

Department of Education, Employment and Workplace Relations

Submission to the Senate Community Affairs Reference Committee Inquiry on *Commonwealth's contribution to former forced adoption policies and practices*

Background

On 15 November 2010, the Senate referred the following matters to the Community Affairs Reference Committee (the Committee) for inquiry and report by 30 June 2011:

- a) the role, if any, of the Commonwealth Government, its policies and practices in contributing to forced adoptions; and
- b) the potential role of the Commonwealth in developing a national framework to assist states and territories to address the consequences for the mothers, their families and children who were subject to forced adoption policies.

The Committee has asked the Department of Education, Employment and Workplace Relations (DEEWR) to provide information on income support payments available to parents from the 1940s to 1970s.

Introduction

This submission provides an historical account of Commonwealth social security payments available to mothers and their children from 1901 to 1980.

This is characterised by three distinct periods:

- Between 1901-1942, Commonwealth financial support to sole parents was minimal and limited to family payments.
- Between 1942-1972, Commonwealth financial support was provided for some sole parents with the introduction of Widows' Pension, an income support payment. However, this additional financial support did not extend to unmarried single parents.
- Between 1973-1980, the establishment of Supporting Mother's Benefits (and later Supporting Parent's Benefit) extended equal access to income support to all sole parents.

This submission describes the evolving structure of family payments and income support payments for sole parents until the 1970s.

This may have impacted on the choices available to single mothers. However, it is not simple to attribute choices made by single mothers to Commonwealth social security policy, as both the choices of single mothers and social security policy would have been influenced by the social attitudes of the times.

1901 to 1942 – A Developing Safety Net

From 1901 to 1942, assistance for women and their children through Commonwealth social security was very limited in its coverage. Income support payments were available only to the aged and people with disability, and also imposed a character test where pensioners were expected to be of "good character and deserving of a pension". While no formal definition of character was attempted, a clause in an early version of the draft legislation requiring the applicant to have led a 'temperate and reputable life' was removed. This meant family payments were the only form of Commonwealth social security assistance available for most parents.

Unlike income support payments, family payments established during this timeframe (Maternity Allowance in 1912 and Child Endowment in 1941) were universal in design and did not impose character tests. However, given the purpose, rate and structure of these family payments, they were not intended to support both a mother and her children. In this period, Aboriginal Australians and non-citizens who were not British subjects (referred to by legislation as 'aliens') were, for the most part, formally excluded from access to Commonwealth social security assistance.

The first form of Commonwealth social security available to women (and in particular for their children) was the Maternity Allowance (MA) introduced in October 1912 under the Fisher Government. MA was a one-off, lump sum, non-means tested payment for all mothers of newborn children. This family payment was designed as an anti-poverty measure to avoid the stigmatisation effect of women receiving charity. MA was later means tested and expanded to subsequent children maintained by the mother. Unlike most payments for women and their children prior to 1973, MA was a universal payment that did not restrict eligibility to women with ex-nuptial children or impose any other character test.

Support through Commonwealth family payments expanded further with the introduction of the Child Endowment (CE) by the Menzies Government in July 1941. CE was introduced as a special supplement to wages amid concern over the ability of a basic wage to support a family of four or more children, and in recognition of the direct costs of maintaining children. CE was a graduated payment according to family size, provided to all parents (like MA no character test was applied) as a non-taxable weekly payment. Up until 1950, CE was not available for first child maintained by a mother under the age of 16 years.

During this period, assistance for women without partners was provided by the states or by other means such as family and charity until 1942. However, state assistance was not comprehensive, nor uniform between the states.

1942-1972 – Exclusive Coverage

In June 1942, Widows' Pension was introduced by the Curtin Government following the 1941 Joint Parliamentary Committee Report on Social Security established by the Menzies Government. The report found many widowed women with dependent children were forced to go out and work in order to provide for their children and prevent destitution. The Committee deemed this an undesirable situation in need of immediate action by the Commonwealth.

Widows' Pension Class A was available to widows maintaining at least one dependent child under the age of 16 years. Claimants were required to be a resident in Australia and have resided in Australia continuously for at least five years immediately prior to their application. Widows' Pension Class A was a means tested payment, with the initial rate of payment set to cater for the maintenance of one child. The payment rate for Widows' Pension Class A included an amount equivalent to the Child Allowance. From October 1942, Widows' Pension was exempt from income tax (until 1976).

The introduction of Widows' Pension meant that for the first time, many sole parents, primarily widows, were able to access income support. However, other sole parents were deliberately excluded from accessing Widows' Pension. These included: unmarried mothers, deserted de facto wives, de facto wives of husbands in prison and wives who had left their husbands. The division between sole parents who were eligible for Commonwealth income support, and those who weren't, remained largely unchanged until 1972.

Many sole parents were excluded from receiving Widows' Pension in three ways: by the definition of 'widow', the application of a character test and general eligibility requirements.

While the definition of 'widow' did not cover unmarried mothers, was broad and included:

- women who had lost a spouse due to the death of a legally married husband
- de facto widows who had cohabited on a bona fide domestic basis for at least 3 years
- wives who had been deserted for a period of at least six months
- divorced women who were not remarried, and
- women with husbands in psychiatric institutions.

Deserted wives and divorcees were only eligible on the basis they had taken "reasonable action" to obtain child maintenance.

The specific imposition of a character test required Widows' Pensioners to be of "good character and deserving of a pension", consistent with previous legislation for the Old-Age and Invalid Pensions.

