

Mental Health Council of Australia Submission on Inquiry into the Social Security Amendment (2007 Measures No. 2) Bill 2007

Introduction

The Mental Health Council of Australia (MHCA) is the peak, national non-government organisation representing and promoting the interests of the Australian mental health sector, committed to achieving better mental health for all Australians. The membership of the MHCA includes national organisations of mental health service consumers, carers, special needs groups, clinical service providers, community and private mental health service providers, national research institutions and state/territory peak bodies.

This submission

The MHCA would like to thank the Senate Employment, Workplace Relations and Education Committee for the opportunity to make a submission to the inquiry into the Social Security Amendment (2007 Measures No. 2) Bill 2007 (the Bill).

Given the major time constraints for making a submission, this submission addresses the primary issue of concern for the MHCA in the Bill regarding the changes to who provides impairment points ratings for the Disability Support Pension (DSP). This relates to the proposal to change the Impairment Tables in Schedule 1B of the Social Security Act to replace references to the 'medical officer' with 'assessor', the Job Capacity Assessor. This will mean that the capacity of a person with mental illness to work will no longer be determined by someone who is a medically trained professional.

The MHCA also has concerns with the proposed change in the Bill to provide the Minister with the power to make guidelines regarding a person's continuing ability to work. This issue will not be dealt with in detail in this submission, as the short time frame does not allow for the required level of analysis. The MHCA is however concerned that the proposed Legislative Instruments have not yet been tabled in Parliament, and consider that the details should have been made available for comment and debate before being passed through the Bill.

Proposed changes to impairment ratings

The Impairment Tables in Schedule 1B of the Social Security Act are used to assess a person's work related impairments and in the proposed amendments, refer to impairment point ratings for the DSP.

The Explanatory Memorandum for the Bill asserts that while medical information and evidence, such as a treating doctor's report, are required in identifying conditions, determining the impact of impairment or a condition on a person's ability to work requires knowledge of interventions to increase work capacity. Further, the Explanatory Memorandum suggests that job capacity assessors have the knowledge to apply Impairment Tables, and therefore references to medical officers will be replaced with assessors. Material compiled on the Bill by the Parliament of Australia, Department of Parliamentary Services states that:

A medical officer qualification is not required for the attribution of points using the table and reference to medical officers is as much a carryover of the long-standing practice of using medical officers as work capacity assessors.

The MHCA appreciates that assessors may have knowledge and experience in occupations and the type tools that can be used to improve work capacity, however, it does not agree with the assertions in the supporting material for the Bill that medical officers should not have a role in determining work functionality. This is particularly relevant for people with mental illness, many of whom have a fluctuating capacity to work.

Medical officers, whether it is a person's General Practitioner, treating psychologist or other treating medical professional, will be best placed to make a decision about the impact of the mental illness on the person's capacity to work. More precisely, they will be able to advise on the probable impact that the work itself will have on altering or exacerbating the mental illness, for example through increased levels of stress, being in an unfamiliar environment, or having to comply with work participation requirements. Looking at these types of issues requires more than an understanding of what will improve work capacity, and the majority of job capacity assessors do not have the knowledge or skills to make these types of determinations. To not consider this in assessing a person's ability to work could have damaging unintended consequences for the person with mental illness.

If an assessment is undertaken by someone with a limited understanding of mental illness, accurately assessing that person's ability to work will be difficult, and has further ramifications for the type of assistance they receive. People may then not receive the type of specialist support they need to find and maintain employment, and be referred to an employment program with reporting requirements they cannot fulfil. People with a mental illness can find themselves in constant danger of breaking job search requirements and facing financial penalties if they are referred to an inappropriate program.

Determining the ability of a person with mental illness to work can be a very complex process, and is not as simple as referring to a table and applying points. A person may present well on the day of the assessment but then experience a relapse in their condition. This will not be picked up in the assessment if the assessor does not have the necessary medical information or an understanding of the mental illness.

The case study outlined below demonstrates where the Job Capacity Assessment (JCA) process and applying impairment points is not suitable. Without a more comprehensive assessment including medical information, this situation is likely to occur in many more cases. The source of this case study is a speech by Michael Raper, President, National Welfare Rights Network delivered to the NSW NGO Mental Health Conference, 'Count-Me-In'.

A woman with severe depression had claimed the DSP as she had a serious disability and was unable to work. The woman was given no impairment points and did not qualify for a DSP as Centrelink found that her condition was not 'treated and stabilised'. Despite having a long term mental illness, the woman was not able to claim DSP as she required the condition to be 'treated and stabilised' before being given an impairment rating. She

was placed on Newstart Allowance and a through a JCA was required to attend CRS Australia for an occupational rehabilitation program.

Through an appeal, the decision by Centrelink was upheld on the grounds that with treatment the condition would be resolved within two years. The decision did not however consider whether or not treatment was actually available.

The woman had a detailed medical report prepared by her psychiatrist who had been treating her for over 12 months. The report showed that the woman had been treated for severe depression and had been suicidal when admitted to a psychiatric hospital. The woman left hospital after six months of treatment but was readmitted a few weeks later. The report also indicated the woman's condition had deteriorated due to anxiety from having to attend occupational rehabilitation. The report categorically stated that the woman was unable to work and that the rehabilitation she had been receiving was inappropriate. With treatment she was likely to remain stable for two years and would clearly be unable to work.

This case study clearly shows that information from a medical officer is vital in determining a person's capacity to work. It also has a bearing on whether or not particular interventions to increase work capacity are appropriate.

Conclusion

Concerns about the appropriateness of the JCA system for people with episodic conditions, in particular mental illness, and the ability to take into account a fluctuating ability to work, have been expressed by a number of different organisations and peak bodies. The MHCA has had concerns and issues brought to our attention by members, and have become aware of the unintended consequences and ramifications for people with mental illness.

The MHCA is concerned that the proposed change to assessing impairment will make it even less likely that the JCA process will result in accurate assessments. The concern is that the change will lead to less comprehensive assessments for people with mental illness, and that the majority of assessors will not have the skills or knowledge to judge the impact of work on the person's mental illness. Assessing the ability of a person with mental illness to work can be a very complex process, due to the often fluctuating nature of many mental illnesses.

The MHCA is also concerned about the proposed change in the Bill to provide the Minister with the power to make guidelines regarding a person's continuing ability to work. This relates to the details of the proposed Legislative Instruments having not yet been made available or tabled in Parliament.

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