

Purpose, intent and adequacy of the Disability Support Pension

Submission to Senate Standing Committees on Community Affairs

9 July 2021

About ACOSS

The Australian Council of Social Service (ACOSS) is a national voice in support of people affected by poverty, disadvantage and inequality and the peak body for the community services and civil society sector.

ACOSS consists of a network of approximately 4000 organisations and individuals across Australia in metro, regional and remote areas.

Our vision is an end to poverty in all its forms; economies that are fair, sustainable and resilient; and communities that are just, peaceful and inclusive.

Summary

ACOSS thanks the Committee for holding this inquiry. The Disability Support Pension (DSP) is a crucial part of our income support system. Unfortunately, successive governments have legislated to limit access to the payment to reduce social security spending. The upshot is people with disability whose impairments significantly limit prospects of entering/re-entering the workforce are denied DSP, with many spending months if not years of appealing denied claim decisions. Qualification criteria like Program of Support merely serve to delay access to DSP for people who have little chance of getting secure and sustainable paid work, leaving people with disability to languish indefinitely on JobSeeker Payment of \$44 a day.

Receipt of DSP has declined dramatically in the past 10 years, both in absolute and relative terms, reflecting the tightening of eligibility criteria. Meanwhile, the number of people with a partial work capacity or illness accessing JobSeeker has risen, with almost half of people receiving that payment before the pandemic not being able to work full-time because of incapacity.

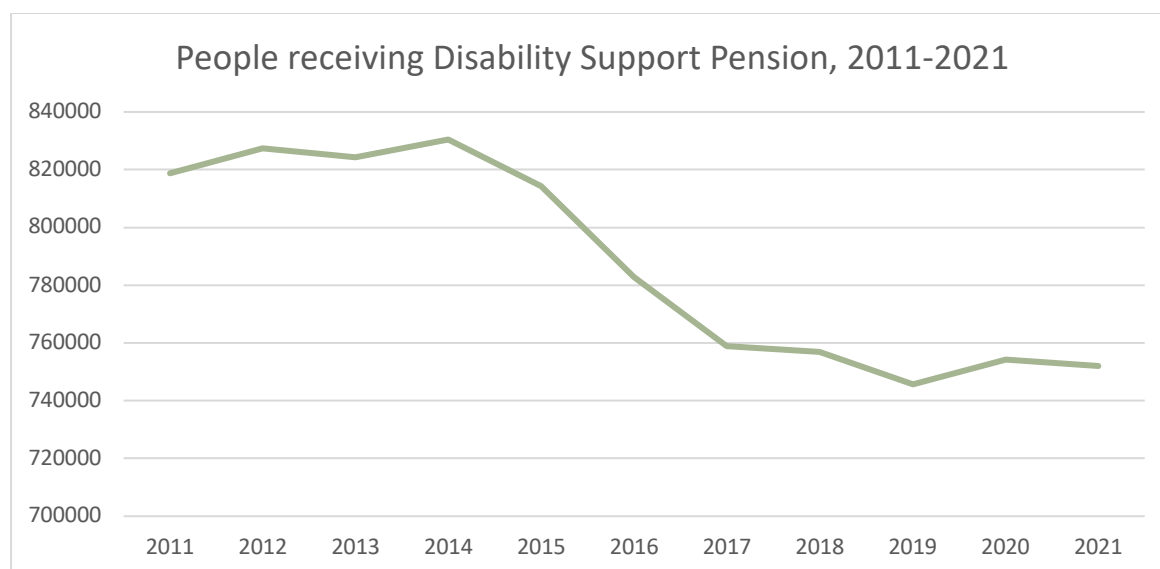
In addition, the costs of disability are not sufficiently reflected in the rate of DSP (or other income support). Research shows that DSP falls some \$50pw short of the additional costs faced by people with disability. JobSeeker and other income support payment rates mean that people receiving these payments face abject poverty.

