

The Senate

Standing Committee on
Employment, Workplace Relations
and Education

Employment and Workplace Relations
Legislation Amendment (Welfare to Work
and Vocational Rehabilitation Services)
Bill 2006 [Provisions]

February 2007

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Table of Contents

Membership of the Committee	iii
Chapter 1	1
Government Senators' Report.....	1
Introduction	1
Conduct of the Inquiry.....	1
Background.....	1
Purpose of the bill.....	2
Vocational rehabilitation services	3
Pensioner Education Supplement	6
Financial Case Management.....	7
Conclusions and recommendation.....	8
Chapter 2	9
Opposition Senators' Report	9
Vocational rehabilitation services	9
Pensioner Education Supplement	12
Financial Case Management.....	13
Conclusion	14
Appendix 1	17
List of submissions.....	17
Appendix 2.....	20
Hearing and witnesses	20

Chapter 1

Government Senators' Report

Introduction

1.1 The Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006 was introduced into the House of Representatives on 7 December 2006. On the same day, the Senate referred the provisions of the bill to the committee for inquiry and report by 20 February 2007.

Conduct of the Inquiry

1.2 Notice of the inquiry was posted on the committee's website and advertised nationally in *The Australian*. The committee also contacted a number of organisations likely to be affected by the bill, notifying them of the inquiry and requesting submissions. The committee received ten submissions and two supplementary submissions. A list of those who made submissions is at Appendix 1.

1.3 The committee conducted a public hearing in Melbourne on 30 January 2007, followed by a brief hearing in Canberra on 8 February. A list of the witnesses who gave evidence is at Appendix 2. The committee would like to thank all those who contributed to the inquiry.

Background

1.4 When the principal Act was being considered by the Community Affairs Committee in 2005, the Department of Employment and Workplace Relations (DEWR) provided detailed information on the welfare dependence of people of a working age. They stated that in September 2005, 19 per cent of working age people were receiving an income support payment, with more people receiving the Disability Support Pension (DSP) and Parenting Payment than any other form of income support.¹

1.5 The Welfare to Work legislation, which commenced on 1 July 2006, aimed to reduce this welfare dependency and increase workforce participation. It was supported by a \$3.6 billion expenditure on extra services, including employment services and other assistance to support people to re-enter the workforce and find a suitable job. This package specifically included an additional \$192 million over three years for

1 Chapter One, in Senate Community Affairs Committee, *Inquiry into Employment and Workplace Relations Legislation Amendment (Welfare to Work and other Measures) Bill 2005 and Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005*, November 2005, p. 2

vocational rehabilitation services to ensure access for all eligible people with new part-time activity tests or participation requirements. These services are intended to provide a range of employment and related facilities to assist people on income support locate and retain employment, especially those with an injury, disability or particular health condition.²

Purpose of the bill

1.6 There are two key components of the bill. Firstly, it provides for changes to the delivery of government funded vocational rehabilitation services, allowing for the staged introduction of partial competitive tendering by 1 July 2007 by amending the *Disability Services Act 1986*. The amendments remove the current requirement for individual rehabilitation programs to be approved under that Act. It also broadens the delegation powers of the DEWR Secretary to allow for additional providers of vocational rehabilitation services.

1.7 Second, the bill amends social security laws to ensure that measures in the Welfare to Work legislation accord with policy intent and are internally consistent.³ These amendments include:

- clarifying the definition of the transitional group of DSP recipients and their entitlement to keep the Pensioner Education Supplement (PES) if moved to Newstart or Youth Allowance;
- allowing for Financial Case Management debts to be deducted from social security payments;
- reflecting changes in terminology, replacing the term 'pension period' with 'instalment period', and removing references to the redundant payment of rehabilitation allowances in the New Enterprise Incentive Scheme provisions;
- making changes to the income test arrangements for the Community Development Employment Project Scheme to reflect the new higher rates and to clarify the income calculation process for particular members of a couple; and
- clarifying the intended treatment of indexation decisions.

