



Social Security Payments

CHAPTER CONTENTS

Introduction	2
How to Claim a Social Security Payment	2
Activity-tested Social Security Payments	3
Penalties Applied to Social Security Payments	5
Disability Support Pension	6
Common Social Security Problems	8
Social Security Payment Rates for Couples	10
New Zealand Citizens' Eligibility for Social Security Payments	11
Appealing a Centrelink Decision	12
Free Legal Advice and Assistance	16
Legal Notices	17

Introduction

The social security system is administered by Services Australia, and Centrelink (an agency of Services Australia) provides social security payments and services on behalf of the federal government to eligible people including (but not limited to) retirees, unemployed people, families, students, Aboriginal and Torres Strait Islander students or apprentices, carers, parents and people with disabilities.

Most legal issues arise when a person's social security payment application is rejected, the payment has been reduced in amount, the payment has been cancelled or there has been an overpayment and a debt has been raised against the recipient.

This chapter will outline common issues experienced by people accessing the social security system and how to appeal a decision. Certain steps can be taken to find out why a decision was made and how to advocate to change the decision if appropriate.

The main pieces of legislation underpinning the social security system comprise the *Social Security Act 1991* (Cth) (Social Security Act), the *Social Security (Administration) Act 1999* (Cth) (Social Security Administration Act), *A New Tax System (Family Assistance) Act 1999* (Cth) and *A New Tax System (Family Assistance) (Administration) Act 1999* (Cth).

How to Claim a Social Security Payment

A person may be able to apply for social security payments by submitting an intent to claim form, providing supporting documentation and attending an interview.

Submitting an intent to claim and supporting documentation

An intent to claim can be a letter, phone call or visit to Centrelink where the person advises they wish to claim a social security payment. An intent to claim can also be commenced online through a myGov account if they have one set up.

Starting a claim is also referred to as a 'statement of an intention to claim'. If people are unable to complete and lodge the claim, and save the partially completed claim form online, they may be able to ask for payments to be backdated to the date they first commenced the claim (whether online or in person), as long as Centrelink receives a completed claim form within 14 days, or up to 13 weeks if it was not reasonably practicable for the person to lodge the claim earlier.

Centrelink cannot refuse an application. Even if a Centrelink worker has advised that a claim is unlikely to be successful, a claim can still be made and Centrelink must accept and assess it.

Attending an interview

A person applying for a payment may be asked to attend a phone or in-person interview and to provide documentation supporting the claim. Original copies of documents to prove the person's identity, income, assets, rent and previous employment may be required.

Assessment of the claim

Processing times of claims for payments can vary. Many can be processed quickly, with the first payment received in three to four weeks. Disability Support Pension applications take longer to process and it sometimes takes several months for successful applicants to receive their first payment.

Activity-tested Social Security Payments

Some social security payments are activity tested to ensure that the people in receipt of payments are actively looking for employment and are doing everything they can to be ready for work. The following social security payments are activity tested:

- Jobseeker Payment (formerly Newstart Allowance)
- Youth Allowance (other than apprentices and full-time students in approved courses)
- Special Benefit (where they are not qualified for any of the other payments)
- Parenting Payment (when their youngest child turns six years of age or if required under ParentsNext).

Requirements

To qualify for Jobseeker Payment, Youth Allowance, Special Benefit or Parenting Payment, the person must satisfy employment pathway plan requirements and be willing to actively seek, accept and undertake paid work in Australia, except for particular paid work that is unsuitable for the person. This is essential unless the person has an exemption from the requirements.

Actively seeking work means engaging with an employment service provider on a regular basis, undertaking job searches and applying for jobs, attending job interviews and accepting suitable job offers. Social security payment recipients will also need to attend training courses that will improve their job prospects. 'Work' usually means full-time paid work, however, a job seeker should be willing to take part-time and casual work.

A person can be assessed as being unable to work full time and their plan can be adjusted to reflect this. The level of a person's employment capacity will be determined by an Employment Services Assessment or by a Job Capacity Assessment. Once assessed, the person will be expected to look for work within their assessed capacity.

A person will be assessed as having a partial capacity to work where they have a physical, intellectual or psychiatric impairment that prevents them from doing 30 hours of work per week, independently on a program of support, within the next two years.

If a person disagrees with their assessed work capacity, they can request a fresh assessment and provide medical evidence in support of a different assessment.

