

ABORIGINAL HEALTH WORKERS' (STATE) AWARD 2023

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Ministry of Health.

(Case No. 214722 of 2023)

Before Chief Commissioner Constant

17 August 2023

AWARD**PART A****Arrangement**

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

1. Definitions

"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.

"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.

"Employer" means the Secretary of the Ministry of Health exercising employer functions on behalf of the Government of New South Wales.

"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.

"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.

"Union" means the Health Services Union New South Wales.

2. Wages

- 2.1 Full time employees shall be paid the salaries as set out in the Health Professional Medical Salaries (State) Award 2022, as varied or replaced from time to time.

3. Conditions. of Service

- 3.1 The Public Hospitals (Professional & Associated Staff) Conditions of Employment (State) Award 2022, as varied from time to time, shall apply to all classifications of employees as defined in clause 1 of this Award.

4. Progression and Appointment

- 4.1 Progression for Aboriginal Health Workers and Aboriginal Health Practitioners is incremental upon the completion of 12 months full time satisfactory service.
- 4.2 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.
- 4.3 Senior Aboriginal Health Workers are appointed on merit. Incremental progression occurs once upon the completion of the first 12 months full time satisfactory service.
- 4.4 Principal Aboriginal Health Workers are appointed on merit. Incremental progression occurs once upon the completion of the first 12 months full time satisfactory service.

5. Anti-Discrimination

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 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’.

6. No Extra Claims

- 6.1 Other than as provided for in the *Industrial Relations Act 1996* and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014 (or its successor however described), 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 30 June 2024 by a party to this award.

7. Area, Incidence and Duration

- 7.1 This Award shall apply to employees of the classifications in clause 1, 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 transmittees.
- 7.2 The Award shall take effect on and from 01 July 2023 and shall remain in force for a period of one year. This Award rescinds and replaces the NSW Health Aboriginal Health Workers (State) Award 2022 published 4 November 2022 (393 I.G. 192) and all variations thereof.

N. CONSTANT, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.