1.8 In summary, the committee majority sees these amendments as improving the Welfare to Work legislation. It notes that the amendments are the latest measures to increase workforce participation and improve employment rates.⁴

2 Department of Employment & Workplace Relations, *Submission 7*, p. 2

3 *ibid.* p. 1

4 Hon. Dr Sharman Stone MP, Minister for Workforce Participation, 'Second Reading Speech', Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006, *House of Representatives Hansard*, 7 December 2006, p. 18

1.9 The committee majority now turns its attention to three specific matters of concern raised during the inquiry. These include the changes to the provision of Vocational Rehabilitation Services, the Pensioner Education Supplement changes and the raising of debts through the Financial Case Management system.

Vocational rehabilitation services

1.10 At present, Commonwealth Rehabilitation Services (CRS) Australia, a business unit of the Department of Health and Ageing, is the sole provider of government funded Vocational Rehabilitation Services under Part III of the *Disability Services Act 1986*. The bill will mean that, in selected regions, CRS Australia will effectively become a competitor within a wider vocational rehabilitation market. This competition should provide more choice, in some areas, improving the range of assistance needed for people on welfare to re-enter the workforce.⁵ Not only will competition advantage recipients of income support but as the Minister for Workforce Participation, the Hon Dr Sharman Stone MP, has also observed:

The competition that results will promote innovation [by providers] and better ways to help people overcome disability and rejoin the workforce as soon as possible.⁶

1.11 The government has decided to introduce competition in stages. The first stage introduces partial competition for the two-year period beginning 1 July 2007. DEWR has advised the committee that it has already begun the tendering process and aims to offer up to 20 per cent of the current fixed places (about 23,000 people each year) and up to 50 per cent of the new demand driven stream (about 34,000 people a year) to private rehabilitation providers.⁷ The committee majority believes that this staged introduction of competition will achieve the best outcome for beneficiaries. The department explained:

You want to take it slowly and actually test the capacity of the market to provide a quality service and, in future years...you go in and look at the market again. The market changes and the demands change.⁸

1.12 Many submissions were concerned about DEWR's ability to regulate the private market and ensure that quality services continue to be provided. The Community and Public Sector Union (CPSU) forcefully argued that CRS Australia is best placed to deliver quality vocational rehabilitation services as they are bound by the *Public Service Act 1999*, giving people access to review decisions before the Administrative Appeals Tribunal, as well as other protections. Although the

5 Department of Employment & Workplace Relations, *Submission 7*, p. 1

6 Hon. Dr Sharman Stone MP, Minister for Workforce Participation, 'Industry Alert for Vocational Rehabilitation Services,' Media Release, 27 June 2006.

7 Department of Employment & Workplace Relations, *Request for Tender for Vocational Rehabilitation Services 2007-2009*, p. 10

8 Mr Barry Sandison, *Committee Hansard*, 30 January 2007, p. 32

government commends the work that CRS Australia has undertaken (they serviced 43,945 clients in the last financial year⁹) the committee majority does not believe that they are the only quality provider of vocational rehabilitation services or that the *Public Service Act 1999* is the only appropriate regulatory mechanism.

1.13 Other vocational rehabilitation providers include workers' compensation authorities, motor accident compensation authorities, compulsory third party scheme authorities and non-governmental organisations.¹⁰ They work in different regulatory environments including those associated with the *Occupational Health and Safety (Commonwealth Employment) Act 1991* and the *Safety, Rehabilitation and Compensation Act 1988*. There are also various state-based workers' compensation and motor accidents/transport accidents legislation.¹¹ The committee is satisfied that there are other standards and regulations outside of the *Public Service Act 1999* which could ensure quality of service.

