

NSW Health Service Aboriginal Health Workers (State) Award

Dear Member,

I write to advise you that the Ministry of Health has made an application to the Industrial Relations Commission of New South Wales to update the *NSW Health Service Aboriginal Health Workers (State) Award*.

The changes that the Ministry is seeking to make include:

- Updating the Award's 'No Extra Claims' clause to bring it in line with the Salaries Award;
- Updating definitions in the Award to make it consistent with other NSW Health Awards; and
- Updating the Award's time frame in the 'Area, Incidence and Duration' clause.

A copy of the Award showing tracked changes and a copy of the Ministry's application is attached for your information.

If you have any questions about this issue, please contact Brendan Edghill at the HSU on 1300 478 679 or brendan.edghill@hsu.asn.au.

If you wish to provide any comments to the Union in relation to this issue, please contact Brendan by Friday 20 September 2019.

In unity,



Gerard Hayes
Secretary, HSU NSW/ACT/QLD

**NSW Health Service
Aboriginal Health Workers' (State) Award [\(2019\)](#)**

PART A

1. Arrangement

Clause Number	Subject Matter
1	Arrangement
2	Definitions
3	Wages
4	Conditions of Service
5	Progression and Appointment
6	Anti-Discrimination
7	No Extra Claims
8	Area, Incidence and Duration

2. Definitions

- 2.1 **Aboriginal Health Practitioner** means a person who is appointed as such and holds a Certificate IV in Aboriginal Primary Health Care (Practice), and is registered with the Australian Health Practitioner Regulation Agency. Aboriginal Health Practitioners perform a range of clinical practice and primary healthcare duties for the community in which they work under direct or indirect supervision at more experienced years.
- 2.2 **Aboriginal Health Worker** means a person who is appointed as such and is a provider of flexible, holistic and culturally sensitive health services to the Aboriginal community, and holds or aspires to hold a minimum Certificate III qualification in Aboriginal Primary Health Care or a minimum Certificate III health qualification in the area of care in which the Aboriginal Health Worker works. Aboriginal Health Workers perform a range of primary health care duties for the community in which they work under direct or indirect supervision at more experienced years.
- 2.3 **Employer** means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of New South Wales, ~~and includes a delegate of the Secretary.~~

~~2.4 NSW Health Service consists of those persons who are employed under Chapter 9, Part 1 of the Health Services Act 1997 by the Government of NSW in the service of the Crown.~~

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~~2.5~~ **Principal Aboriginal Health Worker** means a person who has applied for an advertised Principal Aboriginal Health Worker role and has been selected on merit. Principal Aboriginal Health Workers develop, implement and review Aboriginal primary health care strategy and policies and may be responsible for the supervision and training of Aboriginal Health Workers. Principal Aboriginal Health Workers hold a relevant degree qualification.

~~2.6~~ **Senior Aboriginal Health Worker** means a person who has applied for an advertised Senior Aboriginal Health Worker role and has been selected on merit. Senior Aboriginal Health Workers manage resources for the delivery of individual health services or health programs, and may be responsible for the supervision and training of Aboriginal Health Workers.

~~2.7~~ **Union** means the Health Services Union New South Wales.

3. Wages

- 3.1 Full-time employees under this Award shall be paid as set out in the *Health Professional and Medical Salaries (State) Award* ~~as varied from time to time.~~

4. Conditions of Service

- 4.1 The *Public Hospitals (Professional & Associated Staff) Conditions of Employment (State) Award*, as varied from time to time, shall apply to all classifications of employees as defined in clause 2 of this Award.

5. Progression and Appointment

- 5.1 Progression for Aboriginal Health Workers and Aboriginal Health Practitioners is incremental upon the completion of 12 months full time satisfactory service.
- 5.2 Aboriginal Health Workers who hold a minimum Certificate III qualification in Aboriginal Primary Health Care or a minimum Certificate III health qualification in the area of care in which the Aboriginal Health Worker works may commence at Year 2.
- 5.3 Senior Aboriginal Health Workers are appointed on merit. Incremental progression occurs once upon the completion of the first 12 months full time satisfactory service.
- 5.4 Principal Aboriginal Health Workers are appointed on merit. Incremental progression occurs once upon the completion of the first 12 months full time satisfactory service.

6. Anti – Discrimination

- 6.1 It is the intention of the parties bound by this Award to seek to achieve the object of section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity and age.
- 6.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory effects. It will be consistent with the fulfilment of these obligations for the parties to make an application to vary any provisions of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 6.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 6.4 Nothing in this clause is to be taken to affect:
 - i- Any conduct or act which is specifically exempt from anti-discrimination legislation.
 - ii- Offering or providing junior rates to a person under 21 years of age.
 - iii- Any act or practice of a body established to propagate religion which is exempted under Section 56(d) of the *Anti-Discrimination Act 1977*.
 - iv- A party to this award from pursuing matters of unlawful discrimination in a State or federal jurisdiction.
- 6.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

Notes:

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides: 'Nothing in this Act affects any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion'.

