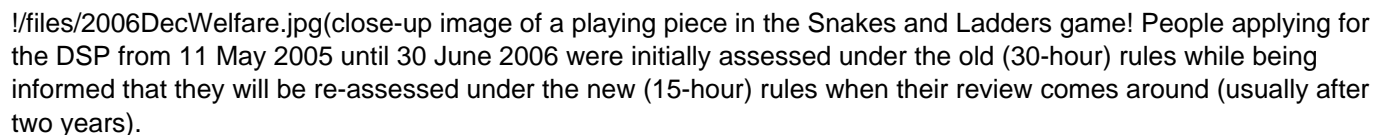


Q and A on welfare changes

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In July 2006, some dramatic changes occurred in the rules for eligibility for the Disability Support Pension (DSP) which have major implications for people with HIV who experience any health problems that may affect their ability to work in full-time employment. Under the very prescriptive banner of 'Welfare to Work', the federal government radically changed the eligibility criteria for the DSP: new applicants will have to prove they cannot work more than 15 hours a week. Previously, the DSP was available to those who were unable to work more than 30 hours a week.

The changes were announced in early 2005 and, possibly in response to an outcry from disability groups or concern about the logistics of changing current DSP holders onto a new system, the government decided to 'grandfather' those who were already on the DSP so that the old conditions would continue to apply for them into the future, regardless of the changes. When the legislation passed on 11 May 2005, the 'grandfathered' group had their existing rights and entitlements protected (with a few small changes – see below).

/files/2006DecWelfare.jpg(close-up image of a playing piece in the Snakes and Ladders game! People applying for the DSP from 11 May 2005 until 30 June 2006 were initially assessed under the old (30-hour) rules while being informed that they will be re-assessed under the new (15-hour) rules when their review comes around (usually after two years).

As a consequence of all this, there are now three different categories of people on the DSP depending on when you were placed on it. This article examines the effect of the changes on each of these groups.

On its website, Centrelink says "The aim of the Budget measures for people with a disability is to ensure that these people are able to participate in the workforce as far as they are capable. The changes place a greater emphasis on what people can do, rather than what they can't do."

The National Association of Community Legal Centres (NACLC), however, describes the reforms as "the most significant downgrading of income support in the Social Security system since the Social Security Act was introduced in 1947."

NACLC is particularly critical of the Government's forcing people with disabilities and those with episodic illnesses such as HIV onto the unemployment benefit (Newstart) if they can work more than 15 hours a week, with a consequent loss of income (Newstart recipients receive \$45 less per week than those on the DSP) and an extra requirement to look for work, regardless of whether they are symptomatic or not. "The pressure to look for work and accept work could lead to a worsening of a person's medical condition ... it requires the person to disclose their medical condition to a Job Network agency [and] once the condition has been disclosed it may lead to a person's illness being disclosed to prospective employers," the report says. NACLC also highlights the likely difficulties in finding employers willing to offer positions with flexible working conditions to people with episodic illness.

How will the new rules affect people who were on the DSP prior to 11 May 2005?

They will be largely unaffected by the changes. When their periodic review with Centrelink comes along they will be still assessed on their ability to work 30 hours a week or more. If they are currently doing part-time work or decide to do part-time work in the future, they will still be able to do this subject to their ability to work no more than 30 hours a week. Their DSP income will go down proportionately with any rise in other regular income as was the case previously.

Anyone who is 'grandfathered' on the DSP can venture back into the workforce either full-time or part-time and return to the pension within a two-year period. People in this situation will remain under the old (30-hour) rules as long as they return to the pension within two years; this provides some peace of mind for DSP recipients who want to work but are worried they may not be able to do so long-term. After more than two years' off the DSP due to employment though, people will need to re-apply under the new (15-hour) rules if they need to go back on the pension.

The right to return to the DSP within two years is supposed to be automatic, and does not require new medical and Centrelink assessments as in the past, however it seems that people who have voluntarily returned to work are being required to undergo Job Capacity Assessments (JCAs) and, in some cases, have been kicked off the DSP if the assessors regard them as being able to work 30 hours or more. This is a real disincentive for these people to return to work (unless they can be sure that their capacity is below the 30 hours per week threshold). Disability groups regard this development as a broken promise – the government said that no one under the old system would be worse off and affected by the new changes. People wishing to return to work should monitor these issues and talk with their local welfare rights organisation where possible.

In the past, people on the DSP – particularly people with a condition like HIV/AIDS – were not always reviewed on a regular basis. Some were called in for a review every two years, some every five years and some seem to have not been called in to Centrelink at all. This started to change even before these new rules were brought in, with people on the DSP reporting much more regular reviews. We understand there are now more than 140 actions that can trigger a Centrelink review and these are not available for public scrutiny. We know that changes to a bank account, going overseas without informing Centrelink, information from the Taxation Office showing extra income and other such things can trigger a review, but for most people the review process is likely to be triggered just because a two year period is up.

Grandfathered DSP recipients can still receive the Pensioner Education Supplement and Education Re-entry Payment if they meet Centrelink's criteria. But there are fewer opportunities now for people voluntarily accessing Job Network and the Commonwealth Rehabilitation Service (CRS) for funding for courses, as the aim of these services now is to get people back to work. David Wallace from the Bobby Goldsmith Foundation in Sydney says "courses with what might be described as 'soft outcomes' intended to improve an individual's self-confidence, self-esteem or to reduce their social isolation are not considered, even though we know there are significant barriers for people with HIV to return to the workforce after many years dealing with their illness." A study course must be directed to employment, and must not be long duration (usually only a TAFE term) – with an exception for those in the last year of a degree that might help them gain a job.