This submission outlines some of the key weaknesses in the DSP system and puts forward recommendations to ensure DSP is available to people who need it, and provides sufficient support when they receive it.

Context: Receipt of the Disability Support Pension has been declining

One in three people with disability aged 16-64 receive the Disability Support Pension (36%).¹ As shown in figure 1, receipt of the payment has been declining over time, largely because of changes to eligibility criteria that have reduced the number of people successfully claiming the payment.

Figure 1: Number of people receiving DSP since 2011



Successful claims for DSP dropped from 64% in 2010 to a low of 25% in 2016 (figure 2). Successful claims have been edging up since then, but remain below 50%.

¹ Australian Institute of Health and Welfare (2020) <https://www.aihw.gov.au/reports/dis/73-1/people-with-disability-in-australia/contents-1/employment/employment-participation-needs-and-challenges> & DSS (2020) DSS Demographics, June 2020, <https://data.gov.au/data/dataset/dss-payment-demographic-data>

Figure 2: Number of claims and successful grant rate, 2010-2020

Year	Claims for DSP	Grant rate (%)
2010	142709	63.9
2011	151815	59.8
2012	134157	48.5
2013	127173	43.3
2014	142096	40.7
2015	113443	36.9
2016	102600	25.7
2017	97000	27.8
2018	104000	29.8
2019	91000	37.3
2020	102000	41.3

DSS and Services Australia data, 2010-2020

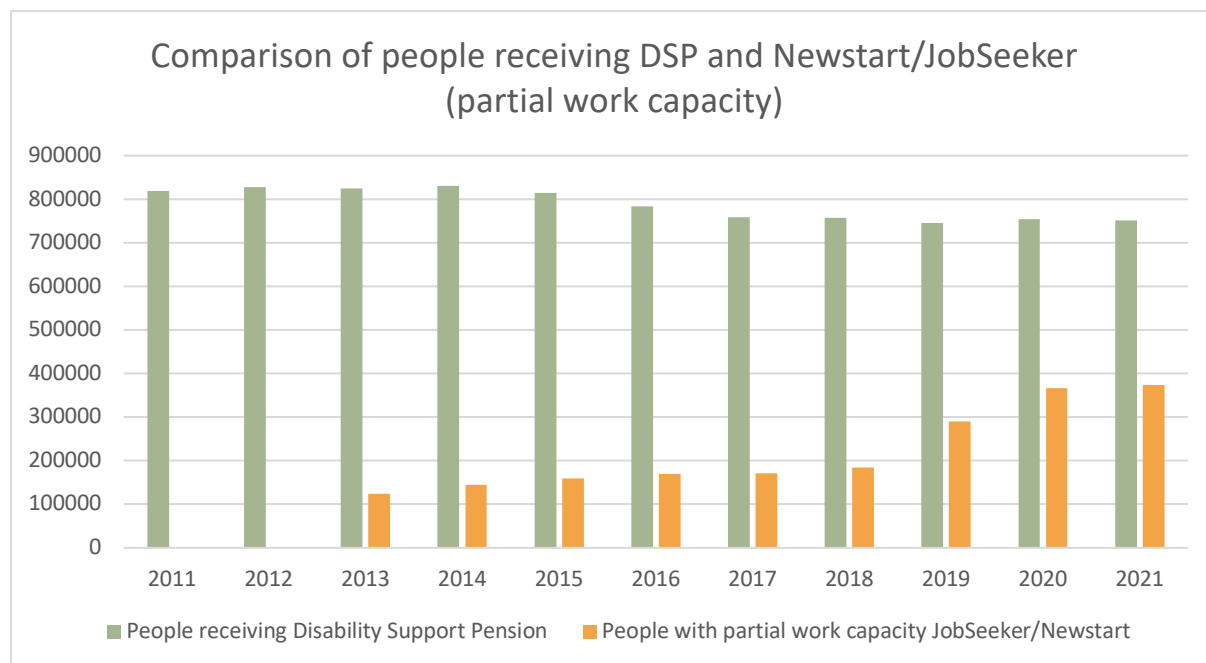
The decline in the number of people who have their DSP claims granted has led to an increase in people with disability or chronic medical conditions claiming unemployment payments. We can see this in the numbers of people receiving JobSeeker whose capacity to work is less than 30 hours a week ('partial work capacity').