1.14 Furthermore, the committee was provided with a copy of the draft contract and the request for tender document compiled by DEWR.¹² The contract outlines a service guarantee, code of practice, performance review and star ratings systems which are continually monitored by DEWR, ensuring "that those that can deliver the services at the high standard are the ones that are supporting the people that need the assistance."¹³ In the case of non-compliance, the contract outlines penalties, including whole or partial termination of the contract, suspension of referrals of clients to providers and reduction in, or suspension of, allocated business.¹⁴ The committee majority is satisfied that the draft contract would provide a comprehensive monitoring and compliance regime resulting in a comparable or better quality of service.

1.15 The committee also notes that the Australian Federation of Disability Organisations (AFDO) and the National Welfare Rights Network, supported by the Physical Disability Council of Australia, raised important concerns about a number of cases where Job Capacity Assessment providers operated from sites which were not accessible for people with disabilities who were required to attend an assessment.¹⁵ While these are legitimate concerns, these were contracts administered by the

9 Department of Human Services, *Annual report 2005-06*, p. 89

10 Australian Rehabilitation Providers Association, *About Us*, http://www.arpa.org.au/About/About_ARPA.aspx (accessed 14 February 2007)

11 Department of Family & Community Services, *The Assessment & Contestability Trial Evaluation Report*, 2003

12 Department of Employment & Workplace Relations, *Request for Tender for Vocational Rehabilitation Services 2007-2009*

13 Mr Barry Sandison, *Committee Hansard*, 30 January 2007, p. 25

14 Department of Employment & Workplace Relations, *Request for Tender for Vocational Rehabilitation Services 2007-2009*, p. 72

15 Australian Federation of Disability Organisations, *Submission 1a*, p. 2; National Welfare Rights Network, *Submission 10a*, p. 2

Department of Human Services. The committee majority regards the DEWR contractual requirement of compliance with the Disability Services Standards, as recommended by AFDO,¹⁶ as a satisfactory measure to avoid the occurrence of similar incidents.

1.16 The Mental Health Coordinating Council (MHCC) and the Mental Health Council of Australia (MHCA) raised specific concerns about the adequacy of rehabilitation services for people with mental health problems, citing a concern over the possible lack of tenders from specialist services.¹⁷ The MHCC supports the amendments in principle providing there is guaranteed access to mental health specialist vocational rehabilitation services.¹⁸ The committee was assured by DEWR that there is an incentive payment structure within the tender arrangements, which allows for an intermittent support fee of an additional \$605 specifically for supporting a job seeker with an assessed mental health condition.¹⁹ In light of this advice the committee takes the view that the legislation addresses this concern.

1.17 Some submissions also raised concerns about the right to review the assessment of needs made by the private vocational rehabilitation provider. As CRS Australia is a government authority, people currently have the right to appeal a decision to the Administrative Appeals Tribunal. The committee put this question to DEWR and was assured that people will still have clear access to complaints procedures. This could initially be by addressing the issue with the organisation concerned and if their issues are not resolved they will be able to contact the Complaints Resolution and Referral Service (CRRS), an independent body responsible for resolving complaints.²⁰

1.18 Finally, there was a technical concern raised with the committee regarding item 17 of the bill, which was revisited at the supplementary hearing. The amendment provides for a limited time override of subsection 5(2), (3) and (4) of the *Disabilities Services Act 1986* between Royal Assent of the Act and 1 July 2007. Currently, section 5 requires any guidelines to be tabled in parliament, followed by 15 sitting days, before they will take effect. The explanatory memorandum stated that the guidelines would still be subject to the *Legislative Instruments Act 2003* and thus subject to disallowance by parliament. The committee sought an assurance from DEWR that the guidelines would remain subject to disallowance under the *Legislative Instruments Act 2003*. DEWR advised that it had sought advice from the Office of

16 *Submission 1a*, p. 3

17 Mental Health Council of Australia, *Submission 2*, p. 2

18 *Submission 3*, p. 1

19 Mr Tony Waslin, *Committee Hansard*, 30 January 2007, p. 25

20 Department of Employment & Workplace Relations, *Request for Tender for Vocational Rehabilitation Services 2007-2009*, p. 5

Parliamentary Counsel during the drafting of the bill and was certain that the Act would apply and the guidelines would be subject to disallowance by parliament.²¹