These recipients are still eligible for the Mobility Allowance if they are doing regular volunteer work. This can be paid to those people who decide to do at least eight hours per week of voluntary or paid work or a combination of paid work and training and who cannot use public transport without extra help because of their disability, injury or illness.

How will the new rules affect people placed on a DSP on or after 11 May 2005 and before July 2006?

Although these people were assessed as being eligible for the DSP against their ability to work 30 hours or more, their eligibility will now be assessed on their ability to work 15 hours or more. The only people who are exempt from these assessments are those who are classified as having a 'manifest disability' or if certain special circumstances exist. Centrelink has confirmed that Category 4 AIDS is still regarded as a manifest disability although this will need to be monitored into the future with the change in health status of many people with AIDS.

On review the Job Capacity Assessors subcontracted by Centrelink will be required to assess the impact of HIV on a person's capacity to work. These people may be doctors, psychologists, occupational therapists, social workers or from another allied health field. The Department of Human Services, which controls these assessments, argues that the discipline of the assessor is not important to the quality of the assessment made, however welfare groups have argued that a mismatch between assessor and client can be a serious problem – for example, can a person with a mental illness be accurately assessed by an occupational therapist?

Graham Douglas-Meyer, NAPWA's Social Wellbeing and Policy Convenor, says "We have long held concerns about the ability of Job Capacity Assessors to understand the true impact of HIV on people's lives. A person may present as physically fit but can be dealing with significant treatment side effects, low energy levels, depression and other psychological issues related to their condition. A doctor from Health Services Australia who takes a treating doctor's report into account when making an assessment of a person with HIV might be better informed than someone from another allied health field but even this is not necessarily the case. NAPWA has tried to run information sessions for assessors but has generally been unsuccessful."

David Wallace says people should think about taking an advocate with them to these reviews, particularly if they

are in this group of DSP recipients. "They could be in a precarious position and may need some advocacy to help their case, including arguments around less than 15-hour capacity, particularly if they are not feeling particularly self-confident or well at the time."

Confidentiality of medical records is another issue. Clearly it is important for a person with HIV to have their treating doctor's report taken into account, as this should affect decisions about capacity to work or the potential for episodes of illness in the future. However this has confidentiality implications for people with HIV who don't want to disclose their status. A Centrelink spokesperson told PL that their staff would never disclose information about a client to a third party if the client did not wish this information passed on, but will the Job Network staff who refer them to future employers treat this information confidentially? It seems unnecessary for potential future employers to know this information but if they are given it, will it affect their employment decisions? On the other hand if Job Network staff are not privy to this information, will people with HIV be given inappropriate job placements that may affect their health?

If people from this group are assessed as having the capacity to work at least 15 hours a week, they will be transferred to Newstart (or Youth Allowance) and will receive a lower payment (currently \$205 per week on Newstart, compared with \$250 per week on the DSP). They will be required to look for work within their capacity and face harsher income and assets tests than on the DSP. A pensioner can earn \$62 a week before their payment starts to be reduced because of other income, whereas a person on Newstart can only earn \$31 a week before this happens. There are no additional allowances for children as there are on the DSP. A person on Newstart will find it quicker to get to the stage where they no longer qualify for any social security payment or the [1][Pharmaceutical Benefits Scheme] The federal government program which subsidises medication costs in Australia. Anti-HIV drugs are part of a special part of the PBS called Section 100 (\$100) which is used for expensive, highly specialised drugs. concession card than they would on the DSP.

How will the new rules affect people who apply for a DSP after 1 July 2006?

It will be harder for people to be placed on the DSP under the new rules. For people with HIV, their treating doctor's opinion used to be a strong influence on assessors as to whether a person should be eligible for the DSP

David Wallace also points out that some doctors are less likely to write a report to help a person onto the DSP given a perception that HIV is more manageable these days. "This is a good reason to find an HIV-experienced doctor who understands the ups and downs which HIV is likely to bring into your life."

All people assessed as capable of working more than 15 hours a week will be placed on Newstart or the Youth Allowance. They will have to satisfy the Centrelink activity test – this means regularly demonstrating that you are actively looking for work, attending job interviews and accepting suitable offers of work, or undergoing approved training courses. Failure to meet the activity test can lead to the payment being stopped for a period of time.

Many of the activity test requirements will be organised through the Job Network or employment provider you are allotted. People may also be referred to a disability employment network provider or vocational rehabilitation service, depending on the amount of assistance they are thought to require. The agencies' job is to help you find suitable employment. Newstart recipients are also expected to carry a Job Diary with them to job interviews and to have these signed by the interviewer. People with only a partial capacity to work may be able to get activity test concessions (such as reduced job search requirements) and a higher rate of the Employment Entry Payment (paid after people have been in employment for four weeks).

People placed on Newstart (Incapacitated) are exempt from the above Activity Requirements. To get onto this allowance (once you have been placed on Newstart) you will require a doctor's certificate to state that you are incapacitated and unable to carry out these requirements because of your health. To continue receiving Newstart (Incapacitated), you will have to return to your doctor every six weeks to have this certificate renewed. Individuals can only be transferred to the DSP when a Job Capacity Assessment and a treating doctor's report both conclude that an individual will not be able to work for more than 15 hours for more than two years.

- *For advice or assistance in dealing with Centrelink, contact your local welfare rights organisation – contact details can be found online at www.welfarerights.org.au [2].*

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- [Centrelink reviews](#)
- [Disability Support Pension](#)
- [HIV Living](#)
- [returning to work](#)

Links:

[1] <http://www.napwa.org.au/glossary/term/121>

[2] <http://www.welfarerights.org.au>