There are 375,000 people² receiving JobSeeker who have a partial work capacity, up from around 124,000 in 2013 (see figure 3). This figure rose by more than 100,000 in 2019 when the Department stopped excluding people whose partial work capacity assessment was more than two years old from the figures.³

² DSS (2021) DSS Demographics, March 2021, <https://data.gov.au/data/dataset/dss-payment-demographic-data>

³ DSS (2019) DSS Demographics, June 2019 <https://data.gov.au/data/dataset/dss-payment-demographic-data>

Figure 3: Number of people receiving DSP versus unemployment payments, with a partial work capacity



The abolition of Sickness Allowance as a separate income support payment in 2020 also led to a small increase in JobSeeker numbers, but this has not driven the huge influx of people with disability or chronic health conditions onto JobSeeker (the number of people receiving Sickness Allowance before this payment was rolled into JobSeeker was fewer than 5,000).⁴ Changes to DSP eligibility policy have been the key driver of people with disability ending up on JobSeeker.

⁴ DSS Ibid.

People with disability who are not in a position to gain or maintain sufficient paid work should have access to DSP

It is ACOSS's view that if someone has a disability or chronic ill-health that prevents them from gaining or maintaining sufficient paid work, they should have access to DSP. There is no basis for denying people in this position access to DSP when their ability to seek, get, and maintain sufficient paid work is constrained by their condition. Sadly, tens of thousands of people are denied DSP each year because they are assessed as not meeting the eligibility criteria, despite being unable to participate in paid work, and unable to participate in or benefit from employment services programs targeting people with disability. This needs to change.

This submission outlines four key changes to eligibility criteria to ensure people with disability have access to DSP:

1. **Remove 'fully' from 'diagnosed, treated and stabilised'** assessment criteria to avoid people being denied claims when their treatment is ongoing.
2. **Return Treating Doctor Reports** so people's doctors have a clear understanding of the Impairment Tables relevant to their patient's DSP claim and can provide a report addressing those tables, together with appropriate evidence.
3. **Abolish the Program of Support requirement.** This requirement has only served to deny or delay access to DSP for people who need it, and has failed to improve employment outcomes for people with disability.
4. **Grant DSP to people who do not meet the 20-point requirement under one impairment table,** but score at least 20 points across tables. The eligibility criteria must recognise someone's incapacity if they have multiple disabilities or illnesses.

ACOSS recognises that the legislation and instruments governing DSP eligibility are incredibly complex. As argued by Economic Justice Australia (EJA) in its submission, this complexity is partly to blame for the high rate of DSP claim rejection (see percentages of successful claims in figure 2). We encourage the Committee to adopt recommendations put forward by EJA to improve understanding of eligibility criteria for the payment.

'Fully' diagnosed, treated and stabilised can exclude people with disability from the DSP.

This inquiry will likely receive a large number of submissions calling for reform of the requirement that conditions be 'fully diagnosed, treated, and stabilised'. We understand this is often misunderstood by people assessing claims, leading to rejection of claims even though the person's condition will not change in the next two years. For example, ACOSS has heard of claims being denied where someone has their medication changed, even though this would not affect the

person's prognosis. Ongoing treatment requirements can be interpreted as evidence that the person's condition is not fully treated or stabilised, and the person's claim is subsequently rejected. People with conditions like cancer or psychiatric illness are at particular risk of this occurring because the complexity of their illness does not align with 'fully diagnosed, fully treated and fully stabilised' and can be sporadic in nature. For example, see Jessica's⁵ story below.

