NATIONAL SOCIAL SECURITY RIGHTS NETWORK

4 August 2017

Committee Secretary
Senate Standing Committees on Community Affairs

By email: community.affairs.sen@aph.gov.au

Dear Committee Secretary

NSSRN submission in relation to the *Social Services Legislation Amendment (Payment Integrity) Bill 2017*

1. The National Social Security Rights Network (NSSRN) is a peak community organisation in the area of income support law, policy and administration. Our members are community legal centres across the country that provide free and independent legal assistance to current and former social security and family assistance recipients. The NWRN draws on this front line experience in developing its submissions and policy positions.

Overview

2. In summary, we make the following recommendations concerning the *Social Services Legislation Amendment (Payment Integrity) Bill 2017* ("the Bill"):

Schedule 1 (Enhanced residency requirements for pensioners)
Opposed

Schedule 2 (Stopping payment of pension supplement after six weeks overseas):
Opposed.

Schedule 3 (Taper rate for Part A of family tax benefit (Method 2)):
Not opposed, if the current pauses on indexation of the higher income free area and rates of family tax benefit are lifted

Schedule 4 (liquid assets waiting period):
Opposed.

3. We make submissions in support of these recommendations below.

Schedule 1 (Enhanced residency requirements for pensioners)

4. This schedule seeks to amend the *Social Security Act 1991* (Cth) from 1 July 2018 by amending the qualifying residence criteria for the Age Pension and the Disability Support Pension.

5. To be eligible for the Age Pension and the Disability Support Pension, a person must satisfy the qualifying residence requirement or be exempt. Currently, at the time of lodging their claim the person must have been:

- an Australian resident for at least 10 years continuously, or
- an Australian resident for a total of at least 10 years, with at least one continuous period of residence equal to or longer than 5 years.

6. There are limited exceptions to this requirement. The main exemptions are:

- for refugees or former refugees residing in Australia, or
- for the purpose of Disability Support Pension eligibility, if the person was an Australian resident at the time their inability to work or blindness occurred.

7. The schedule changes the qualifying residence requirements. If enacted, a person claiming the Age Pension or the Disability Support Pension must satisfy one of the following requirements:

- 10 years continuous Australian residence, with at least 5 years during their Australian working life (between age 16 and pension age), or
- 10 years continuous Australian residence, with more than 5 years in total not in receipt of an activity tested social security payment (Austudy, Newstart Allowance, Special Benefit or Youth Allowance), or
- 15 years continuous Australian residence.

8. It does not change existing exemptions. It will not apply to existing recipients of the Age Pension or Disability Support Pension or recipients who have received these payments before 1 July 2018.

9. The Government argues that this will “strengthen the residence connection required for eligibility to ensure that people have established a significant connection with Australia during their working life or are self-sufficient for a reasonable period of time before qualifying for the AP or DSP”.[1]

10. The NSSRN opposes this measure.

11. The measure realises savings by delaying some people’s access to the Age Pension or Disability Support Pension, with some people unable to access income support or only able to access a payment paid at a significantly lower rate of payment.

12. Residence is a fundamental principle of the Australian social security system. A number of criteria in social security legislation give effect to the principle that access to income support should be restricted to people with a sufficiently close connection to Australia. However, as residence rules may operate to bar a person from accessing a basic level of income, this principle is balanced against a second principle, the imperative to provide a basic minimum level of support for people who are unable to support themselves.

13. For many older migrants, the proposed change may result in significant financial hardship. Once a person reaches pension age, they are ineligible for Newstart Allowance and can no longer make a proper claim for the Disability Support Pension. Extending qualifying residence periods may mean more older Australians end up for extended periods on Special Benefit. Special Benefit is a last resort, discretionary payment intended for people who are ineligible for another payment, generally only for short periods. Although paid at the same basic rate as Newstart Allowance, it is often paid at a lower rate because it is subject to a much harsher means test, including a dollar for dollar deduction for any dollar of income from any source. It is inappropriate for any Australian to end up

[1] Explanatory memorandum.

on this payment for an extended period of time, let alone an older person with significant health problems who is unable to work.

13. The Government has not provided an adequate explanation why the current requirements, which require a substantial period of Australian residence, are insufficient or why it believes that the hardship this schedule will cause to some older Australians is outweighed by the need for a “stronger” residence requirement.

14. Further, this schedule does far more than simply strengthen a residence requirement. It introduces what the Government calls a “self-sufficiency test” which may delay access to income support to people merely because they have relied on an activity tested social security payment in the past.