A person will satisfy an activity test if they are actively seeking work and are willing to undertake suitable paid work.

Exemptions

The Social Security Act provides for exemptions from the activity test to be granted to a person on a number of reasons. These include, but are not limited to, circumstances where the person:

- has a temporary incapacity to work for at least eight hours per week because of a medical condition (a supporting medical certificate is required) or a significant personal crisis such as:
 - the death of an immediate family member
 - a relationship breakdown
 - an emergency, disaster or public health crisis (s 40L(5) Social Security Administration Act)
- has a temporary incapacity to study full time because of:
 - a medical condition (s 542A Social Security Act)
 - domestic violence or other special family circumstances (for a maximum period of 16 weeks, though this may be followed by one or more other periods) (s 542Fs Social Security Act)
 - post-natal exemption for a six-week period following birth (s 542D Social Security Act)
- is over 55 years of age and engaged in approved voluntary work for an approved organisation for at least 30 hours in the period (s 40R Social Security Administration Act).

For temporary medical incapacity exemptions, the maximum exemption period is 13 weeks for each medical certificate (s 542C Social Security Act).

Employment Pathway Plan

Employment pathway plans must contain one or more requirements that a person must comply with to qualify for their activity-tested payment. Requirements are approved by an employment service and cannot be approved if they are not suitable for the person. Plans must therefore be tailored to the person.

In assessing whether requirements are suitable for the person, the Secretary of the Department of Social Services (Secretary) must take into account employment pathway matters, which include:

- the person's education, experience, skills and age
- the impact of any physical or mental health condition on their work capacity
- the state of the labour market
- accessibility factors affecting the person such as access to transport

- family and caring responsibilities
- costs such as travel costs associated with meeting the requirements
- the person's capacity to comply with the requirements
- their general needs
- any other matters, which either the Secretary or the person consider relevant.

Activities must be quantifiable and specific so that it is clear when an activity has been completed. Examples include completing a specified number of job searches per week, participating in an education/development program or performing volunteer work.

A person can request that their employment pathway plan be varied.

Penalties Applied to Social Security Payments

There are a variety of penalties applied to social security payments if a person does not comply with their activity-test requirements. For example, penalties may be applied if a person fails to:

- comply with a requirement to enter into an employment pathway plan
- attend an appointment required to comply with their employment pathway plan (a 'no show no pay' failure)
- comply with another condition of their employment pathway plan (e.g. fails to undertake the required number of job searches or to keep a record of their job searches).

Centrelink must notify the person about their failure to comply and the potential consequence of a penalty amount being deducted or their payment not being payable for a period, and must afford some opportunity for the person to reconnect.

Penalties can include an immediate non-payment until a person contacts Centrelink, the deduction of a penalty amount from their fortnightly payment or a suspension of payment for a set period.

If a person commits a 'serious failure' by, for example, persistently failing to comply with their obligations (excluding any failures that were outside the person's control) or by refusing or failing to accept an offer for paid work that is suitable to them, their payment will not be payable to them for a period of eight weeks.

What to do if a penalty is applied

The first step for a person to take where a penalty is imposed is to get in contact with their employment service to reschedule any activities or appointments. If that does not resolve the problem, the payment recipient should contact Centrelink to provide a reasonable excuse as to why they were unable to complete their requirements.

If a person does not agree with a penalty imposed by Centrelink, they should request an appeal (within 13 weeks to preserve their rights to arrears). This is prudent as even having

three minor failures within a six-month period can lead to an eight-week non-payment period.

Disability Support Pension

A person may be granted the Disability Support Pension (DSP) if they lodge a claim and are found to meet the eligibility requirements under either the manifest medical rules or the Impairment Tables.

Eligibility under the manifest medical rules

Manifest grants of the DSP may only be made where a person:

- has a terminal illness (life expectancy of less than two years with significantly reduced work capacity during this period)
- has permanent blindness (meets the test for permanent blindness for social security purposes)
- has an intellectual disability where supporting evidence clearly indicates an IQ of less than 70
- has an assessment indicating the person requires nursing-home-level care
- has category 4 HIV/AIDS
- is in receipt of a Department of Veterans' Affairs disability pension at a special rate (totally and permanently incapacitated).

Eligibility under the Impairment Tables

There are multiple requirements to qualify for the DSP under the Impairment Tables (this chapter refers to the DSP criteria that apply to claims lodged on or after 1 April 2023).