Pensioner Education Supplement

1.19 A number of submissions, and several witnesses who gave evidence, indicated strong concern about the proposed amendments to the Pensioner Education Supplement (PES), a weekly allowance of \$31.20 to assist people with the costs of study while on the DSP. The National Welfare Rights Network (NWRN) submitted that the government is seeking to disadvantage allowance recipients in contradiction to a prior commitment to assist people with disabilities to complete their studies.²² Catholic Social Services Australia (CSSA) argued that the amendments illustrate the government's desire to make negligible financial savings at the expense of increased productivity and other long-term social benefits.²³

1.20 The committee majority considers the concerns in regard to the PES to be overstated, and based on a misunderstanding of the intent of the government. This amendment is not about financial savings, as the number of people potentially affected is nominal, and DEWR advised that there are no savings expected from the amendment to the legislation.²⁴ Neither is this amendment intended to persecute people with disabilities. The Welfare to Work package specifically provided protections for people with disabilities in the transitional group (about 20,000 to 25,000 people)²⁵ and the PES remains a valuable support for those eligible for the DSP.

1.21 The committee majority accepts that the legislation does not contain a sufficient definition of the transitional group and the circumstances under which the protections would apply. The initial intention of the government was to encompass only those people who qualified for the DSP between 11 May 2005 and 30 June 2006 and who were transferred to Youth Allowance or Newstart Allowance after their first review. If after that first review they remain on the DSP, the amendment aims to clarify that at future reviews they will be considered an ordinary DSP recipient, in line with policy intent.

1.22 The committee majority commends the government's ongoing commitment to supporting people to undertake study in preparation for work and welcomes the protection granted to the transitional group of DSP recipients.

21 Ms Elizabeth Bundy, *Committee Hansard*, 8 February 2007, p. 12

22 *Submission 10*, p. 4

23 *Submission 9*, p. 7

24 Department of Employment & Workplace Relations, *answers to question on notice*, 30 January 2007, p.1

25 Mr Barry Sandison, *Committee Hansard*, 30 January 2007, p. 27

Financial Case Management

1.23 Submissions sent to the committee make it clear that there is considerable concern about the amendment to enable deductions to be made from income support payments to repay debts raised through financial case management. Opposition to this amendment by the welfare agencies appears to be based on a general dislike of the financial case management system, rather than opposition to the amendment which deals with the method for recovering the debt.

1.24 The Australian Council of Social Services (ACOSS), supported by AFDO,²⁶ acknowledges the need for Centrelink to recover overpayments of income support, provided the legislation also defines circumstances in which debts could be raised.²⁷ However, CSSA would prefer any overpayments made under this system to be deemed unrecoverable and seen as "an additional cost of an imperfect compliance system."²⁸ The NWRN also expressed the view that payments should not be recoverable by deductions from social security payments, with their main concern being the lack of a statutory right of appeal.²⁹

1.25 The committee sought information from DEWR regarding the financial case management payment process, as there was some uncertainty over whether these payments could be mistaken for charity. DEWR provided the committee with the forms given to a job seeker under the program, one an initial registration form and the other an expense lodgement form signed before each payment is made. Both forms clearly state the conditions under which payments are made, acknowledging that any incorrect payments made on a job seeker's behalf will have to be repaid to Centrelink.³⁰ The committee majority is of the view that these payments are clearly not gratuities and that the recipient should be well aware of the obligations and the possibility of a debt being raised.

1.26 It should also be noted that debts incurred under the financial case management system can already be recovered under statute or common law, or according to legal principles of equity.³¹ It is not currently possible for the debt to be recovered through the process of fortnightly income support payment deductions, a well established mechanism used for other government welfare programs. This amendment intends only to modify the means of debt recovery, making it easier and simpler for all concerned, and does not seek the right to raise or recover debts. It is

26 *Submission 1*, p. 4

27 *Submission 4*, p. 2

28 *Submission 9*, p. 5

29 *Submission 10*, p. 3

30 Department of Employment & Workplace Relations, *answers to question on notice*, 30 January 2007, p. 4

31 *ibid.*

also important to note that of the 247 job seekers who have taken up an offer of case management, none have so far incurred a debt.³²

Conclusions and recommendation

1.27 A key objective of the government is to maximise the ability of people to find work, particularly those who face the most severe barriers to work, and to reducing welfare dependency.