Jessica, NSW

"I have been on Newstart and now JobSeeker on and off for years.

I have bipolar disorder, which is a lifelong illness and has caused me chronic unemployment and homelessness. Centrelink have numerous doctor's certificates from my doctor's and psychiatrists confirming the ongoing and chronic nature of my condition. A few years ago, my claim for the Disability Support Pension was rejected even though my disability is legally recognised in every other public sphere.

I asked a current psychiatrist to write a report for another attempt at DSP as I am still unable to hold down a job 6 years later. He agreed but told me 'I have never in all my time been successful in getting any of my patients with Bipolar on DSP. They state it's because there are mood fluctuations with normal periods in between. I'd say this is a gross misunderstanding of the illness. The times between my mood episode, I find myself utterly devastated as best, destitute at worse. Bipolar disorder needs to be recognised as the chronic disease that it is.'

We support EJA's recommendation to remove the word 'fully' from the assessment criteria when determining if the condition is diagnosed, treated and stabilised.

Recommendation: Remove 'fully' from the requirement that conditions be diagnosed, treated and stabilised.

The need to return Treating Doctor Reports

There is much evidence to show that the removal of Treating Doctor Reports (TDRs) has resulted in confusion about documenting impairment to qualify for DSP. TDRs included a set of questions designed to obtain the relevant information required to demonstrate eligibility for DSP.⁶ People applying for DSP would have their treating doctor fill in this form and submit it with their DSP claim. In 2015, TDRs were replaced with short guidelines on the type of

⁵ Not her real name.

⁶ EJA (2017) 'Commonwealth Risk Management – Inquiry based on Auditor General's report 18 (2015-16)' <http://ejaustralia.org.au/wp/wp-content/uploads/2017/01/NWRN-submission-to-inquiry-into-the-administration-of-disability-support-pension.pdf>

evidence required to show eligibility. This has led to people having their DSP claims denied because they lack the required information for their claim, as they are guessing what medical and psychiatric reports are relevant and what are not.

There is evidence that required information is often subsequently provided through an appeal of a denied claim decision (if the person applying manages to appeal). A review of 22 DSP decisions appealed by Basic Rights Queensland showed that 77% of these claims would likely have been successful had there been a TDR.⁷ Victoria Legal Aid has equally described the replacement of the TDR with a one-page form as 'inimical to good administration of the DSP'.⁸ Claims for DSP should not require the engagement of a solicitor and a lengthy appeal process to ensure evidence requirements are met.

ACOSS calls for TDRs to be returned to provide applicants and their health professionals with clarity about evidence Services Australia needs to grant a claim. ACOSS also supports EJA's recommendation that doctors and clinical psychologists be able to claim Medicare benefits for completing these forms. This would remove time-constraint barriers for doctors completing TDRs for DSP applications.

Recommendation: Reintroduce Treating Doctor Reports, and allow doctors to claim time spent completing these forms via Medicare.

Abolish Program of Support

ACOSS supports widespread calls for the abolition of the Program of Support. The evidence shows that this requirement fails to support people into paid employment, and merely serves to deny people DSP for 18 months or more.

People who do not meet 20 points in one impairment table threshold are required to meet the Program of Support requirement to qualify for DSP unless they receive an exemption (we understand exemptions are very rare).

This requires people to enrol with an employment service provider, disability enterprise or another form of mutual obligation⁹, and engage in the program for at least 18 months over three years, ostensibly to see if work capacity can be improved.

In practice, people report being unable to participate in this requirement because of their disability or chronic health condition, and they end up being unable to qualify for DSP. When they seek medical exemptions from participating in mutual obligations as part of the Program of Support because

⁷ EJA (2017) <https://ejaustralia.org.au/general/disability-support-pension-dsp-project-a-snapshot-of-dsp-client-experiences-of-claims-and-assessments-since-the-2015-changes/>

⁸ Victoria Legal Aid (2016) Victoria Legal Aid – Qualifying for the Disability Support Pension

⁹ Eg., Community Development Programme or ParentsNext

they are not well enough to participate, the time spent with an exemption is not counted toward their Program of Support.