A person qualifies for the DSP if they:

- are aged 16 or above and less than the Age Pension age at the time of the claim
- meet the residence requirements by either:
 - having 10 years qualifying residence
 - having an exemption
 - qualifying under an International Agreement
 - being an Australian resident within the meaning of the Social Security Act when their continuing inability to work first arose
- have a diagnosed condition (or multiple conditions) not expected to significantly improve such that the person would be likely able to undertake work within the next two years even with reasonable treatments

- are unable to work more than 15 hours per week for the next two years, and unable to undertake a training activity to prepare for any work in the open market within the next two years
- have evidence indicating that because of their condition/s, they meet the specific criteria for at least 20 points (constituting a severe functional impairment) on the Impairment Tables or meet the Program of Support rules below.

Applicants who do not have evidence indicating that they meet the specific descriptors for at least 20 points on a single Impairment Table must have participated in a Program of Support (e.g. with an employment service or disability support service) for 18 months within three years of applying for the DSP to be eligible based on meeting a total impairment rating of 20 points added across multiple Impairment Tables.

There are limited exceptions to this requirement for those who have had some active participation and who provide evidence that their impairments prevent them from improving their capacity to prepare for, find or maintain work. Any period where a person has an exemption from their participation requirement (e.g. any period where a person on Jobseeker has submitted medical certificates for temporary exemptions which have been accepted) will not count as active participation in a Program of Support.

Supporting medical evidence from different practitioners may be required depending on the person's condition and the Impairment Table that is relevant to assessing their level of functional impairment. For example, mental health diagnoses needed to be confirmed by a psychiatrist or psychologist to be assessed for the purposes of DSP (claims prior to 1 April 2023 required the psychologist to be clinical).

As part of the DSP application process, a person is likely to undergo a Job Capacity Assessment (JCA). A JCA is an interview with a Centrelink assessor, who assesses whether a person can work, how much work they are able to do and how much assistance they need in order to find and keep a job. The JCA will also assess a person's medical eligibility for the DSP and offer recommendations, for example, as to the points that the person meets on the relevant Impairment Tables. The JCA will offer a notional work capacity range (e.g. 8 to 14 hours) and will influence the outcome of the person's DSP claim and whether further assessments are required. A person can request a copy of their JCA report (as well as medical eligibility assessment reports and disability medical assessor reports if relevant).

A person who applies for a DSP can receive the Jobseeker Payment (s 593(1B)(d) Social Security Act) or Youth Allowance (s 540A(1)(c) Social Security Act) as a provisional payment while their application is being processed. This will generally happen automatically. If not, enquiries should be made to Centrelink.

Disability Support Pension reviews

Centrelink conducts intermittent reviews to ensure that DSP recipients continue to qualify for the payment. Disability Support Pension eligibility can be reviewed at any time, and different

qualification criteria may apply than those under which the pension was granted to the person.

Currently, the DSP criteria that a recipient's eligibility is reviewed against are the criteria that are in force on the day the review assessment notice is given, regardless of how long the person has been a DSP recipient and regardless of the criteria that applied at the time when their claim was granted.

If a person is no longer eligible to receive the DSP, their payments will continue for 42 days once they have been notified of the cancellation decision. The cancellation decision can be appealed, and a person in this situation should request the continuation of their DSP payments until the appeal is decided (this is called 'payment pending review').

Working while on the pension

Disability Support Pension recipients must advise Centrelink if they commence work and must report their income. Depending on when the person has been assessed for the DSP, it is possible to work up to 30 hours a week and still receive a part pension if their income remains below the relevant limits. If a person is working more than 30 hours, their DSP payments will stop.

If, within two years and 14 days from the date that the DSP payments ceased due to the person obtaining paid work for at least 30 hours per week, the person's hours reduce, they can contact Centrelink to request that their DSP be restored. It is possible for restoration to occur without the person needing to lodge a fresh DSP claim. If their income goes above the relevant limits due to employment income, they can also have the DSP restored within two years and 14 days without needing a new application.

Common Social Security Problems

Debts

Debts arise when a person is considered to have been overpaid by Centrelink (s 1223 Social Security Act). Debts can relate to payments received a number of years previous. If Centrelink believes a debt is owed, it will send a letter out to the person detailing the debt and requesting repayment.

If the person thinks there has been a mistake in the raising or calculation of the debt it can be appealed (see *Appealing a Centrelink Decision*).