1.28 In considering the evidence to this inquiry, the committee concludes that the provisions of the bill are consistent with the intent of the existing Welfare to Work package. Amendments to the provision of vocational rehabilitation services will pave the way for increased choice as well as encouraging innovation in the provision of services.

Recommendation

The committee majority recommends that the bill be passed without amendment

Senator the Hon Judith Troeth

Chairman

32 Department of Employment & Workplace Relations, *answers to question on notice*, 30 January 2007, p. 4

Chapter 2

Opposition Senators' Report

2.1 The introduction of the Welfare to Work and Vocational Rehabilitation Services Amendment Bill 2006 represents a continuation of the most significant downgrading of the income support system since the Social Security Act was introduced in 1947. Although this bill was prepared under the guise of maximising the ability of people to find work, especially those with disabilities, Opposition senators believe that it will have the opposite effect.

2.2 Opposition concerns with the proposed new arrangements relate to the implementation of the changes, as well as the changes themselves. The amendments to vocational rehabilitation services and the lack of review mechanisms for financial case management debts are a matter of concern. Opposition senators also take exception to the government's attempt to subvert proper parliamentary process in order to meet unrealistic implementation deadlines.

2.3 There are also some areas of the bill which the Opposition cannot support either in principle or in practice. Of particular concern are the measures to restrict access to the Pensioner Education Supplement (PES). These amendments undermine protections for some Disability Support Pension (DSP) recipients, further embedding the government's punitive approach to welfare reform.

Vocational rehabilitation services

2.4 Opposition senators do not oppose, in principle, competitive tendering in the vocational rehabilitation services market. The government has been contracting out and increasing number of services, gradually reducing public accountability across the entire human services sector. It is again evident with this bill that the government is relying on the introduction of competition itself to ensure quality of service, as the bill fails to introduce adequate safeguards and regulations. A genuine interest in the welfare of the people who access these services is not the impetus for introducing competition. Rather it is the predisposition to believe that competition will always guarantee efficiency and quality of service. This is not the case. It will depend on particular circumstance. This ideologically blinkered approach is where the Opposition finds the greatest fault in the government's proposal.

2.5 Submissions received from the welfare sector were particularly concerned with provisions allowing private providers to be granted contracts without possessing a certificate of compliance with the Disability Services Act.¹ While Opposition

1 See Australian Federation of Disability Organisations, *Submission 1*, p. 3; and Mental Health Council of Australia, *Submission 2*, p. 3

senators understand that this is due to potential new providers entering the market, they find themselves in agreement with the Mental Health Council of Australia that this will not assist in any way to ensure an initial high standard of service, appropriate consideration for people with mental health conditions and, more importantly, confidence in the accessibility of the site for people with disabilities.²

2.6 Another argument raised against the bill by the National Association of Community Based Children's Services and the Community and Public Sector Union is that the lack of safeguards could lead to a reduction in services, poorer rehabilitation outcomes and fewer specialist services.³ Where profit margins are tight, quality of service and resources may be reduced and in recognition of this possibility Department of Employment and Workplace Relations (DEWR) has not tendered 'organisations in locations where they are not going to be financially viable and able to deliver the required quality service to the individual.'⁴ Opposition senators do not believe this to be an adequate measure. There must be regulatory mechanisms focusing on achieving the best outcomes for people, especially those with specific mental health conditions, and ensuring a consistent national service quality.