It is a Kafkaesque scenario that causes immense distress and frustration as people are placed in an impossible situation. More importantly, people generally receive unemployment payments during this time, which are at least \$160pw less than the pension. When the Program of Support was announced, ACOSS warned government that the last thing it should do is increase the number of people with disability living in poverty. The Program of Support DSP requirement does just that because it denies or postpones access to DSP and forces people with disability onto payments well below the poverty line.

Recommendation: Abolish Program of Support, and instead support people with disability access employment, without threatening their eligibility for DSP.

Impairment tables: Ensure people with multiple disabilities or illnesses get DSP

Multiple impairments

Notwithstanding the need to abolish the Program of Support, the DSP eligibility criteria should recognise the impact of multiple disabilities or illnesses across multiple impairment tables on someone's capacity.

The requirement for people with less than 20 points against one impairment table to do a Program of Support results in bizarre situations whereby clearly incapacitated people must engage in employment services despite having very limited ability to engage at all. Many people score much more the 20 points across impairment tables, but are not granted DSP.

It is important that an individual's overall incapacity is understood in the DSP claim process, and not hampered by relatively arbitrary rules within the assessment tables themselves.

Recommendation: Ensure people with disability have access to DSP, including where they do not meet 20 points under one impairment table, but meet this threshold across impairment tables.

Claim times need to come down

Work needs to be done to reduce the length of time it takes to claim DSP. Reviews of the DSP by the ANAO in 2018 found that the average time taken to grant a manifest claim was 71 days, while claims that required job capacity and

medical assessments were taking 120-168 days on average to process. It should not take six months for a claim to be processed.¹⁰

ACOSS urges the government to adequately resource Services Australia so that it can process claims (and claim reviews) in a timely manner.

Recommendation: Ensure Services Australia has sufficient resources to substantially reduce the time it takes to process DSP claims and reviews

Payment adequacy: Income support should be adequate for everyone

Social security should protect people from poverty. There is no excuse for having 3 million people living in poverty, including about 750,000 children when Australia is currently the wealthiest country in the world by reference to median household wealth.¹¹

ACOSS's policy position is that payments paid at a lower rate to the pension (JobSeeker, Youth Allowance, etc.,) should be lifted up to the pension rate, which is just above the poverty line, and indexed in line with wages as well as prices. Everyone in financial need should have access to a minimum level of income, regardless of their age, the age of their youngest child or whether they are studying or looking for paid work. Everyone should have enough to cover basic costs that we all face, including food, housing, utilities, transport and healthcare. When people can afford these essentials, they are in a much better position to get on with their lives.

Raising all non-pension payments to at least \$68 a day (the pension plus Pension Supplement) would bring payments to just above the OECD poverty line of 50% of median income.

ACOSS is not suggesting that payment types be abolished; rather we propose that base rates of income support be brought to above the poverty line. In addition, there must be a clear understanding that unemployment payments like JobSeeker are for people with the capacity to undertake sufficient paid work.

Recommendation: Income support payments should be brought up to above the poverty line and indexed in line with wages.

For more information on ACOSS's income support policy position, please refer to our [Next Steps for Income Support briefing note](#).

¹⁰ Australian National Audit Office (2018) 'Disability Support Pension — Follow-on Audit' <https://www.anao.gov.au/work/performance-audit/disability-support-pension-follow-audit>

¹¹ Credit Suisse (2021), *Global Wealth Report* <https://www.credit-suisse.com/about-us/en/reports-research/global-wealth-report.html>.

Why we need a Disability and Illness Supplement

More than a third of people with disability live in poverty. 41% of people receiving the Disability Support Pension live in poverty.¹² People with disability are far less likely to be in paid employment compared with people without disability (50% versus 80%).