Repayment

If the person is still receiving social security payments, the repayments can be deducted from their regular payment. If the person no longer receives any Centrelink payments, they can negotiate a repayment schedule with Centrelink's Debt Recovery Unit. If a person is no longer able to afford the repayments on the repayment schedule, they should contact Centrelink's Debt Recovery Unit as quickly as possible to organise a new repayment

schedule. If Centrelink will not agree to reduce a repayment rate then this decision can be appealed.

If a person is unable or unwilling to make repayments, Centrelink can also take steps to garnish the person's wages, their bank account or their tax return without their consent. If Centrelink is still unable to recover the debt, it may take the person to court and the court can make an order about how the debt is to be repaid (s 1230C Social Security Act).

Write off or waiver

A 'write off' means that the debt recovery is temporarily suspended for a specified period of time. Centrelink will recover the debt after the write-off period expires. There are limited circumstances where a write off will be granted (s 1236 Social Security Act).

A Centrelink debt can be waived in whole or in part (s 1237 Social Security Act). If a debt or part of a debt is waived, it no longer exists. The grounds for seeking a waiver of a debt are strictly limited. The two main grounds for waiving a debt are a sole administrative error, where the error must be solely Centrelink's and the person owing the debt must not have contributed in any way to the debt and the person must have received the payments 'in good faith' (s 1237A Social Security Act), that is the person believed they were entitled to the payments. A special circumstances waiver, which only applies in unusual, uncommon or exceptional circumstances (s 1237AAD Social Security Act), may apply where the person or someone else did not 'knowingly' make a false statement or 'knowingly' failed to comply with social security law.

Prosecution

In some instances the overpayment may lead to prosecution for fraud. It is a criminal offence to intentionally mislead Centrelink in order to obtain a payment or a higher rate of payment. Centrelink links with other government departments to ensure that people are honest in their reporting (this process is known as data matching). If Centrelink suspects that you have knowingly received a payment to which you are not entitled and fraud is suspected, it will pass the details to the Commonwealth Director of Public Prosecutions to make a decision whether or not to prosecute.

A person suspected of fraud will receive a letter stating that the case is being considered for prosecution. The person may be asked to attend an interview. They are not required to attend the interview or say anything to Centrelink. Non-attendance at an interview will have no adverse consequences on current payments. It is advisable to get legal advice from a criminal lawyer before attending any interview or making any statement.

Compensation payments

If a person receiving social security payments receives a compensation payout as a result of injury, this must be reported to Centrelink. Centrelink applies specific rules to compensation payments, and they may prevent eligibility for social security payments for extended periods of time (these are referred to as preclusion periods). Periodic compensation can result in a

reduction in the rate of payment a person receives (s 1173 Social Security Act). Some compensation payments may not impact on eligibility for payments, however, they can still be considered as an asset or income (including for the partner of the person in receipt of compensation) (s 1174 Social Security Act) and must also be reported to Centrelink.

Centrelink has a formula to calculate the compensation preclusion period where the person is not entitled to receive their social security payment (s 1170 Social Security Act). If the person received social security payments after their injury and while their compensation issue was being resolved, they would be required to pay back the amount out of their compensation payout.

Special circumstances to disregard compensation

It is important for a person seeking compensation for personal injury to advise their lawyer what social security payment they are receiving and ensure that Centrelink is aware of any compensation benefits. A compensation payout can only be disregarded or a compensation preclusion period reduced in special circumstances (s 1184K Social Security Act). These include financial hardship, poor health, high medical expenses, high legal costs and incorrect advice from Centrelink about the effect of the person's compensation.

If the person believes that Centrelink should disregard the compensation payout or the period of compensation preclusion should be reduced, the person should appeal the decision (see *Appealing a Centrelink Decision*).

Social Security Payment Rates for Couples

Social security payment rates, and income and asset tests differ depending on whether a person is single or a member of a couple, and some payments have eligibility requirements that relate to relationship status. Centrelink's definition of a member of a couple (or de facto relationship) (ss 4(2)-(3) Social Security Act) is different to the definition of de facto in family and tax law. Members of both same-sex and opposite-sex couples can be considered members of a couple.

A person can be in a de facto relationship according to Centrelink without realising it. If Centrelink believes there is any question as to whether two people should be considered a couple, Centrelink may undertake an investigation of the two people's circumstances. They will look at a variety of factors including financial and domestic arrangements, accommodation, social relationships, relationships with children and the commitment between them.