15. This rule may penalise a person simply because they have the misfortune to lose their job and have trouble finding new one and therefore have to rely on Newstart Allowance. This is unfair, especially as pension residence rules mainly affect older migrants to Australia who face multiple barriers in the labour market.

16. It also establishes a very concerning precedent by making a person’s history of income support relevant to their current eligibility for income support. This is unprecedented in Australian social security law, and an unacceptable departure from its most basic principle of support for those in need.

Schedule 2 (Stopping payment of pension supplement after six weeks overseas)

17. This schedule stops payment of the pension supplement basic amount after six weeks overseas, or immediately if a person departs Australia permanently. This affects recipients of Age Pension, Disability Support Pension and certain recipients of Wife and Widow B Pensions.

18. Currently, the pension supplement continues at the same rate for the first six weeks after a pensioner departs Australia temporarily. After six weeks it reduces to the basic amount or immediately if the person departs Australia permanently.

19. The pension supplement was introduced in 2009 as part of the pension reform package, and combined telephone, utilities and pharmaceutical allowances and goods and services tax (GST) supplement. The basic amount represents the former GST supplement.

20. The NSSRN opposes this measure. Our system has always recognised that pensioners have a right to choose their permanent place of residence on retirement. This cut undermines that principle. A preferable reform would be to roll the current pension supplement into the basic rate of pension as a one-off increase, leaving it then to be subject to the normal indexation and portability rules to which the basic amount of pension is subject.

21. If enacted, the schedule should be amended so as to protect pensioners already overseas before it comes into force, in accordance with the ordinary approach to portability changes in social security legislation.

Schedule 3 (Taper rate for Part A of family tax benefit (Method 2))

22. This schedule seeks to align the income test taper rates applicable to family income over the higher income free area for the purpose of determining a person's rate of Family Tax Benefit Part A from 1 July 2018.

23. The income test for Family Tax Benefit Part A is complex. Under Method 1, the person's maximum rate of Family Tax Benefit Part A is reduced by 20 cents for each dollar over the lower income free area, currently set at $51,903 (annual adjusted taxable income). However, under this test, the person's rate of payment cannot fall below the base rate of payment.

24. Under Method 2, the person's starting rate of payment is the base rate of payment and it is reduced by 30 cents in the dollar for every dollar over the higher income free area, currently set at $94,316. However, in most cases, a person's rate of payment under Method 2 (which may be nil) must then be compared to their rate determined by Method 1, with the test which gives the higher rate of payment applied.

25. This schedule alters Method 1, so that the taper rate rises from 20 cents in the dollar to 30 cents in the dollar once income exceeds the higher income free area.

26. The NSSRN does not oppose this change, but only on condition that the current freezes on basic rates of payment and the higher income free area are reverse, so that normal indexation resumes.

27. A majority of families with incomes over the higher income free area are likely to be unaffected, as their rate would normally be worked out under Method 2. This measure is likely to mainly affect larger families with three or more children and incomes over the higher income free area, and over about $100,000. Larger families are more likely to have Method 1 applied, as their maximum basic rate is higher (as it is a per child rate).

28. Thus, although the proposed changed would affect families with higher household incomes, those incomes are generally supporting three or more children. These families have already experienced the loss of additional support for large families through the cessation of the large family supplement. In our view, therefore, this change should only proceed if the current pauses on family tax benefit rates and income thresholds are lifted to prevent further reduction in support to all families, including families over the higher income free area.

29. Spending on the family tax benefit program is projected to fall in real terms in coming years. This partly reflects a decade of significant cuts to the program, including the decision of the previous Labour government to link the indexation of FTB to prices, not earnings. Instead of further cuts, the program needs reform aimed at ensuring the adequacy of payments to low income families, 44% of whom also received an income support payment as at June 2016. This is a core measure for the prevention of child poverty. There is also a case for simplifying the program and reducing distortions in the income test, including because of a range of recent changes such as: closing energy supplement to new recipients, a complex part B rate structure for couples depending on whether they are parents or grandparent carers and the $80,000 cut out point for the part A supplement.

Schedule 4 (liquid assets waiting period)

30. This schedule lengthens the maximum liquid assets waiting period to 26 weeks from 20 September 2018.

31. Currently the liquid assets waiting period is between 1 and 13 weeks. It applies if you have cash or other readily available funds equal to or more than:

- $5500, if single with no children, or
- $1100, if in a couple or single with children.

