

**SENATE STANDING COMMITTEE ON
COMMUNITY AFFAIRS**

LEGISLATION COMMITTEE

**Inquiry Schedule 2 of the Families, Housing,
Community Services and Indigenous Affairs
and Other Legislation Amendment (Budget and
Other Measures) Bill 2010 (Changes to
Disability Support Pension)**

**SUPPLEMENTARY
SUBMISSION**

SUBMISSION NUMBER: 3

SUBMITTER: Brett Mathews

FaCHSIA's argues that the introduction of this bill will save the taxpayers money. They argue that those affected have no problems with re-adjustment and they have not looked at any negatives nor any breach of the Charter for the disabled. As I point out below:

Ms Stawyskyj—As we have said in the submission, it would therefore also align it to other payments of what we call the working-age category.

Why is that the category Disability pension will sit in?

My condition is genetic. My situation WILL NOT improve. In fact, it will get worse. I can see no employment future for myself but with that the government would like to categorize me with the unemployed, possibly the long term unemployed therefore labeling me in a group that I have never been in nor would ever intend to be in. Pensions are for people who cannot work.

Allowances on the other hand appear to be what employable people receive. Don't mix the two.

Mr Moufarrige—You are still entitled to the 13-week portability period and you could perhaps go overseas for 13 weeks, come back to Australia, perhaps go overseas again, but at some point your assessment of where you are actually residing would be made by Centrelink. Under section 7 of the Social Security Act there is a residency test which takes into account a number of factors such as employment, where you are residing, your frequency overseas, ties to Australia or overseas and any other relevant factor and an assessment is eventually done on a person's residency through that.

Centrelink legislation is not clear on exactly what is residence and I am sure it varies between government departments.

The final point in the act is the interesting one, as it is about as vague as possible:

- *Or any other matter deemed relevant to determining whether the person intends to remain permanently in Australia.*

So it states that centrelink does not even need to give reason in why it makes its decision on an individuals residence possibly in breach of the UN charter for the rights of the disabled.

The United Nations Convention of the Rights of Persons with Disabilities, signed by Australia on 30th of March 2007, and ratified by the Australian Parliament on 17th of July 2008:

"Article 18

Liberty of movement and nationality

- 1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others.."***

Ms Stawyskyj—Yes, we have provided some advice around a range of ways of dealing with cancellation and other matters.

Centrelink have neither contacted me by phone nor by mail, nor has the minister only a few from the department (Ms Stawyskyj herself and she only provided vague references to the original March press release). I have contacted them all requesting further information to no avail. None of my questions have been answered nor how the government can assist in the changes that I will have to face should this bill pass.

Senator BOYCE—Out of roughly 100,000 people or 85,000 people, 39 went overseas for more than 13 weeks?

Mr Moufarrige—Yes.

Of that number, I am one. I traveled legally and within legislation. I have been doing so for 6 years. My life has dignity and as I now have two children my life also has meaning. If the government takes away my right to travel I will lose my children, I cannot care for them by myself, although I have applied for their mother to migrate to Australia (as of last week) I doubt the visa will be granted as I just do not have enough money nor will I ever be able to get a job. The government will unjustly punish me and my children for creating a family within the legislation.

Ms Stawyskyj—The issue would not be that you would be making it for 39 people. The issue would be that the group that may be classified as severely disabled could be a lot greater than the number that is currently going overseas. People who may be severely disabled may be severely disabled for a short period of time and may have some capacity for participation and can, therefore, be assisted and perhaps have some access to work. The issue is, of course, if you grant unlimited portability to a group of people that may include a very broad category of people, it may be difficult for us to continue to monitor their improvement or whether or not they are still eligible for disability payments and/or for extended portability. One of the reasons for the 2004 changes was that there was a growing number of people who were perhaps coming into those categories and the government was looking to assist them into work at that stage.

I am not getting any better. Neither are many, there perhaps should be different categories for people that may improve and people that will not. I believe Centrelink already has legislation in place where it can make recipients undergo medical tests every two years.

Senator BOYCE—An argument was put by a number of witnesses that this \$3 million saving that you are talking about here from these 150 fly-in, fly-out pensioners—for want of a better word—does not take into account the carer's payment, care allowance, rent assistance, medical costs et cetera. Certainly not all those costs are FaHCSIA borne costs but they are nevertheless costs across society. What compensations did you allow for the fact that they are not being paid for the 46 or so weeks that these people are not in Australia?

I get the base rate of DSP. If I was in Australia I would get these. I currently do not (or didn't) get:

- **Rent assistance**
- **Pharmaceutical allowance**
- **Phone allowance (I do upkeep an Australian phone line in my name)**
- **Family tax benefit (child payments)**
- **Baby Bonus**
- **PBS**
- **Medicare**

These amounts would more than double my entitlements (either directly or indirectly) given medical needs for myself. Not to mention what my children would cost the taxpayers. I choose to return to Australia for only a few days in-between 13 weeks out . Increasing (the length of) portability will save the taxpayers more than this unnecessary bill.

Mr Moufarrige—Yes, and it is a common perception that if a person living overseas on a disability they save the Australian taxpayer money in terms of medical costs. We found that if a DSP recipient were given unlimited portability their access to Australian pharmaceutical benefits, the PBS and the MBS, was substantially reduced. However, if they were only leaving Australia under portability provisions—that is the 13-week arrangement—there was no real change in their usage patterns.

So you have answered it for yourselves. If you want to save the taxpayer money, look at longer or even unlimited portability.

Ms Stawyskyj—Yes. Perhaps if I could just add in relation to the costs, if we allow people to permanently take that disability support pension overseas, whilst they may not be getting a lot of their add-ons it is also almost impossible then to determine if their condition changes or alters. They may improve. As we said, the current definition states two years and that a person cannot work for more than eight hours. That may be due to a range of factors that are not necessarily—

Not all of us will improve, but the legislation is still there to conduct medicals every 2 years.

CHAIR—I have got some quite specific questions from previous witnesses. The first witness asked whether you had sought any legal advice on human rights processes in bringing in this legislation.

Ms Stawyskyj—No.

Mr Moufarrige—No.

CHAIR—Had the issue of breaching of human rights law on the rights of people with disabilities been raised at all in the discussions about this legislation?

Ms Stawyskyj—No.

Mr Moufarrige—No.

Perhaps you should. There will be appeals on decisions.