Aboriginal Australians and non-citizens who were not British subjects were also generally excluded from Widows' Pension. In 1960, the restriction on Aboriginal Australians accessing Commonwealth social security (including Widows' Pension and family payments) was repealed, unless they were 'nomadic or primitive'. In 1966, the restrictions on Aboriginal Australians who were 'nomadic or primitive' and non-citizens accessing Widows' Pension (and family payments) were also repealed.

With the commencement of the *Unemployment and Sickness Benefit Act* in July 1945, sole parents aged 16 to 60, who were ineligible for Widows' Pension Class A, could claim the non-taxable and means tested Unemployment Benefit. Unmarried mothers over 21 years on Unemployment Benefit were paid at the same rate as Widows' Pensioners. Claimants needed to reside in Australia for at least 12 months prior to their date of application, and show they were capable of undertaking work, were willing to undertake suitable work and had obtained reasonable steps to obtain such work. There was no character test for Unemployment Benefit. However, this was a period when support for women seeking employment was more limited than is currently the case.

Introduced in the same legislation, Special Benefit was also available to unmarried mothers at the discretion of the Director-General of Social Services to be paid at a rate deemed appropriate by the Director-General (but not to exceed the rate of Unemployment Benefit).

Throughout the 1950s and 1960s, the level of assistance provided to women eligible for Widows' Pension expanded, increasing the disparity between eligible and ineligible mothers. Widows were granted additional allowances, including Mothers Allowance, Child Allowance and/or an additional pension for children (if the widow was disabled). Child Allowance (already incorporated into the Widows' Pension A payment rate) was payable from October 1963 to the first child of a widow pensioner under 16 years. Additional Pension for Children was granted to Widows' Pension recipients in October 1956. This was payable only to mothers with more than one child until September 1968 when Child Allowance was abolished and substituted with Additional Pension for Children.

In addition, Widows' Pensioners had access to a range of supplementary benefits incorporating access to free health care and pharmaceuticals under the Pensioner Medical Service, rent assistance (if wholly dependent on a pension for income), telephone rental concessions, funeral benefit and training assistance.

Under the Gorton Government, the Commonwealth also allocated grants to the states under the *States Grants (Deserted Wives) Act 1968* to partially fund financial assistance for deserted wives, who were ineligible for Widows' Pension as they had been deserted for less than six months.

1973-1980 – Assistance Extended to Unmarried Parents

In July 1973, the Whitlam Government established the Supporting Mother's Benefit. This extended Commonwealth income support to single mothers who had been excluded from accessing the Widows' Pension. While payable to sole parents in the 'sole custody, care and control' of one or more children, unmarried mothers could only qualify if the child was their biological child. As with Widows' Pension, recipients were required to undertake "reasonable action" to obtain child maintenance, to maintain eligibility. Eligibility was extended in December 1983 to unmarried parents who had obtained legal custody of a qualifying child.

Supporting Mother's Benefit, paid fortnightly, had the same payment rate, supplementary allowances, means test applied to income and assets¹, non-taxable status and residency requirements as Widows' Pension Class A. However, it was not a "full pension" as recipients were ineligible to receive health care concessions available to other pensioners. Furthermore, assistance was restricted by a six month qualifying period. Within Supporting Mother's Benefit, married mothers were required to reside in Australia on the date of claim, while unmarried mothers also had to be a resident at the time of their child's birth. Ineligible women were able to apply for the 'unmarried rate' of Special Benefit, or forced to rely on Commonwealth funded state aid or assistance from other sources. The character test for pensions, including Widows' Pension, was repealed in November 1974.

In October 1976, the Fraser Government legislated indexation for pensions and benefits (including Supporting Mother's Benefit and Widows' Pension Class A), in May and November each year, in line with the Consumer Price Index. The first indexation payment increase occurred in May 1977. Prior to this, pensions and benefits had been increased ad-hoc. This indexation method for pensions and benefits was changed in October 1978 to provide an annual increase in each November in line with the CPI. The first and only increase under this legislation took place in November 1979, after which indexation arrangements reverted to the original 1976 legislation.

At the same time a merged means test was introduced for Widows' Pension and Supporting Mother's Benefit. This had the effect of removing the value of property (but not derived income from property) in calculating the rate of benefit payable. Supporting Parent's Benefit replaced Supporting Mother's Benefit, in November 1977, extending the payment to single fathers. Assistance was still restricted by the six month qualification period.

In October 1979, pensioner health concessions were extended to Supporting Parent's Benefit. This meant the payment was a 'full pension', increasing its alignment with Widows' Pension Class A.

Full equalisation in access to Commonwealth social security for sole parents (ineligible for Widows' Pension Class A) occurred in November 1980, when the six month qualification period for Supporting Parent's Benefit was removed, along with the repeal of the *States Grants (Deserted Wives) Act 1968*.

This period also saw increases to family payments with a focus on alleviating child poverty. A Handicapped Child's Allowance was introduced in December 1974 for parents with a 'severely' disabled child under the age of 16. This allowance was payable to all parents eligible for Child Endowment. In 1976, under new family payment arrangements implemented by the Fraser Government, Child Endowment was replaced with Family Allowance and family payments for all dependent children were substantially increased. This was partly offset with the abolition of income tax concessions for Widows' Pension and Supporting Mother's Benefit in 1976, and Maternity Allowance in 1978. Supplementary allowances and benefits remained non-taxable after 1976.

¹ Income above the free area was subject to a 50 per cent taper and 10 per cent of the value of property above the stated threshold was added as income for the purposes of calculating the benefit payable. The taper was higher for recipients with a property value above a certain threshold. The income free area for Widows' Pension (and Supporting Mother's Benefit) recipients with a child under 6 years was higher due to an increase in Mother's Allowance in 1969.