

24 October 2016

Committee Secretary
Senate Community Affairs Legislation Committee
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Parliament House
Canberra ACT 2600

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Dear Committee Secretary

Inquiry into the Social Services Legislation Amendment (Simplifying Student Payments) Bill 2016

Thank you for the opportunity to make a submission to this inquiry.

The National Welfare Rights Network (**NWRN**) is the peak community organisation in the area of social security and family assistance law, policy and administration. Our members and associate members are community legal centres and legal services across the country which provide free and independent legal assistance to current and former social security and family assistance recipients. The NWRN draws on the experience and expertise of its members in developing its submissions and policy positions.

The NWRN supports the *Social Services Legislation Amendment (Simplifying Student Payments) Bill 2016 (the Bill)*.

The Bill's main measures are primarily aimed at harmonising means testing rules for student payments with other social security and family assistance payments. This simplifies the payments system and will facilitate access to payments and benefits for young people and their families.

The Bill also expands and simplifies access to the Commonwealth Health Care Card, by automatically issuing it to student payment recipients. This is a very welcome expansion in support for students and will help them support themselves through study by reducing some health costs.

Simplification is not an end in itself. Importantly, although a relatively small number of current recipients will no longer be eligible for payments, the changes proposed in the Bill generally improve the equitable treatment of young people and their families in similar financial circumstances.

We provide some further detail about the measures in the Bill below.

Schedule 1, Part 1 – youth allowance and austudy payment assets test

This measure removes an exemption from the assets test for youth allowance and austudy recipients partnered to someone who receives certain social security or veteran's affairs income support payments.

Independent youth allowance recipients are subject to a personal assets test, which is the same as the assets test applicable to working allowances such as newstart allowance and parenting payment. There is no assets test for youth allowance recipients who are not independent.

Austudy recipients are subject to the same personal assets test as independent youth allowance recipients.

Under this assets test, there is an assets test limit and payments cease to be payable if assets exceed this limit. The limit varies for singles and couples and for homeowners and non-homeowners. The pension assets test is different and more generous in that, although it has similar thresholds, pensions reduce if assets exceed those thresholds, rather than ceasing to be payable.

Currently, independent youth allowance recipients who are partnered to another income support recipient are not subject to the personal assets test. There is a similar exception for austudy.

In practice, this exemption is beneficial to the small number of recipients partnered to pensioners with significant assets in addition to the home, a very small group. It benefits this group as they are exempt from the allowance assets test, while subject to the more generous pension assets test, and can therefore potentially have assets in excess of the allowance assets test limit.

In our view, this measure is likely to affect only a small number of people and ensures equal treatment of student payment claimants/recipients with similar levels of assets. The NWRN supports this measure.

Schedule 1, Part 2 – means test treatment of private companies and private trusts

This measure ensures that the general rules for assessing the income and assets of private companies and trusts for the purpose of social security payments apply to youth allowance and austudy.

Part 3.18 of the *Social Security Act 1991* (Cth) (**the Act**) contains rules for the assessment of the income and assets of private trusts and companies and for deeming (“attributing”) some or all of the income and assets of those entities to social security recipients. These rules, introduced in 2002, are important for ensuring the equal treatment of people with similar levels of income and assets, regardless of the legal structure through which they hold them. They are not relevant to most social security recipients, who do not have significant levels of income or assets and are not involved in complex legal structures such as trusts and companies.

This general framework does not apply to the independent youth allowance or austudy assets tests. The Act contains provisions for attributing the assets of trusts, but not companies.

This measure extends the general framework in Part 3.18 to youth allowance (if independent) and austudy. The legislative materials suggest a similar approach will be taken to ABSTUDY via changes to the ABSTUDY manual. It therefore ensures equivalent treatment for all income support payments and is likely to affect only a small number of current recipients. The NWRN supports this measure.

Schedule 1, Part 3 – treatment of periodic gifts or allowances from family members

This measure creates a single set of rules for the assessment of periodic gifts or allowances from family members.

Currently, periodic gifts from certain family members (parent, child, sibling) are not assessed as income for pension recipients. However, they are assessed as income for recipients of youth allowance and austudy, as well as newstart allowance and parenting payment partnered.

This measure, in effect, extends the general rule applicable to pensions to these payments. This is particularly welcome in the case of dependent youth allowance recipients, who are assessed against parental income already on the basis that they are, or should be, supported by their parents. Despite this expectation of support, a regular gift or allowance from a parent to a dependent youth allowance recipient is also assessed as income in the hands of the young person. The NWRN supports this measure.

Schedule 1, Part 4 – parental income test for youth allowance

This measure aligns the definition of income for the youth allowance parental income test and family tax benefit by including tax free pensions or allowances in the definition of income.

Currently, the definition of income for family tax benefit purposes includes tax free pensions or allowances. The definition of parental income for the purpose of the youth allowance parental income test does not.

By including tax free income support payments in the definition of income for the purpose of the parental income test, this measure may reduce payments to some youth allowance recipients under age 22 who are not independent and whose parents have a reasonably significant level of private income in addition to receiving an income support payment. However, it ensures consistent treatment of families with similar levels of income across the family payment and youth allowance programs. It should also simplify declaration and assessment of income, especially for families with children in both secondary and post-secondary education who currently have to declare their income twice for family tax benefit and youth allowance purposes.

The NWRN therefore supports this measure.

Schedule 2 – health care cards

This measure provides for the automatic issue of health care cards to ABSTUDY recipients, youth allowance recipients who are full-time students or apprentices and austudy recipients.

Currently, all income support recipients receive a health care card or pensioner concession card automatically, except for youth allowance recipients who are full-time students or apprentices, and austudy and ABSTUDY recipients. Full-time students, apprentices and austudy and ABSTUDY recipients can instead apply for a low income health care card.

This measure ensures that all youth allowance, ABSTUDY and austudy recipients to automatically receive a health care card. This provides access to subsidised prescriptions and a reduced Medicare safety net, as well as access to other benefits at a State/Territory level.

This is a welcome increase in help for students and their families and the NWRN supports this measure.

Schedule 3 – remoteness structure

This measure links the definition of remoteness in the *Social Security Act 1991* (Cth) with the Australian Statistician's Australian Statistical Geography Standard for remoteness. This allows the definition to update automatically, whenever it is updated by the Australian Statistician.

Student payment recipients whose family home is in a regional or remote area may have access to special criteria to establish independence, as well as relocation scholarship.

This measure allows for automatic updating of the standard for assessing the location of the family home. It simplifies the administration of student payments and the NWRN supports this measure.