



**Mental Health Commission**  
of New South Wales

Committee Secretary  
Senate Standing Committees on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

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Dear Secretary

**Re: Social Services Legislation Amendment Bill 2015**

I am writing in regard to the Senate Standing Committee on Community Affairs inquiry in relation to the Social Services Legislation Amendment Bill 2015.

This Bill contains provisions which would prevent individuals who have been found not guilty by reason of mental illness or unfit to stand trial of a 'serious offence' accessing Commonwealth benefits while receiving treatment within a secure facility.

The suggested amendments will affect at the current time approximately 300 individuals within NSW. While this may seem like a small number, this group represents some of the most marginalised and disadvantaged members of our community and access to Commonwealth benefits provides important support in their recovery journey.

The NSW forensic mental health system currently provides a carefully staged approach to support an individual's recovery both in terms of their mental illness, but most importantly in terms of their broader ability to interact and engage with their community. This includes, for example, progress through a number of stages of leave up to and including overnight leave from secure facilities where individuals can begin to re-adjust to living in the community prior to being formally released from the facility. It is common that during these stages of leave an individual will begin to participate in educational and vocational activities (including meeting the related costs), as well as needing to more generally support themselves financially as required during their time outside of the facility (up to and including renting a home for the purpose of overnight leave).

The loss of access to Commonwealth benefits, would severely jeopardise the ability of individuals to engage in these activities given it is frequently their only source of income. This will hinder their recovery and ultimately delay their release, presenting real risks of institutionalisation and the consequential impact of increasing the level of resources required to support them to live in the community in the longer-term.

The loss of access to Commonwealth benefits would also inhibit an individual's release to the community due to an inability to secure housing. Access to stable accommodation is a pre-requisite for an individual's release from a facility. Whether this is through private rental or public housing, a common requirement in applying for housing is demonstrating the ability to be able to pay the rent – both in terms of income stream and a relevant history of being able to manage finances appropriately. If an individual is unable to apply for Commonwealth benefits until they are released from the facility they will not be able to meet either of these requirements as they will not have evidence of an income, nor will they be able to demonstrate successful management of their finances (which is currently commonly demonstrated through their payment of hospital related fees from their Disability Support Pension or similar).

This will place these individuals in an untenable chicken and egg dilemma where they do not have the means to secure housing until they are released from a facility and are unable to be released until they have secured housing.

In view of the real detrimental impact of the proposed legislative changes on the lives of people found not guilty by reason of mental illness or unfit to stand trial, I urge that these amendments be reconsidered. The removal of Commonwealth benefits for this group is stigmatising and undermines the dignity of these individuals in pursuing their recovery.

I note that the Commission has had the benefit of seeing the submissions made by the President of the NSW Mental Health Review Tribunal and by Forensicare in Victoria, and agrees with the substance of those submissions.

If you have any queries in relation to the issues raised in this submission please do not hesitate to contact me

Yours sincerely

John Feneley  
**Commissioner**

12 May 2015