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20 June 2011

The Secretary  
Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Secretary

**Re: Inquiry into Schedule 4 of the Families, Housing,  
Community Services and Indigenous Affairs and Other  
Legislation Amendment (Further Election Commitments  
and Other Measure) Bill 2011**

The National Welfare Rights Network (NWRN) welcomes the opportunity to provide a submission to the Senate Standing Committee on Economics in relation to the above Bill. Owing to time constraints our submission will necessarily be brief.

The NWRN supports the proposal that payers of compensation, such as insurance companies, be required to notify Centrelink of proposed payments of compensation. Our submission is based on the experience of many of our clients who would have benefited by information being directly provided to Centrelink. In many cases they would not have incurred a significant debt. In others, Centrelink's awareness of a person's receipt of compensation would allow for intervention (for example with a social worker) which would help that person plan how to manage their funds for the duration of their compensation preclusion period. It is our experience that many people do not properly understand the impact of a lump sum compensation payment on their ability to receive social security payments. It

The NWRN is a network of services throughout Australia that provide free and independent information, advice and representation to individuals about Social Security law and its administration through Centrelink. For member details, services and information visit:  
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is also our hope that this new requirement will also result in more prompts to alert a person to the social security implications of compensation payments – at either the point of contact with Centrelink or at the time the person is receiving advice from their solicitor.

It is critical, of course, that the people who receive such compensation be aware and consent to the provision of information directly to Centrelink. In addition there also needs to be a general public education campaign to alert people of the need to provide Centrelink of early notice with respect to pending lump sum compensation payments.

The following submission contains information about the NWRN, a snapshot of reasons to support the Bill and a real but de-identified case study to outline the current problems for our clients.

### **About the National Welfare Rights Network**

The National Welfare Rights Network (NWRN) is an incorporated national peak body representing Welfare Rights Centres throughout Australia. NWRN members are specialists in Social Security law and policy and its administration by Centrelink and provide direct advice, assistance and representation to clients on a daily basis facing Social Security and Centrelink related problems. The NWRN draws on this daily casework experience to analyse systemic problems and trends, legislation and service delivery issues and raises these with Centrelink, relevant Government Departments and Ministers in order to achieve reform and a better system for all.

Based on the experience of clients of NWRN members, the Network also undertakes research and analysis, develops policies and position papers, advocates for reforms to law, policy and administrative practice and participates in campaigns consistent with its aim to reduce poverty, hardship and inequality in Australia and to build a fair, inclusive and sustainable Australia underpinned by a comprehensive, rights based Social Security safety net for all.

The NWRN advocates that the Social Security system in Australia should be characterised by an uncompromising recognition of the following rights:

- the right of all people in need to an adequate level of income support which is protected by law;
- the right of people to be treated with respect and dignity by Centrelink and those administering the Social Security system;
- the right to accessible information about Social Security rights and entitlements, obligations and responsibilities;
- the right to receive prompt and appropriate service and Social Security payments without delay;
- the right to a free, independent, informal, efficient and fair appeal system;
- right to an independent complaints system;
- the right to independent advice and representation; and
- the right to natural justice and procedural fairness.

The NWRN supports the passage of Schedule 4 as an important measure in reducing instances of debts arising from compensation payments and in helping people properly understand the impact of a lump sum compensation payment on their ability to receive social security payments and planning how to ensure that those funds are sustained until the expiration of their compensation preclusion period.

### **Notice of payments of recompense for personal injuries**

The Bill introduces a requirement for payers of compensation such as insurance companies to notify Centrelink of proposed payments of compensation. Centrelink will then use this information to determine the social security entitlements of the compensation recipient or their partner.

A significant portion of the casework of the NWRN's Member Centres is to assist people who are not able to receive payments from Centrelink because of a current compensation preclusion period. They have received a large sum of compensation which includes a component for economic loss. Usually at the point that they make contact with a welfare advocate, the funds are gone. Our solicitors and caseworkers assist those people with "special circumstances" in setting their case before Centrelink or the relevant Tribunal on appeal.

These clients often have long-standing mental health problems, poor decision making abilities which are sometimes the result of their injuries, and a range of individual circumstances. These factors collectively, with hindsight, make the award of a lump sum compensation for which they were supposed to budget to support themselves for a lengthy period of time, a recipe for disaster.

### **Case Study**

In 2010 the Welfare Rights Centre located was referred a case of a woman of Age Pension age whose claim had been rejected. Centrelink had previously determined that her Age Pension was not payable because she had received a lump sum payment of compensation and there was a preclusion period in place until November 2011. The lump sum payments totalling \$310,000 were used, in part, to pay out her credit cards and mortgage and to renovate her home to accommodate her disability. However, by and large, they were used to support her son who had a long history of drug dependence and alcohol abuse. The client did not recall being advised as to the impact of receipt of compensation on her ability to receive payments from Centrelink.

The Centre assisted the mother and son in obtaining medical reports in relation to their health including in relation to the son's substance addiction. The Centre represented the client, who was accompanied by her son, before the Social Security Appeals Tribunal. The Tribunal accepted that the client had placed herself in significant hardship by expending her money supporting her son, keeping him

safe and supporting his efforts to become drug free. The Tribunal agreed that these circumstances could be said to be exceptional that part of the lump sum compensation payment was to be disregarded, which resulted in the preclusion period ending in September 2010.

Welfare Rights Centres regularly see clients who have not properly understood the impact of their receipt of a lump sum compensation payment on their ability to receive social security payments.

It is true that some people, owing to their injury, have poor capacity to understand this advice, However, but many times their recollection is simply that their solicitor did not advise them in relation to this.

When examining what the money was spent on, it is common for a person to have expended funds on, for example a gambling or substance abuse problem.

Clients with poor decision making abilities or poor judgment can spend the money in a manner which does not benefit them financially in any way, for example, renovating their Department of Housing premises, or loaning the money to “friends”.

In summary, the NWRN is supportive of the proposed change because:

- of the likely decrease in instances of past-period debts as a result of the receipt of compensation;
- of the increased likelihood that a person receiving compensation may ask their legal professional for further information about the issue of compensation and its impact on Centrelink payment or that those legal professionals assisting people in claiming compensation will turn their mind to this issue.
- of the likely ability of Centrelink to provide accurate advice to someone about their compensation preclusion period before its expiration;
- of the ability for Centrelink social workers to refer a person to receive help in planning how to ensure that their compensation

funds are not exhausted prior to their compensation preclusion period's end;

- of the capacity for Centrelink to contact a person directly and inform them of the instance of a compensation preclusion period.

Yours sincerely

Maree O'Halloran AM  
President  
National Welfare Rights Network