2.7 The tender contracts supplied to the committee also fall significantly short of ensuring that people will have adequate appeal mechanisms. This is because the bill removes the requirement that individual rehabilitation programs be approved by the secretary under the *Disability Services Act 1986*. The statutory right to appeal the content of individual rehabilitation programs through either an internal review process or the Administrative Appeals Tribunal has been removed without an equivalent, alternative safeguard in place. The right to review is especially important when an Activity Agreement comprises a compulsory rehabilitation program, as failure to meet the requirements can lead to a 'participation failure' and a possible eight week non-payment period.⁵

2.8 Australian Federation of Disability Organisations submitted that other privatised systems, including job capacity assessments and employment service provisions that have similar provisions for complaint systems which have been found to be inadequate.⁶ The extent of the safeguard that the government has provided rests with the independent Complaints Resolution and Referral Service. However this service helps 'people talk about their issues and help[s] find a resolution' and is no more than a counselling service. The Opposition finds this to be extremely unsatisfactory and could potentially make people more reluctant to access these programs.

2 *Submission 2*, p. 2

3 Community and Public Sector Union, *Submission 6*, p. 4

4 Mr Tony Waslin, *Committee Hansard*, 30 January 2007, p. 32

5 National Welfare Rights Network, *Submission 10a*, p. 1

6 *Submission 1*, p. 1

2.9 Opposition senators are also concerned about the possibility of 'difficult' cases being passed over by rehabilitation providers in favour of less complex ones. The Mental Health Coordinating Council submitted that they are:

Aware of consumers/clients remaining on the books indefinitely in job network services because they are “too difficult” to place, and the system remunerates agencies for successful placements. It is a perverse incentive that makes it more attractive for agencies to focus on easier-to-place clients at the expense of those who may prove more challenging. It is important to bear in mind the risk of a similar phenomenon occurring under the proposed contestability in vocational rehabilitation when developing guidelines under the Act.⁷

2.10 It is also completely unacceptable for the government to promote this bill as allowing people with disability or injuries 'greater choice of rehabilitation providers to assist them to re-enter the workforce.'⁸ This bill will only give some people choice in areas wealthy enough to sustain the profitability of a private provider. It is unlikely that rural areas or small regional centres will benefit from increased choice. DEWR has also not ruled out private providers replacing CSR Australia altogether in some areas, delivering a change in providers rather than a choice.⁹ Opposition senators note the risk here of 'socialising the losses while privatising the gains', especially in the 'unprofitable' rural and regional centres which may be left to the Commonwealth to service.

Subversion of political processes

2.11 The committee has noted that the government has opened up the rehabilitation market for tender even before this bill has been passed by the parliament. This takes no account of any outcome of debate on the details of the bill, and is to be adopted as a signal of the government's contempt for parliamentary process.

2.12 Opposition senators are concerned by the government's continued erosion of parliamentary scrutiny provisions. Item 17 of this bill provides a limited time override of the right of both houses to amend the Disability Services (Rehabilitation Services) Guidelines under section 5 of the *Disability Services Act 1986*. The rationale behind this amendment, as outlined in the explanatory memorandum, is that as section 5 allows both houses fifteen sitting days in which to amend the guidelines this could delay their approval beyond 1 July 2007, the proposed starting date of the changes.¹⁰

7 *Submission 3*, p. 2

8 Hon. Dr Sharman Stone MP, Minister for Workforce Participation, 'Second Reading Speech', Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006, *House of Representatives Hansard*, 7 December 2006, p. 18

9 Mr Tony Waslin, *Committee Hansard*, 30 January 2007, p. 31

10 Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006, *Explanatory Memorandum*, p. 5

2.13 Although the committee has been assured by DEWR that the guidelines will still be subject to disallowance under the *Legislative Instruments Act 2003*, Opposition senators are uncertain of this fact and of the strong belief that the rights of parliament should not be overridden in any case as a matter of convenience. The government should have retained existing legislative scrutiny requirements, instead of amending them to suit doubtful timetables. This is yet another example of the contempt the government has shown for the parliament.

