

Senate Community Affairs Legislation Committee

BUDGET ESTIMATES - 4 JUNE 2013 ANSWER TO QUESTION ON NOTICE

Human Services Portfolio

Topic: Income Support Payments - Discretion

Question reference number: HS 19

Senator: Fifield

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Question:

Senator FIFIELD: I wanted to ask about the secretary's discretion. How often does the secretary of DHS or the secretary of FaHCSIA exercise discretion in relation to payments?

Ms Campbell: I will see whether we can get something. With respect to payments it is generally the delegation of the secretary of the department of families.

Senator FIFIELD: I assume the Department of Human Services would know how often that happens because it would be Human Services who are making the payments.

Ms Campbell: Generally an officer within the department will exercise the delegation that has been provided by the secretary of FaHCSIA.

Mr Sandison: I might clarify that in general we make decision across a range of areas under delegation through the various pieces of legislation that we have. They are through FaHCSIA and the FaHCSIA secretary. In terms of using that discretion or decision making power we follow the legislation. There is a guide to the act that provides that interpretive area and then we have our advice that we have available through the intranet to our staff for consistency.

Senator FIFIELD: I guess I am meaning discretion exercised beyond the guides and other internal processes that you have.

Ms Campbell: It might be useful if we provide on notice how the decision making occurs. I think what you may be looking for is when someone appeals or seeks a different opinion rather than what may be available in the legislation normally. Is that what you are seeking?

Senator FIFIELD: What scope is there for the secretary, whichever one, to exercise discretion to agree to payments where people do not fit the box?

Ms Campbell: Because there are so many payments there are generally different legislative requirements around each payment. It would probably be best to take it on notice and have a look at those more regular payments and then go back and have a look at the legislation to see if we can find you more definition in that regard.

Senator FIFIELD: I am thinking where someone has not qualified for a payment or met the criteria for a payment but there may be some discretion.

Ms Campbell: There is not a lot of discretion. We often work with people if they are not able to meet their requirements of one payment to see whether there may be an alternative payment that might suit them, but generally the payments are governed by the legislation. I think you are looking for those exception cases and we can take that on notice.

Mr Sandison: We might look at the main two or three payments and come back to you.

Senator FIFIELD: Thank you for that.

Answer:

A range of powers and functions set out in social security and family assistance legislation vest in the Secretaries of the relevant policy departments. The legislation provides for certain powers and functions to be delegated by the Secretaries to the Chief Executive Centrelink. The Chief Executive then sub-delegates relevant powers and functions to appropriate departmental officers to enable prompt and efficient decision-making. The Secretary of the Department of Human Services has no power under social security legislation, nor does she hold any delegation under this legislation.

Qualification and eligibility for income support payments is set out in social security legislation. There is limited discretion that can be used by the Chief Executive Centrelink and staff using delegated powers. Such discretion is generally limited to decisions, for example as to whether the disability of a person applying for Disability Support Pension is of a sufficient extent to meet the qualification criteria, noting that such decision making is confined by specific legislative requirements such as those set out in the *Social Security Act 1991*. There is no broad discretion for the Chief Executive Centrelink to grant payment of an income support payment where an individual is not otherwise eligible.