32. This waiting period is applicable to new claims for Newstart Allowance, Sickness Allowance, Youth Allowance and Austudy.

33. The waiting period's length increases by one week for every $500 over the threshold for singles without children, and one week for every $1000 over the threshold if in a couple or single with children. However, the maximum waiting period is capped at 13 weeks. The result is that the maximum waiting period of 13 weeks applies if you have cash or other readily available funds equal to or more than:

- $11500, if single with on children, or
- $23,000, if a couple or single with children.

34. The period generally runs from the day you stop work or start studying, which means it can be "self-served" if a person claims after it has already expired. There are a small number of exemptions from this waiting period (eg if the claimant or their partner have been subject to a liquid assets waiting period in the past year). It can also be waived (ie shortened) if a claimant is in severe financial hardship as a result of unavoidable or reasonable expenditure.

35. From 20 September 2018, the Government proposes to increase the maximum length of the liquid assets waiting period to 26 weeks. There is no change to the current thresholds. This means that the measure affects new claimants with savings over the current thresholds at which the maximum waiting period applies ($11,500 for single and $23,000 for couples and singles with children). These claimants will face a waiting period between 1 and 13 weeks longer before they can access income support. The new maximum waiting period of 26 weeks will apply from $18,000 (singles), or $36,000 (couples or singles with children).

36. The NSSRN opposes this measure.

37. The purpose of the liquid assets waiting period is to ensure that people with savings support themselves for a period before accessing the main benefits for the unemployed and students. However it has a number of negative features as an approach to targeting assistance.

38. First, the liquid assets waiting period applies at relatively low levels of savings ($18,000 for singles). Claimants who are affected by it may deplete or exhaust their savings, or go into debt or rent arrears, before being able to access income support. This undermines a person's financial stability because it puts them in a position where they may be unable to meet an unanticipated substantial one-off expense (eg car repairs) or ride out a period of unemployment without major disruption to their lives (eg moving house). It can therefore compound the effect of insecure employment for people without job security, or with irregular or unstable working hours, who are more likely to access income support. The greatest impact tends to be on more vulnerable people with less capacity to access additional support when needed.

39. The insecurity of having little or no savings can in turn lead to disruption (homelessness or having to move to a new area) and stress. About 12% of respondents to the 2014 HILDA survey said that they did not have $500 to meet an emergency expense. This, and other measures of material deprivation in that survey, correlated strongly and unsurprisingly with higher financial stress and lower subjective wellbeing.

40. In our experience, the negative impact of the liquid assets waiting period is being compounded by the failure to reform the test for its waiver. A liquid assets waiting period may be waived if someone is in severe financial hardship, but only if they have depleted their savings through unavoidable or reasonable expenditure. Although this may sound like a reasonable test, in practice it is not. The main reason is that under the current law any weekly expenditure above the poverty level newstart allowance is deemed to be unreasonable. In effect, most of an ordinary person's normal expenses are deemed to be unreasonable. This measure does not include a proposal to reform this test, which also affects people who are made redundant.

41. It is also important to note that most people subject to a liquid assets waiting period must also wait an additional one week before accessing income support. This "ordinary waiting period" applies in addition to the liquid assets waiting period. From 1 July 2017, the requirements for waiver of the ordinary waiting period will be significantly tightened. In our view, the result will be that most people will have to serve this additional week as well even if they are in severe financial hardship.

42. A further problem with the liquid assets waiting period is that it can led to arbitrary and inequitable differences in the treatment of claimants as a result of small differences in their level of savings. This was one reason given by the Henry Tax Review for the abolition of the liquid assets waiting period as part of a move to a comprehensive means test.

43. Rather than extend the liquid assets waiting period, the Government should be progressing in the direction outlined by the Henry Tax Review.

44. Removal of the liquid assets waiting period would also help simplify and streamline the system, stated aims of the current Minister for Social Services. Its removal from youth allowance would further align the means testing arrangements between youth and family assistance payments and streamline the transition between the two payments, a key area of complexity in the current system. It would also remove a waiting period which penalises savings and therefore tends to undercut other means testing arrangements for youth payments designed to support students to engage in part-time or fluctuating work around their studies.

45. More broadly, it is time to reconsider the way the social security system supports people who experience insecure employment, so that it promotes rather than undermines financial stability. Reform of social security waiting periods is an important part of this.

Contact for this submission

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