If the person is recently separated, Centrelink will look at whether the couple is now living separately and apart on a permanent or indefinite basis. A couple can be considered separated under one roof if the relationship has ended and the person can provide evidence of this.

If Centrelink declares a person as being a member of a couple, that person can appeal the decision (see *Appealing a Centrelink Decision*).

New Zealand Citizens' Eligibility for Social Security Payments

Most New Zealand citizens who enter Australia on a New Zealand passport are automatically issued with a Special Category Visa. This allows New Zealand citizens to live and work in Australia. However, it is not a permanent visa and therefore they are not entitled to receive social security payments unless they are considered a 'Protected Special Category Visa' holder or are eligible for payments under the International Social Security Agreement between New Zealand and Australia.

Protected Special Category Visa holders

The criteria that Centrelink looks at to determine the 'protected' status are complex, however, some basic criteria require a person to have:

- resided in Australia on 26 February 2001 and to have entered Australia on a New Zealand passport
- resided in Australia for periods totalling 12 months at any time between 26 February 1999 and 26 February 2001, while holding a Special Category Visa
- received an Australian social security payment between 26 February 2001 and 26 February 2004, while holding a Special Category Visa
- resided in Australia on 26 February 2001 but temporarily spent time overseas. If so, was the person receiving an Australian social security payment while overseas and did the person return to Australia during the period the Australian social security payment remained payable
- commenced or recommenced residing in Australia after 26 February 2001 but before 26 May 2001. If so, did the person apply to Centrelink before 26 February 2004 for a determination that the person was residing in Australia
- resided in Australia on 26 February 2001 but temporarily spent that day overseas, and has not received an Australian social security payment. If so, did the person return to Australia by 26 February 2002, and did the person apply to Centrelink before 26 February 2002 for a determination that they were residing in Australia?

If the person was in Australia on 26 February 2001 and held a Special Category Visa at that time, they may have automatically acquired Australian citizenship. It is recommended that they enquire with the Department of Home Affairs.

International Social Security Agreement

Under the International Social Security Agreement (sch 3 *Social Security (International Agreements) (Act) 1999* (Cth)), New Zealand citizens can claim Age Pension, Disability Support Pension and Carer Payment from Centrelink if they hold a Special Category Visa and reside in Australia. The date that they entered Australia is not taken into consideration.

In order to be paid the Age Pension, the New Zealand citizen must be over 65 years and have resided in Australia and New Zealand for 10 years. The period of residence in New Zealand is only from age 20 to 64 years of age (e.g. a citizen residing in New Zealand from age 60 to 64 must have lived in Australia for six years before they are eligible for the Age Pension in Australia).

To be paid the Disability Support Pension, the person must be assessed as severely disabled and have a total of at least 10 years residence in Australia and New Zealand. The person must also have become severely disabled while living in Australia or New Zealand and have resided in New Zealand for at least one year before the date they became severely disabled. 'Severely disabled' is defined as a person with a physical, psychiatric or intellectual impairment that makes that person unable to work more than eight hours per week or unable to benefit from a rehabilitation program for the next two years.

In order to be paid the Carer Payment, the person must be caring for a partner who receives the Disability Support Pension. The person must have lived in Australia and/or New Zealand for at least two years.

