



Submission to the Senate Community
Affairs Committee on the

FAMILY ASSISTANCE AND OTHER
LEGISLATION AMENDMENT BILL 2011

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CONTACT

Australian Council of Social Service

Locked Bag 4777, Strawberry Hills, NSW, 2012

T (02) 9310 6200 E info@acoss.org.au

www.acoss.org.au

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Locked Bag 4777
Strawberry Hills, NSW, 2012 Australia
Email: info@acoss.org.au
Website: www.acoss.org.au

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ACOSS submission to the Senate Community Affairs Committee on the:

FAMILY ASSISTANCE AND OTHER LEGISLATION AMENDMENT BILL 2011

The following is our brief submission to your Committee's inquiry into this Bill.

In summary, we recommend that:

- Schedule 3, which would delay access to the Disability Support Pension while applicants participate in a 'program of support' be opposed;
- The provisions of Schedule 2 that freeze the Family Tax Benefit supplements be opposed;
- The provisions of Schedule 2 that freeze various family payment income thresholds be supported.

1. Proposed new requirements for certain applicants for the DSP

Schedule 3 of the Bill provides that from 3 September 2011, new applicants for Disability Support Pension (DSP) must satisfy a new requirement before their claim is approved. Those applicants whose impairments are not classified as 'severe' would be required to undertake a 'program of support' (presumably rehabilitation, training or other employment assistance) before the pension can be granted.

There are many gaps and ambiguities in this Schedule. Importantly, it is not clear:

- at what point an individual who has commenced participation in a program but has been unsuccessful in finding employment might qualify for the DSP;
- whether this entails a fresh claim or additional assessment (perhaps taking account of a report from the relevant service provider) of work capacity;
- whether there is a maximum period of program participation beyond which a claim cannot be further delayed and must be assessed;
- what compliance arrangements and sanctions apply for non-participation in a program (assuming most applicants remain on Newstart Allowance while their claim for DSP is determined).

Some of these issues may be clarified in a proposed Ministerial Determination.

We note that the existing social security legislation states that an applicant must demonstrate that their impairment makes it unlikely that they could undertake paid employment within the next two years notwithstanding any 'training' they might receive. This suggests that any impact of the program on their employment capacity would be taken into account and that a 'second' assessment process would be undertaken after the person has participated in a program for some time. This would presumably be in addition to an 'initial assessment' to determine whether the individual is clearly ineligible under the existing rules, required to participate in a 'program', or immediately eligible for DSP.

ACOSS broadly supports policies that improve the employment prospects of people with disabilities on income support, including reasonable activity requirements that are designed to assist each individual obtain employment as distinct from discouraging claims for income support. However, 'welfare to work' policies for people with disabilities in recent years have mainly shifted people from higher pension payments to lower allowance payments rather than into secure employment. This is due to a misplaced emphasis on 'curbing the growth in DSP' as distinct from assisting people with disabilities to obtain employment. The official 'Welfare to Work' evaluation indicated that, 6 months after the first cohort of new applicants for the DSP were diverted to Newstart Allowance in 2006-07, less than one in five were off income support and in paid work. Most remained on Newstart Allowance or transferred to other income support payments.¹ Currently there are over 90,000 individuals with a 'partial work capacity' on Newstart or Youth Allowance. Unfortunately, since they are no longer eligible for the DSP, the needs of this growing cohort of social security recipients with significant labour market disadvantages have attracted little public attention.

This narrow emphasis on reducing the number of recipients of the DSP also dominates recent media reports on the subject. These reports often imply that growth in their number is mainly due to deliberate fraud, in particular by 'older men with bad backs'. Yet our analysis of official data indicates that since 2004, the proportion of the working age population on DSP has plateaued. Further, the main reasons for growth in the number of recipients over the previous decade include population ageing (a growing cohort of people aged 50-64 years who have a higher incidence of disabilities) and the closure of alternative payments such as age pensions for women aged 60-63 years. The proportion of people on the DSP with 'musculo-skeletal' impairments has fallen consistently over the past decade.²

In principle, it is reasonable to require applicants for the DSP to undertake a program that is designed to improve their job prospects provided it is individually tailored to their needs and they are able to do so. These programs would help a minority of applicants to secure a job. However, since the alternative payment (Newstart Allowance) is at least \$128 per week less than the pension, the Bill would deprive the majority of applicants (those with low employment prospects who still have an ongoing need for income support) of additional income to help them meet their basic living expenses. At \$237 per week for a single adult, the Newstart Allowance is inadequate to pay for the essentials of life. Given that most people with disabilities face additional costs (for example, transport or medications), and will incur additional costs while participating in a 'program of support' (for example travel costs), it is likely that many applicants would struggle financially until such time as they either secure employment or are granted a pension.

We understand that it is not the Government's intention to substantially delay access to the pension, and that 18 months is likely to be the maximum wait. However, the Bill offers no explicit protection against lengthy delays in assessing a DSP claim. If the maximum wait is 18 months, a single adult who ultimately meets the eligibility requirements for DSP could forego up to \$10,000 in income support if the Bill is passed. As far as we can ascertain, the Bill does not provide for back-payment of DSP entitlements to the date of the original claim. In our view, this is inequitable and sets a bad precedent in social security law. If a DSP claim was delayed for 18 months while Centrelink waited for a medical report, the applicant would clearly have cause for complaint. It is likely that much of the Budget savings arising from this

¹ DEEWR 2007, 'Welfare to Work evaluation'.

² ACOSS 2011, 'Beyond stereotypes'.

legislation would come from delayed access to pension payments as distinct from improved employment outcomes.

