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Social Security

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Overview

- Types of payments
- Centrelink debts
- The appeals process

Types of payments

- Currently 66 payments administered by Centrelink
- Categories:
 - Bereavement
 - Carers
 - Concessions or concession cards
 - Crisis or disaster
 - Farmers or small business
 - Jobseekers
 - Parent or guardian (families)
 - Partners or widows
 - Regional or remote
 - Renting
 - Seniors or retired
 - Students or trainees
 - Sick, injured or people with a disability
 - Payment advances

Age Pension

- Age:
 - Men – over 65
 - Women – over 65
 - Unless born before 1949 = sliding scale
- Centrelink debts
- The appeals process

Disability Support Pension

- 20 points of impairment
- Continuing inability to work
- Stabilised condition
- 2 years +
- '15 hour test'

Newstart allowance

- 21+
- Aust resident
- Unemployed
- Activity test

Youth allowance

- 15 year old's (independent)
- Activity agreements
 - Unless homeless/"Unable to live at home"
- Full-time students
- Others

Special benefit

- Not able to receive another payment
- Not subject to a breach
- Can't make a sufficient livelihood
- Aust residence

What can go wrong?

- Changes in circumstances
- Participation failures
- Centrelink debts

Participation failures

A participation failure may occur if a person:

- refuses to engage in or does not provide evidence of job search activities when requested;
- refuses a job interview, or does not attend a job interview without a reasonable excuse;
- does not carry out activities as set out in the Activity Agreement; or
- does not attend an appointment with Centrelink or a provider of Australian Government employment services.

Centrelink debts

- If a person obtains the benefit of a social security payment, and was not entitled for any reason to obtain that benefit, then the amount of that benefit is a debt due to the Commonwealth

When is a person 'not entitled'?

- the payment was made by mistake as a result of a computer or administrative error;
- the person for whose benefit the payment was intended to be made was not qualified to receive the payment;
- the payment was not payable;
- the payment was made as a result of contravention of a social security law, a false statement or misrepresentation;
- the payment was made in purported compliance with a direction or authority that had been revoked or withdrawn before the payment was made; or
- the payment was intended to be made for the benefit of someone else who died before the payment was made.

Debt recovery options

- if the person who owes the debt is receiving social security payments — deductions from those payments;
- in certain circumstances, deductions from another person's social security payment;
- repayment by instalments;
- legal proceedings; or
- garnishee notice.

Debt waiver

The following debts can be waived:

- debts arising from administrative error;
- debts relating to an offence;
- small debts;
- waiver in relation to a settlement;
- waiver on the basis of the debtor's partner's entitlement; and
- waiver in special circumstances.

Writing off debts

The Secretary may write off a debt only if:

- the debt is irrecoverable at law;
- the debtor has no capacity to repay the debt;
- Centrelink cannot ascertain the debtor's whereabouts, following all reasonable efforts to locate them;
- it is not cost effective for the Commonwealth to take debt recovery action.

Other options

- Negotiate
- Defer
- Bankruptcy
 - Note: doesn't apply to fraud

The review process

- Original decision maker
- Internal review (ARO)
- SSAT
- AAT → Federal Court
- Complaints

Internal review

- Conducted by an Authorised Review Officer ('ARO')
- May seek to contact the client
 - not required to do so.
- AROs are bound to follow Centrelink policy

Appeal to SSAT

- Lodge an application
- Centrelink forwards information within 28 days
- Gather information!
- Effect of any simultaneous prosecutions
- Hearings
 - Not bound by Centrelink policy, legal technicalities or rules of evidence
 - Informal hearings – round table, private
 - No costs
- Decisions
 - Effective from date of original decision (exc AA issues)
 - 28 days to appeal

A few practical tips

- Centrelink nomination forms
- FOI
- Negotiate
- Go back to the legislation
- Centrelink community teams