The evidence shows that people with disability are more likely to be in financial stress compared with people without a disability. A third of people receiving Rent Assistance and DSP live in households in rental stress, paying more than 30% of income on rent.¹³ People with disability are more likely to experience financial insecurity compared with other households, and First Nations People with disability experience even higher levels of financial insecurity compared with other households.¹⁴

People with disability face higher costs of living compared with people without disability. There are extra healthcare costs, medication, equipment, transport and housing costs. Analysis by NATSEM to calculate this 'Standard of Living' gap shows that a single person with a disability receiving DSP needs an extra \$50 per week to achieve the same standard of living as someone without a disability receiving a pension.¹⁵ NATSEM estimate that lifting payments by \$50 a week would halve poverty among people receiving DSP.¹⁶

As Mary's story below shows, it is people struggle to cover basic living costs, let alone the cost of healthcare, which are typically higher for people with disability or chronic health conditions.

Mary¹⁷, NSW

"Kids don't cost less as they get older. They require more food, and with the price of grocery items increasing as fast as they are I will have to skip meals to ensure they have enough. Not only that in May when my youngest turn 8 years old, I will lose even more money (as I will be moved from the Parenting Payment to the lower JobSeeker payment). I will then have to skip meals and cut my medication and specialist appointments.

¹² ACOSS (2020) http://povertyandinequality.acoss.org.au/wp-content/uploads/2020/05/Poverty-in-Australia-2020-Part-2-%E2%80%93-Who-is-affected_Final.pdf p.24&26

¹³ AIHW (2020) 'People with disability in Australia' <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/housing/housing-assistance>

¹⁴ Li, J., Brown, L., La. H.N., Miranti, R., and Vidyattama, Y. (2019). Inequalities In Standards of Living: Evidence for Improved Income Support for People with Disability. NATSEM, Institute for Governance and Policy Analysis, University of Canberra. Report commissioned by the Australia Federation of Disability Organisations. September 2019. Pp.x-xi

¹⁵ Ibid. pp.xiii

¹⁶ Ibid.

¹⁷ Name has been changed

I also have Rheumatoid Arthritis and for some ridiculous reason, even though I've been assessed to only be able to work 8-15hrs a week I am not considered eligible for the Disability Support Pension."

We propose that people with a disability or illness receive a supplement of at least \$50 a week (for single people) that recognises the additional costs they face as a result of disability or illness. This supplement should be available to people with disability, as well as people with an illness that prevents them from undertaking full-time paid work.

Recommendation: Establish a Disability and Illness Supplement of at least \$50 a week for single people to recognise the additional costs of disability.

Specific issues facing remote communities must be addressed

Unlike other income support payments, DSP requires substantial medical evidence to lodge a successful claim. This is a challenge for most people, but it presents a particular barrier to lodging a successful claim for people in remote, rural and regional areas, who have poor access to healthcare. People in these areas have difficulty accessing general practitioners and specialists to get the required evidence required to lodge a claim. Furthermore, people may not be able to demonstrate they have 'fully treated' their condition due to a lack of access to health professionals. To make matters worse, the cost of travel and accommodation to visit health professionals is often prohibitive as people claiming DSP have limited financial capacity to cover these costs, as well as the cost of specialists.

ACOSS has heard from the Northern Territory Council of Social Service that people in remote areas in the NT are waiting six weeks just to get an appointment with medical professionals. Considering wait times for manifest grants take an average of 71 days¹⁸ to process, any delay in accessing health professionals is a serious concern.

Recommendations:

- **Government must boost its outreach capacity to assist people in remote areas to access DSP.**
- **Funding for community legal centres, including those servicing remote communities, must be increased to support people lodging their claims and appeals.**

¹⁸ Australian National Audit Office (2018) 'Disability Support Pension — Follow-on Audit'
<https://www.anao.gov.au/work/performance-audit/disability-support-pension-follow-audit>

Acknowledgements

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