
  - This is higher than the average estimated cost of care and support under the NDIS (\$35,000).
- The PC's proposed model was that the NIIS be a federation of state controlled, managed and funded schemes, largely funded from premium revenue sources.
- Anyone with a significant and permanent disability who is not covered by a NIIS or other compensation systems would be captured by the NDIS and funded from government revenue.
- If a NIIS is not in place for the commencement of the full NDIS, jurisdictions without no-fault compensation schemes may not have an incentive to establish a NIIS.
- A significant risk of not having a NIIS is the potential cost shifting on the NDIS and the incentive for current insurance arrangements to be reduced or withdrawn over time.
- If all existing catastrophic injury schemes and other avenues for compensation were wound back, the additional cost to a full NDIS would be \$1.8 billion per year over and above what it would be if there were a mature NIIS.

## Interactions between the National Injury Insurance Scheme (NIIS) and the National Disability Insurance Scheme (NDIS)

Following the announcement of the five jurisdictions that will host NDIS launch sites, it is timely to consider the impact of the NIIS on the NDIS. In the context of the first stage of the NDIS, while it is unlikely that the stability of the launch sites would be compromised by the absence of a fully implemented NIIS, over time, a fully implemented NIIS will increasingly relieve a significant part of the cost of a full NDIS. This reflects the fact that the NIIS is prospective (hence the number of people covered by the scheme will grow over time), and the higher expected costs of care and support of the NIIS compared to the NDIS (given that the catastrophic injuries will generally be at the higher end of the cost spectrum).

### *Some background on the difference between the NDIS and the NIIS*

In their report into disability care and support, the Productivity Commission (PC) proposed the establishment of two schemes: the NIIS and the NDIS.

- The NDIS would provide reasonable and necessary care and support for people with a permanent and significant disability.
- The NIIS would provide no-fault lifetime care and support for people who are catastrophically injured in motor vehicle accidents, workplace accidents, medical misadventure, and criminal and general accidents occurring in the home or community.

The PC's rationale for the establishment of the NIIS is that current arrangements for catastrophic injury across jurisdictions are fragmented and variable, which in many cases leads to inadequate care and support. In addition, people in jurisdictions without no-fault catastrophic injury insurance need to establish fault by another party to obtain compensation. Court outcomes can be uncertain, inequitable and inefficient and can often result in a delay in the provision of care and support.

The PC proposed that the NDIS be a national scheme run by a national agency, whereas the NIIS be structured as a federation of separate state-based schemes controlled and managed by states and territories.

The PC proposed that the NIIS should be distinct from the NDIS because:

- implementation could be relatively quick due to the existence of functioning compensation schemes;
- there is an opportunity with the NIIS to change behaviour through incentives; and
- there are some constitutional issues with having a Commonwealth NIIS.

In addition to these reasons, existing insurance arrangements provide an opportunity to develop a NIIS that is financially sustainable as funding can mostly be drawn from existing premium revenue sources. The PC proposed that state and territory governments fund catastrophic injury from a variety of sources, such as compulsory third party premiums for motor vehicle accidents. Access to efficient funding remains a key objective of the NIIS.

There are well-established catastrophic injury schemes currently in operation across the various jurisdictions, although these vary somewhat in coverage, the levels of care and support and whether

care and support is provided over the lifetime or in a lump sum payment. For example, there is a comprehensive workplace accident system across Australia, and the PC considered that this already provides no-fault cover to 100 per cent of injured people. Similarly, Victoria, NSW, Tasmania and the Northern Territory all provide no-fault catastrophic injury insurance for motor vehicle accidents through schemes such as Victoria's Transport Accident Commission (TAC) and the New South Wales Lifetime Care and Support (LTCS).

#### *The cost of the NIIS*

The PC estimated that the additional annual cost of implementing a NIIS is around \$830 million (fully funded in 2011 dollars). This is calculated as the annual gross cost of a NIIS of \$1.8 billion, less \$1 billion per year of existing cover for lifetime care and support for catastrophic injury through the various schemes that currently operate.