Limited payments

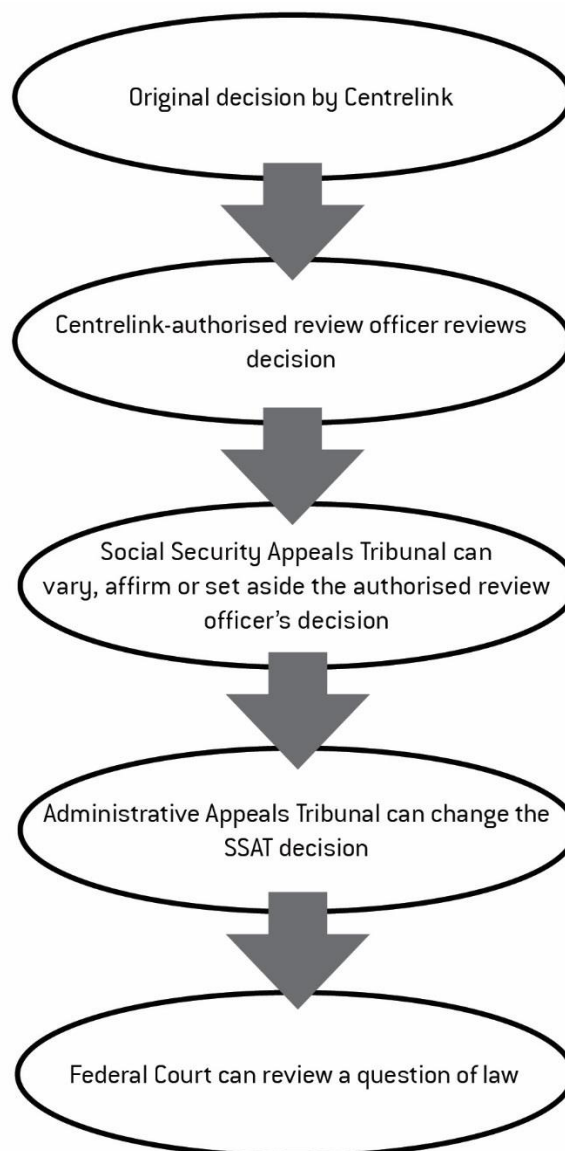
Special Category Visa holders who have resided in Australia for 10 continuous years may apply for Youth Allowance, Newstart Allowance and Sickness Allowance for a period of up to six months.

New Zealand citizens may also be eligible for the following payments: Family Tax Benefit, Baby Bonus, Maternity Immunisation Allowance, Child Care Benefit and the Double Orphan Pension. A 104-week waiting period generally applies to a Low Income Health Care Card or a Senior Health Card application. It is best for the New Zealand citizen to contact Centrelink's International Services to get further advice on eligibility.

Appealing a Centrelink Decision

Most Centrelink decisions are subject to internal and external review. A person affected by an adverse Centrelink decision has the right to an internal review to a Centrelink-authorized Review Officer and an external review to the Administrative Appeals Tribunal (AAT). Appeals to Centrelink and the AAT are free.

Levels of appeal



Authorised Review Officer appeal

A person has a further right of appeal to the Federal Court of Australia. However, appeals to the Federal Court are not free and a person should seek further expert legal advice before appealing.

The first level of appeal is an internal review to an Authorised Review Officer (ARO) who is a senior officer within Centrelink. The request for an ARO review can be made in person, in writing or over the telephone. The ARO will look at the facts, the law and current policy. The ARO can change the decision if it is not correct and will advise the claimant in writing of their decision and how they reached their decision.

The ARO may contact the payment recipient to obtain additional information as part of the appeal process. They do not have to seek additional information and can make their

decision on the existing information. If a person has information that may assist their review, or would like the opportunity to find out if there is any additional evidence that may assist, they can make contact with their ARO. A person can ring Centrelink and be given the name of the ARO allocated to review their matter.

In instances where a payment has been cancelled or reduced, and the person is appealing this decision, they can request for their payments to continue at the original rate until after the appeal has been completed (this is known as payment pending review).

A person should apply for an ARO review of a social security decision within 13 weeks of being given notice of the decision to ensure they remain eligible for back pay to the date of the original decision.

Decisions are provided to people in writing. If the decision is not changed, a person can access the next level of appeal, the AAT (Social Services and Child Support Division (SSCSD)). A person must have appealed their decision to the ARO before they can appeal to the AAT.

Administrative Appeals Tribunal Social Security and Child Support Division

Once a Centrelink ARO has reviewed a decision, the next level of appeal is to the AAT (SSCSD). The AAT (SSCSD) is independent of Centrelink and can make a fresh decision or affirm, set aside, vary or substitute a decision made by Centrelink.

The AAT (SSCSD) (AAT Tier 1) usually sits with one or two members. The tribunal members have a variety of backgrounds including law, social welfare, medicine, accounting and government. If a case involves a medical issue (e.g. Disability Support Pension eligibility), an appropriately qualified member will usually sit on the tribunal.

How to appeal to the division

A person should appeal to the AAT (SSCSD) within 13 weeks of receiving notice of the ARO decision to safeguard eligibility for payment arrears.

A person can appeal to the AAT (SSCSD) only if they have already appealed to and received a decision by an ARO at Centrelink.