2.14 Opposition senators are also incensed that the government would begin the tendering process for vocational rehabilitation services before the bill has been introduced into parliament. The Minister for Workforce Participation released an industry alert for the tendering process as far back as June 2006, with applications for tender closing on the 8 November. The entire tendering process was completed, save for the awarding of the contracts, a month before the bill was introduced into parliament in December 2006. This illustrates great arrogance on behalf of the government and a contempt for political process.

Pensioner Education Supplement

2.15 Over the next three years, through the government's Welfare to Work changes, approximately 81,000 people with disabilities will be put onto lower payments, mainly Newstart Allowance.¹¹ This is because the DSP is now only available to those who are unable to work at least 15 hours per week, instead of the previous benchmark of 30 hours. Currently, people on Newstart Allowance are only allowed to undertake short courses of study or training whereas people on the DSP can be supported through the PES to undertake a university or TAFE course.

2.16 Opposition senators note that during the previous Senate inquiry into the Welfare to Work legislation no evidence could be provided to support the government's policy of reducing income support payments in order to increase rates of participation in the workforce despite hearing from approximately 60 witnesses over four days of hearings.¹² The reason for this is that it simply does not work. Instead, it has been shown that countries that have invested heavily in employment assistance have been the most successful in reducing unemployment and welfare dependency in the long term.¹³ This is why the Opposition cannot support any further reductions in the benefits given to welfare recipients.

11 Australian Council of Social Service, *Welfare to Work – effects & solutions*, 2006, p.8

12 Dissenting Report, in Senate Community Affairs Legislation Committee, *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005*, November 2005, p.71

13 Australian Council of Social Service, *Payment Levels and Unemployment – The Facts*, 2005, p.2

2.17 Opposition senators find themselves in agreement with the majority of submissions, believing this amendment to be a backward step, and inconsistent with the government's previous commitment to the transitional group of DSP recipients. As the explanatory memorandum for the original Act stated:

This Schedule gives effect to this by providing that people who receive newstart allowance or youth allowance and who have been undertaking a course whilst receiving a disability support pension....will continue to receive the same study assistance...until they complete their course.

The changes would mean that some DSP recipients, who may have not completed their course at the second review, and having been promised continued support, could subsequently move to a lower payment as well as lose the PES, compounding already difficult financial situations with a potential loss of up to \$4000 a year.¹⁴

2.18 Although the government may not be intending to further reduce incentives to undertake education, Opposition senators believe that any restriction to the PES will ultimately have this effect, and will discourage people trying to move from welfare to work. The government's actions also come at a time when, as ACOSS has noted, 60 per cent of people with disabilities and jobless single parents have 10 years of schooling or less and the country is experiencing serious skills shortages.¹⁵ The Opposition strongly believes in encouraging people to undertake further education to increase their skills, and can only see this amendment as short-sighted and inconsistent with the government's public commitments to address the current skills crisis.

2.19 The basis for this amendment is even more perplexing when the department states that it expects no financial savings to be made from these changes.¹⁶ If these changes apply to such a nominal group of people, around 100 according to the department, then opposition senators can find no credible reason, beyond internal consistency, for imposing greater hardship for some of the most vulnerable people in society. And as such, the opposition take the view that instead of further restricting access to PES there should be a concerted effort to better support people move from welfare to work through education.

Financial Case Management

2.20 Opposition senators fully support giving Centrelink the appropriate powers to recover overpayments through Financial Case Management (FCM) and believe that the current provisions are inadequate. This inadequacy exists primarily because FCM is a discretionary program outside of existing social security law. It is a poor attempt by the government to lessen the impact of the harsh Welfare to Work compliance

14 National Welfare Rights Network, *Submission 10*, p. 4

15 *Submission 4*, p. 1

16 Department of Employment & Workplace Relations, *answers to question on notice*, 30 January 2007, p. 1

regime. Opposition senators agree with the National Welfare Rights Network 'that this quick fix should not now be compounded by another sort of slapdash or quick fix.'¹⁷

2.21 The discretionary and undefined nature of the system was evident throughout this inquiry. Many of the submissions received by the committee seemed unaware that there was currently a process to recover overpayments. Even the evidence DEWR gave at the hearing in relation to recovering overpayments was initially incorrect.¹⁸ Finally, DEWR advised the committee that debt recoveries are only possible through statute or common law or according to legal principles of equity.¹⁹ Opposition senators believe this to be unsatisfactory as there is a lack of transparent guidelines and the right to a review.

