



Early intervention and access to the NDIS – lessons from the AAT

An alternative entry pathway to the NDIS is through the early intervention requirements, whereby a person may be granted access to the scheme if it is likely to reduce their future needs for disability supports.

A recent case before the Administrative Appeals Tribunal (AAT) – [James and the NDIA](#) – gives us some insights into the evidence needed to meet the early intervention criteria.

The case

GJ lodged an access request with the NDIA based on his diagnosis of Asperger's syndrome (an autism spectrum disorder), and received an access not met decision, which was upheld on review.

The case centres on whether GJ meets the early intervention criteria, and in particular, that the NDIA must be satisfied that providing early intervention supports for a person is likely to reduce their future need for disability supports.

The AAT heard evidence from GJ, his wife, GJ's psychologist of 6 years, two occupational therapists, and accepted written material from GJ's psychiatrist.

The tribunal accepted that GJ's condition was likely to be lifelong and that he had significant challenges in life; however, it also noted that he had been able to hold down a job for decades until being made redundant in 2012, maintained a long marriage, and could relate to others in relation to his hobbies and in practical matters such as dealing with tradespeople.

They noted that although his diagnosis of Asperger's was relatively recent, the onset of the condition itself was unlikely to be recent; they also noted that, although there is evidence that early intervention in children with autism spectrum disorder may have significant benefits, there was no evidence presented that this is true in adults.

Finally, the AAT flagged that GJ is being provided with support through the mainstream health system, including a mental health plan, and that there was no evidence that without further intervention his condition would substantially deteriorate.

On this basis, the AAT concluded that early intervention supports are not likely to reduce GJ's need for future support, and therefore upheld the NDIS's 'access not met' decision.



What can we learn from this case?

In GJ's case, it was determined that his impairment was not substantial enough to meet the NDIS bar, nor likely to be improved by early intervention (nor was this applicable as his impairments were not new), and that his care was not the responsibility of the NDIS.

However, it nonetheless gives us a number of useful insights into the access process in relation to autism spectrum disorder and early intervention requirements.

NDIS versus mainstream support

It is important to demonstrate in your access request that support cannot be more appropriately provided through the mainstream health system. For mental health conditions, the [*Principles to Determine The Responsibilities of the NDIS and Other Service Systems*](#) clearly specify that early intervention strategies for mental health are the responsibility of the mainstream health system so it is unlikely for people to enter the scheme through early intervention for psychosocial disability.

Is autism not serious enough for the NDIS?

As the NDIS is a personalised scheme, there are no conditions that are automatically 'rejected' by the NDIS; rather, you need to demonstrate that the impairment is significant and there's a need for NDIS support over mainstream support. This is just as true for autism as for other conditions.

Not all OT assessments are equal

In this case, two OT's were asked to provide assessments on GJ's impairments. One focused on GJ's (and his wife's) self-reported descriptions of his challenges, while the other undertook more objective assessments and considered a wider range of information. The latter OT's opinion was given more weight by the AAT.

The time of diagnosis is not the onset of a disability

In this case, GJ relied on the fact that his diagnosis was relatively recent; however, he did not meet the criteria for early intervention because his condition is likely to have significantly pre-dated the diagnosis.

You may need to show evidence that early intervention will benefit

In this context, it is important to demonstrate that early intervention supports are likely to reduce the person's future need for support – the AAT was not satisfied of this point in this case.

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