A person can appeal by:

- using the AAT (SSCSD) application form available at Centrelink or the AAT (SSCSD) offices or website
- writing a brief letter to the AAT (SSCSD) stating that they want to appeal including contact details so the AAT (SSCSD) can contact the person
- telephoning the AAT (SSCSD) and advising they wish to lodge an appeal.

Within two weeks of lodging an appeal, the person should receive a letter from the AAT (SSCSD) stating that the application for appeal is being reviewed. Time frames for hearings vary, but the process is usually completed within a few months.

When an appeal is made to the AAT (SSCSD), the AAT will request that Centrelink provide to them a copy of the person's file. The person's file will then be provided to the applicant prior to the hearing.

The AAT (SSCSD) hearing is an informal process. Centrelink is not represented at the tribunal. The person seeking the review can be represented at the tribunal by a solicitor, social/community worker or supported by a family member. At the hearing, the person seeking the review will need to be prepared with documentary evidence and a summary of why they are appealing the Centrelink decision. The person may be required to take an oath or affirmation. All hearings are recorded.

The tribunal is required to provide a written decision and reasons within 14 days of the hearing. The decision will be mailed to the person appealing. If the decision is in the person's favour, Centrelink has four weeks to implement it. If this would cause financial hardship, the person can request that the decision be put into action urgently.

If it is possible that the person could be prosecuted for a criminal offence, including fraud, they should get legal advice, as anything said during an AAT (SSCSD) appeal can be used by the Commonwealth Director of Public Prosecution in a prosecution case against them.

Administrative Appeals Tribunal

If a person or Centrelink disagrees with the decision of the AAT (SSCSD), they can appeal to the Administrative Appeals Tribunal (General Division). The appeal must be lodged in writing within 28 days of receiving the AAT (SSCSD) decision.

Appealing to the AAT (General Division) is free. A person can download an application form from the AAT website or can write a letter to the AAT (General Division), and include a copy of the decision that the person would like to appeal and an outline of the reasons why the decision was wrong.

The AAT (General Division) is a more formal tribunal, and hearings are public and witnesses must give sworn evidence. The tribunal hearing is a de novo hearing, which is a fresh rehearing on the merit of the case.

Federal Court of Australia

If the person disagrees with the decision of the AAT (General Division), they can appeal to the Federal Court on a question of law only. It is important to speak to a legal professional about whether the person has the right to make an appeal to the Federal Court. An appeal must be lodged within 28 days of receiving the decision of the AAT (General Division).

Additional time limits for appeals

A person must apply for a review of some Family Tax Benefit decisions within 52 weeks of being notified of the decision.

There is no time limit for requesting a review of other ABSTUDY, Assistance for Isolated Children and Recovery of Debt decisions.

For Paid Parental Leave scheme decisions, parents must seek a review normally within 28 days of the decision.

Free Legal Advice and Assistance

To get assistance with an appeal, contact Basic Rights Queensland. Basic Rights Queensland is a community legal centre that provides free advice for people with Centrelink issues. The lawyers working at this centre specialise in social security law and are independent of Centrelink. Basic Rights Queensland provides advice and advocacy to people calling from anywhere in Queensland. Advice is provided to all people who contact the service, and representation in appeals processes is available in limited circumstances.

Legal Notices

Disclaimer

The Queensland Law Handbook is produced by Caxton Legal Centre with the assistance of volunteers with legal experience in Queensland. The Handbook is intended to give general information about the law in Queensland as at the date at the top of each page. The content of the Queensland Law Handbook does not constitute legal advice, and if you have a specific legal problem, you should consult a professional legal advisor.

External links

The Queensland Law Handbook provides links to a number of other websites which are not under the control of Caxton Legal Centre. These links have been provided for convenience only and may be subject to updates, revisions or other changes by the entities controlling or owning those sites. The inclusion of the link does not imply that Caxton Legal Centre endorses the content, the site owner or has any relationship with the site owner.

Limitation of liability

To the maximum extent permitted by law, Caxton Legal Centre and the contributors to the Queensland Law Handbook are not responsible for, and do not accept any liability for, any loss, damage or injury, financial or otherwise, suffered by any person acting or relying on information contained in or omitted from the Queensland Law Handbook.

Copyright

The content of this website is subject to copyright. You may use and reproduce the material published on this website provided you do not use it for a commercial purpose, the original meaning is retained and proper credit and a link to the Queensland Law Handbook website is provided. If the material is to be used for commercial purpose, permission from Caxton Legal Centre must be obtained.