2.22 This amendment will also create an inconsistency in the legislation, where the right to recover overpayments is outlined in legislation yet the making of payments under FCM is not. There seems to be no justifiable reason for this inconsistency. Opposition senators call on the government to instead legislate to put the entire FCM system, both payments and recovery, into existing social security law, automatically guaranteeing transparent guidelines, appeal mechanisms and debt recovery systems.

Conclusion

2.23 This bill is a poor attempt by the government to rectify some of the many oversights in the Welfare to Work legislation which has only succeeded in compounding existing mistakes as well as creating new ones.

2.24 The main concern arises from the changes to PES which will limit opportunities for further education and discourage workforce participation. The approach taken by the government to the introduction of competition in the vocational rehabilitation services market does not provide appropriate safeguards to ensure quality of service and access for people with disabilities. The provision relating to the temporary overriding of parliamentary scrutiny is also strongly opposed.

2.25 The Opposition would welcome any welfare reforms properly addressing the reasons for long-term unemployment. Such reforms should provide 'more reward for effort and support training opportunities for the jobless. After all, a person can only get a job in our society if they have the skills an employer needs.'²⁰ Nevertheless, with this bill, the government has once again ignored overwhelming evidence in support of this approach and will thus continue to make education and training less accessible for the unemployed.

17 Mr Michael Raper, *Committee Hansard*, 30 January 2007, p. 17

18 Mr Barry Sandison, *Committee Hansard*, 30 January 2007, pp. 28 & 31; Department of Employment & Workplace Relations, *answers to question on notice*, 30 January 2007, p.3

19 Department of Employment and Workplace Relations, *answers to questions on notice*, 30 January 2007, p. 3

20 Ms Julia Gillard MP, *House of Representatives Hansard*, 15 February 2007, p. 11

Recommendations

2.26 The Opposition will be moving a number of amendments to this bill, including retention of access to the PES as previously provided for. Unless this and other substantial amendments are made to this bill, the Opposition will **oppose** the passage of this bill.

Senator Gavin Marshall

Deputy Chair

Appendix 1

List of submissions

Sub No:	From:
1	Australian Federation of Disability Organisations, Vic
2	Mental Health Council of Australia, ACT
3	Mental Health Co-ordinating Council, NSW
4	Australian Council of Social Services, NSW
5	National Association of Community Based Children's Services, Vic
6	Community and Public Sector Union, NSW
7	Department of Employment and Workplace Relations, ACT
8	Physical Disability Council of Australia Ltd, NSW
9	Catholic Social Services Australia, ACT
10	National Welfare Rights Network, NSW

Appendix 2

Hearing and witnesses

Melbourne Committee Offices, 30 January 2007

National Association of Community Based Children's Services (NACBCS)

Ms Barbara Romeril, National Secretary

Ms Lynne Wannan, National Convenor

Australian Federation of Disability Organisations (AFDO)

Ms Maryanne Diamond, Chief Executive Officer

Ms Collette O'Neill, National Policy Officer

National Welfare Rights Network (NWRN)

Mr Michael Raper, President

Ms Linda Forbes, Case Work Co-ordinator of Welfare Rights Sydney

Department of Employment and Workplace Relations (DEWR)

Mr Barry Sandison, Group Manager Working Age Policy Group

Mr Tony Waslin, Group Manager

Parliament House, 8 February 2007

Department of Employment and Workplace Relations (DEWR)

Mr Tony Waslin, Group Manager

Ms Elizabeth Anne Bundy, Senior Government Lawyer