7. No Extra Claims

- 7.1 Other than as provided for in the *Industrial Relations Act 1996* and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 1 ~~September~~ ~~2016~~ by a party to this award.

8. Area, Incidence and Duration

- 8.1 This Award shall apply to employees of the classifications in clause 2, Definitions who are employed in the New South Wales Health service under Section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes.
- 8.2 The Award shall take effect on and from ~~12~~ September 201~~9~~~~5~~ and shall remain in force for a period of ~~one~~~~three~~ years.

BEFORE THE INDUSTRIAL RELATIONS COMMISSION
OF NEW SOUTH WALES

No. 2019/



NSW Health Service
Aboriginal Health
Worker's (State) Award

APPLICATION TO
VARY
AN AWARD

Filed by:
NSW Ministry of Health

Contact name:
Jenny Balgunan

Address:
100 Christie Street
St Leonards NSW 2065

Telephone: 9391 9918

- A. The applicant claims a variation to
**NSW Health Service Aboriginal Health Workers'
(State) Award.**
- B. Under Section 10 of the *Industrial Relations Act, 1996*
- C. In the terms stated in the attached Schedule 1.
- D. Award affected:
NSW Health Service Aboriginal Health Workers' (State)
Award
- E. Grounds and reasons:
1. To bring this Award in line with all other NSW Health Awards.
 2. Salaries for this group have been updated in Health Professional and Medical Salaries (State) Award 2019 to provide for a 2.5% increase.
 3. This Award has an update to the No Extra Claims clause and term of the Award to align with the Salaries Award.
 4. The Area Incidence and Duration clause has been updated accordingly.
 5. Definitions have been updated to be consistent with other NSW Health Awards.
 6. The Award sought is in accordance with the *Industrial Relations Act 1996* and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*.
- F. Applicant
1. Name:
NSW Ministry of Health
 2. Capacity in which applicant applies:
Employer
 3. Address:
100 Christie Street
ST LEONARDS NSW 2065
 4. Address for service:
As above
- G. Respondents and persons affected:
1. Health Services Union NSW
Level 2, 109 Pitt Street
SYDNEY NSW 2000

Signed

(Applicant).....

Benjamin Stirling
Director,

Industrial Relations and Workplace Change

B. Stirling
29.08.19.

TO THE RESPONDENT(S):

The Secretary
Health Services Union NSW
Level 2, 109 Pitt Street
SYDNEY NSW 2000

IMPORTANT NOTICE:

- (1) The respondents are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry within 7 days of service of this notice (*or as the case may be*) on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) Unless the time, place and date of hearing are endorsed on this application, the parties will be subsequently advised of the date time and place when the Commission will hear this application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone 8688 3516.

SCHEDULE 1

Terms of Variation

With effect from 1 first full pay period on or after 1 July 2019:

1. Delete clause 2.4
2. Renumber the existing subclauses for Principal Aboriginal Health Worker, Senior Aboriginal Health Worker and Union as follows:
 - Principal Aboriginal Health Worker from 2.5 to '2.4'
 - Senior Aboriginal Health Worker from 2.6 to '2.5'
 - Union from 2.7 to '2.6'

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- 2.3 **Employer** means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of New South Wales.
- 2.4 **Principal Aboriginal Health Worker** means a person who has applied for an advertised Principal Aboriginal Health Worker role and has been selected on merit. Principal Aboriginal Health Workers develop, implement and review Aboriginal primary health care strategy and policies and may be responsible for the supervision and training of Aboriginal Health Workers. Principal Aboriginal Health Workers hold a relevant degree qualification.
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- 2.6 **Union** means the Health Services Union New South Wales.

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- 5.4 Principal Aboriginal Health Workers are appointed on merit. Incremental progression occurs once upon the completion of the first 12 months full time satisfactory service.

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- 6.3 Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 6.4 Nothing in this clause is to be taken to affect:
 - i- Any conduct or act which is specifically exempt from anti-discrimination legislation.
 - ii- Offering or providing junior rates to a person under 21 years of age.
 - iii- Any act or practice of a body established to propagate religion which is exempted under Section 56(d) of the *Anti-Discrimination Act 1977*.
 - iv- A party to this award from pursuing matters of unlawful discrimination in a State or federal jurisdiction.
- 6.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

Notes:

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides: 'Nothing in this Act affects any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion'.

7. No Extra Claims

- 7.1 Other than as provided for in the *Industrial Relations Act 1996* and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*, there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 1 September 2020 by a party to this award.

8. Area, Incidence and Duration

- 8.1 This Award shall apply to employees of the classifications in clause 2, Definitions who are employed in the New South Wales Health service under Section 115(1) of the *Health Services Act 1997*, or their successors, assignees or transmittes.
- 8.2 The Award shall take effect on and from 1 September 2019 and shall remain in force for a period of one year.