Consistent with existing no-fault accident insurance schemes, the NIIS would be fully funded. This means that the scheme would allocate the estimated lifetime costs of care and support associated with each entrant into the scheme at the time they enter. Under this model, institutions would invest the upfront payment to generate a cash flow over time to fund the costs of care and support. This is different to the NDIS, where the annual cost of the scheme is the same as the annual cash flow (or expenditure on the client).

According to the PC, around 900 to 1,000 people are catastrophically injured each year. Using the PC's numbers, this implies that each new entrant to the NIIS costs around \$1.8 million over their lifetime (2011 dollars) which broadly equates to \$70,000 per person per annum for 30 years. Other estimates suggest that the cost could be around \$100,000 per person per annum (see discussion at Attachment A). These figures are substantially higher than the average estimated cost of care and support under the NDIS (\$35,000) due to the fact that the bulk of injuries from accidents are high cost traumatic brain or spinal cord injuries.

Unlike the NDIS, the NIIS is prospective. This means that the NIIS would cover around 1,000 people in the first year, around 2,000 people in the second year, and around 3,000 people in the third year (ignoring annual variability and population growth). The number of people in the NIIS is expected to grow to around 30,000 people at which point the scheme would be mature. This means that the number of people in the scheme will be broadly stable, as the number of new entrants will roughly equal the number of people leaving the scheme (largely from death). The PC expect that this will take anywhere between 40 to 50 years.

In the long run, the annual cash flow cost of the NIIS will grow in line with the number of people in the scheme (among other factors) and approximately converge to the annual fully funded gross cost of the scheme of \$1.8 billion per year (2011 dollars).

#### *Impact of the NIIS on the first stage of the NDIS*

The first stage of an NDIS involves launches in five jurisdictions – South Australia, Tasmania, the ACT, New South Wales and Victoria. The number of catastrophic injuries in launch locations during the first stage of the NDIS is expected to be modest. Assuming a uniform incidence of catastrophic injury across Australia, on average around 46 people will be catastrophically injured per annum across the

five launch locations. People with existing catastrophic injuries will be picked up by the NDIS if they are not covered by a catastrophic injury scheme that provides lifetime care and support.

Around half of these catastrophic injuries will be from motor vehicle accidents (around 23 people) in any given year. Of launch jurisdictions, New South Wales, Victoria and Tasmania all have no-fault motor vehicle accident schemes for catastrophic injuries. These schemes provide a similar standard of care and support to that expected under the NIIS. However, Tasmania has some exclusions for illegal and reckless acts that may present a small risk of a catastrophically injured person entering into the NDIS during the first stage, given the higher incidence of motor vehicle accidents among young males and Tasmania's target launch cohort of 15-25 year olds.

South Australia does not have no-fault insurance arrangements for catastrophic injuries caused by motor vehicle accidents. However, South Australia's launch will target children aged 0-14 years. Children have a lower incidence of catastrophic injury compared to other cohorts. South Australia has released a consultation paper which considers a shift to no-fault arrangements for their state. The ACT also does not have no-fault arrangements for motor vehicles. However, the ACT has relatively few catastrophic motor vehicle injuries compared to other states.

A small portion of catastrophic injuries (around 8 per cent or 4 people) are expected to arise from accidents in the workplace. The PC states that all jurisdictions already provide close to 100 per cent no-fault cover for catastrophic injury in the workplace, although people will generally receive a lump sum payment rather than lifetime care and support (a key exception being accident victims in Victoria). Given the proposed arrangements for the NDIS to claim part of future lump sum compensation payments for the costs of care and support for people in the scheme, coupled with the small number of catastrophic injuries in the workplace, workplace injuries are unlikely to pose a material risk to the cost of the NDIS launches.

General injuries and injuries arising from medical misadventure comprise the remainder of the catastrophic injury categories that the PC recommended should be covered by a NIIS. Injuries from medical accidents make up around 11 per cent of the total number of catastrophic injuries per year (around 5 people). This is unlikely to be significant in the context of the launch sites.