It is the \$128 per week difference between the DSP and Newstart Allowance rather than the proposed requirement to undertake a 'program of support' that is the source of this inequity. This underscores the need for reform of the social security system to restore equity between payments and reduce financial incentives for people to remain on the DSP for fear of dropping down to Newstart Allowance if they obtain employment and then lose the job.

In the absence of social security reforms along these lines, we cannot support a measure that unreasonably delays access to a more adequate level of income support. The intention of the policy – to ensure that people with disabilities benefit from assistance to improve their job prospects and reduce the risk of long-term reliance on income support – could be met by applying the proposed activity requirement to those new recipients of DSP who would benefit from such programs *after* the higher pension payment has commenced. Alternately, a 'costs of disability' supplement could be paid to those otherwise eligible for DSP who are required to participate in a program, until such time as their eligibility is determined. These measures could ensure that people with disabilities are not be financially disadvantaged.

A further problem with the proposed participation requirement is that as long as the DSP is substantially higher than Newstart Allowance, there will be a tension between active participation in employment programs and the requirement for applicants to demonstrate an 'incapacity to work' in order to qualify for the pension. This could undermine both the intent of the legislation and relationships of trust between DSP applicants and employment service program providers.

For these reasons, we oppose the Bill and urge the Government to implement the sound policy objective of improving the employment prospects of people with disabilities in a more equitable way.

Even if the Bill does not have the effect of unreasonably delaying access to a higher payment, we would recommend that the Parliament send it back to Government for re-drafting to more clearly specify the circumstances in which individuals might be required to participate in programs, the purpose of participation in a program (which should be to improve individual employment prospects rather than to assess eligibility for payments or to deter income support claims) any compliance arrangements and sanctions that may apply, and the process by which eligibility for DSP will be assessed once participation in a 'program' has commenced. It is not reasonable to expect the Parliament to give the Government of the day a blank cheque to introduce unspecified activity requirements for a group of social security recipients for an unspecified period of time. This should either be outlined in the primary legislation or the Parliament should be informed of the contents of the above-mentioned Determination before it is required to vote on the Bill.

Further, the proposed starting date for this measure is less than three months away, yet both Centrelink and employment service providers would have to redesign their systems to accommodate the new requirement (and in the case of the employment service providers, a new client group). The original start date (January 2011) was more realistic, and aligns with the proposed revision of impairment tables.

Consistent with Australia's human rights obligations in regard to people with disabilities, it would have been better if disability and welfare advocacy organisations had been more deeply involved in identifying the problems to be addressed and the policy response to those problems. At the least, it is vital that Government take the time now to consult over implementation of this policy. A September 2011 start date makes this impracticable and even January 2012 would have made it very difficult. Consequently, there is a risk that vulnerable people – for example people with a mental illness – will be discouraged from claiming social security assistance to which they are entitled. Further, if the 'program of support' is not tailored to individual needs and employment prospects, program participation could be a stressful experience for people with disabilities and a financially wasteful exercise for Government.

We also have a specific concern with the proposed definition of a 'severe impairment' (which exempts individuals from the new requirement). This specifies that an applicant for DSP must have a score of at least 20 points on a single impairment table, rather than a combination of scores from more than one impairment table adding up to at least 20 points. This could mean that individuals who have multiple impairments which when taken together make it impossible for them to participate in a program, might nevertheless be required to do so.

2. Non-indexation of FTB A and B supplements

Schedule 2 of the Bill provides for a three year freeze on indexation of these payments, to July 2014. This Budget savings measure has been justified on the grounds that the supplements were introduced some years ago to prevent parents from having to repay overpayments of Family Tax Benefits arising from the under-estimation of annual family income, and that this overpayment 'problem' is less pressing now than it was then.

Whatever the original purpose of these supplements, they are now an essential part of the budget planning of families on low incomes. We understand that low income families often use them to repay debts, to purchase costly household items such as refrigerators, and to cover lumpy annual expenses such as car registration. Whether they are paid annually or fortnightly, family payments are an essential tool to reduce poverty among children.

Along with the removal of indexation of the maximum rates of FTB (Part A) to wage increases two years ago, this measure would yield budget savings at the expense of the poorest families – those on income support payments or low wages. While the loss of income would probably amount to a few dollars a week, this is significant for the poorest families.

Therefore we recommend that this measure be opposed. An alternative, more equitable savings option would be to reduce the maximum rate of FTB Part A supplement for families on higher incomes. At present, the full supplement payment of \$726 per child goes to many families with incomes up to around \$150,000. This is the same as the annual supplement paid to a low income family. By contrast with the annual payments, fortnightly FTB Part A payments are income tested above a family income of around \$45,000 to \$50,000 thus targeting them towards those on the lowest family incomes.

3. Non-indexation of FTB income test thresholds

Schedule 2 of the Bill also provides for a freeze on indexation of certain 'higher income test thresholds' for family payments: Family Tax Benefit Parts A and B, the Baby Bonus and Paid Parental Leave, to July 2014.

These thresholds currently vary from \$100,000 to \$170,000 for FTB Part A, and \$150,000 for Part B, Paid Parental Leave and the Baby Bonus.

We support these savings measures as they target families on above-average incomes who are less likely to experience financial hardship as a result.

While families on \$150,000 or more are not generally 'rich', the vast majority fall within the top 20% of families with children. Approximately half of families with children have annual incomes below \$100,000.

On balance, this measure is therefore an equitable way to achieve necessary Budget savings. If measures such as these are not supported, then there is a risk that Government programs that are essential to families on much lower incomes, such as funding for public health services and schools or income support payments for people at risk of poverty, may be targeted for additional savings in future.