However, general injuries make up around 32 per cent of the total number of catastrophic injuries (or around 15 people in launch locations), which is the second largest category of accident next to motor vehicle accidents. This category of accident includes those occurring in the home or community, such as sporting accidents, skateboarding, or falling off a ladder. It also covers injuries arising from crime, such as domestic abuse.

On balance, fewer than 20 people per annum who suffer catastrophic injuries in launch sites are expected to be funded by the NDIS during the first stage. However, while the number of catastrophic accidents in launch locations may be low, we would expect that they will generally be higher cost cases, compared to the range of disabilities that will be covered by the NDIS.

*Under a mature NDIS*

At maturity, the savings to the NDIS from a NIIS as envisaged by the PC are significant. The PC estimated that when the NIIS is fully mature, the direct offset to the NDIS would be in the order of \$720 million per annum (in 2011 dollars). The Australian Government Actuary (AGA) considers that this estimate could be higher. An alternative way to think about the saving to the NDIS is that the NIIS eventually will provide care and support to around 30,000 people at an annual cost of care and support of around \$70,000 to \$100,000 per person.

As mentioned above, the NIIS is prospective and so there would be rapid growth in the number of people entering the scheme each year (so in the scheme there is 1000 people in the first year, 2000 in the second year, 3000 in the third year and so on). The cost of the offset during the transition to a full NDIS is sensitive to the number of years that the NIIS has been in operation. Over time, the saving to the NDIS will grow until full maturity of the NIIS.

The AGA assessed that the NDIS could be delivered for an additional \$7.5 billion in 2018-19 in (2011-12 dollars). This amount will be reduced by the offsets provided by the NIIS, which will depend on when a NIIS is fully implemented. The PC estimated that in the first year of the full NDIS (which they assumed to be 2018-19), the offset to the NDIS as a result of the NIIS would be around \$326 million (2011 dollars).

*Risks associated with not having a NIIS*

A significant risk of not having a NIIS is the potential cost shifting on the NDIS. Anyone with a significant and permanent disability who is not covered by a NIIS or other compensation system would be captured by the NDIS and funded from government revenue.

An incentive may exist to reduce or withdraw the care and support component of compensation under their existing workcover or motor vehicle accident schemes, particularly if this leads to lower premiums. In this situation, the NDIS agency will be unable to recover sufficient compensation to fully fund the costs of care and support.

For equity between jurisdictions, it is unlikely to be sustainable for some jurisdictions to provide services for catastrophically injured people through existing schemes when others do not, if the costs of care and support provided by the NDIS are shared nationally on a per capita basis.

In the extreme, if all existing catastrophic injury schemes and other avenues for compensation were wound back, the additional cost to a full NDIS would be \$1.8 billion per year over and above what it would be if there were a mature NIIS.

Attachment A – Consideration of the likely average cost of care and support under a NIS

The information below outlines the Australian Government Actuary (AGA)'s thinking on the possible annual average cost for someone who has suffered a catastrophic injury.

*First, and obviously, the actual annual average cost for NIS participants will depend on the NIS eligibility criteria. Officials are currently developing criteria for the NIS through the NIS Senior Officials Group.*

*Catastrophic injury carries with it a connotation of significant care and support needs. However, it is difficult to know how to interpret this with any precision for the purposes of estimating an average annual per person cost.*

*One possible approach is to consider the PC's cost estimates for NDIS.*

*If you restrict consideration to those in severity category 5 and above (minimum cost of about \$25,000 pa – perhaps a minimum of about 10 hours of care per week), this gives a weighted average annual cost of around \$70,000 for care and support.*

*If eligibility is further restricted, then average annual cost of care and support would be even higher. For example, if you again use the PC's NDIS estimates and consider only severity categories 9-24, the result is an average annual cost of a little over \$100,000.*

*It will be clear that the actual average cost will depend on the eligibility criteria.*