

Financial matters\$ and Centrelink

facts for financial counsellors





Facts for financial counsellors

This factsheet was developed by the National Social Security Rights Network, with expert advice from Social Security Rights Victoria, one of its member community legal centres. Financial Counselling Australia is grateful for the assistance from both organisations.

The factsheet is intended to provide general information for financial counsellors about social security-related issues their clients may experience.

This factsheet does not constitute legal advice. Social security law and policy may have changed since the last update. Please seek advice from a National Social Security Rights Network member for more information or obtain legal advice. A member centre in your state or territory can be found at www.nssrn.org.au/services/



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Engaging with Centrelink



The following is a set of best practice guidelines, whether you are contacting Centrelink on behalf of a client or advising a client on how best to engage.

- Record who you speak with at Centrelink
- Make notes of what is said in the conversation with staff
- Ask for a receipt number every time you communicate with Centrelink
- Make copies of all documents you provide to Centrelink

Superannuation



What are the rules for early access?

A person can access their superannuation when:

- they turn 65 years (even if they are not retired), or
- they reach preservation age - the age, set by law, that they can access their superannuation as long as they are permanently retired, or
- a person is receiving a transition-to-retirement pension. You can find out more about this pension at <https://bit.ly/1aKs9lb>.

A person may also be entitled to early release of superannuation if they meet one of the following eligibility requirements:

- they are in severe financial hardship, or
- have a terminal illness, or
- are a temporary resident, or
- have less than \$200 in their superannuation fund, or
- meet compassionate grounds.

If a person is between 55 and 60 and is working fewer than 10 hours a week they may be able to access some of their super, depending on whether they have reached their 'preservation age'.

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What is preservation age?

Preservation age depends on a person's date of birth.¹

Date of birth	Preservation age
Before 1 July 1960	55
1 July 1960 – 30 June 1961	56
1 July 1961 – 30 June 1962	57
1 July 1962 – 30 June 1963	58
1 July 1963 – 30 June 1964	59
From 1 July 1964	60

Source: ATO website April 2019. <https://bit.ly/2IXHVqU>

A person may be able to access their full super early if:

- they have reached preservation age plus 39 weeks, and
- are not retiring, and
- have received an eligible income support payment for at least 39 weeks in total since they reached their preservation age.

What is 'an eligible income support payment'?

An eligible income support payment is generally any Centrelink payment with the exception of Youth Allowance, Austudy and Family Tax Benefit.

What if my client is in severe financial hardship?

If the person has not reached preservation age plus 39 weeks, they may be able to access up to \$10,000 of their super per each 12-month period to meet immediate expenses if they:

- are currently in receipt of an eligible income support payment;
- have been on this payment for at least 26 weeks in a row; and
- can show they are in severe financial hardship.

Severe financial hardship means a person's readily available funds are less than the maximum amount of the age pension entitlements they could receive - consisting of the age pension (partnered or single), the pension supplement and the energy supplement. They also must be unable to pay reasonable and immediate family living costs.

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1 From 2015 to 2025, the preservation age will increase from 56 to 60 years for income support recipients born after 1 July 1960.



What does my client need from Centrelink to show their eligibility for early release of super?

A person may need to provide their superannuation fund with documents from Centrelink about their income support payment. As information from Centrelink will only be valid for 21 days, they must return the documents to their superannuation fund within that time.

Superannuation funds are not compelled to allow early access to super. A few funds, including REST and SunSuper, currently don't allow access under financial hardship.

My client has accessed their superannuation early — do they need to tell Centrelink?

A payment might affect Centrelink payments under the Income and Assets test. Accordingly, clients should be encouraged to tell Centrelink within 14 days about their withdrawal of super to avoid possible overpayment. At the same time, they should ask Centrelink to add this information to the records of all the payments they receive.



Further information?

Your client can contact Centrelink's Early Release of Superannuation line on 1300 131 060. They can also refer to our factsheet on superannuation, which can be found at www.nssrn.org.au/factsheets.

Superannuation lump sum payments

A lump sum payment comprises the account balance and any insurance benefits paid in respect of a disability. The insurance benefit, called Total and Permanent Disability (TPD), is usually a lump sum paid if the person is permanently unfit to do their usual occupation or other suitable work given their education, training or experience.

My client has received a lump sum — how will Centrelink treat it?

When taken out of a superannuation account, lump sums are treated as part of a person's assets and will affect Centrelink payments if the payment takes the person over the assets test exemption threshold.

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On occasions, Centrelink has treated TPD insurance benefits from superannuation accounts as income or compensation payments (see below). However, the Social Security Guide specifies that lump sum disability benefits paid out of superannuation accounts count towards the assets test and not the income or compensation tests.

Compensation payments



If your client has received a lump sum compensation payment for personal injury, they may be ineligible for a Centrelink payment for a certain period. This is called a “compensation preclusion period”. It is generally very difficult to access Centrelink support if a person spends all their compensation before the preclusion period is over.

My client has just received a compensation payment — do they have to notify Centrelink?

Individuals who receive compensation are legally obliged to notify Centrelink of the payment. They can do this by printing and uploading a form or going to their nearest service centre. The form can be found at <https://bit.ly/2YQlyd>.

If a person continues receiving a Centrelink payment after being paid compensation, Centrelink may decide to raise a debt against them for being paid during a preclusion period.

My client has just received a lump sum payment — will it affect their eligibility for Centrelink?

If your client has received a compensation payment for personal injury, Centrelink may decide they are subject to a preclusion period before they can access certain benefits. The compensation recovery provisions of social security law are designed to ensure that people who receive compensation for loss of income do not also receive income support from the federal government during the same period.

Centrelink has an online calculator (<https://bit.ly/2kpYtHW>) for estimating the length of the preclusion period. Generally, the preclusion period is calculated by dividing the compensation lump sum by two and then dividing the remaining lump sum by the cut-off limit for a single rate pension.

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For example, your client received \$100,000. Divide that figure by two, which equals \$50,000. Then divide that by \$270, the weekly Newstart rate. The answer is 185, which means your client's preclusion period is approximately 185 weeks, or three and a half years.

It is important that individuals plan to ensure the compensation payment lasts for the preclusion period. This period is shortened only in rare instances (see below).

My client has been told by Centrelink they have a debt due to receiving compensation

If Centrelink believes the person has been overpaid because they have received both Centrelink payments and compensation, Centrelink may raise a debt for the overpaid amount.

If a person believes the debt has been incorrectly raised or the amount of the debt amount is wrong, they can appeal. There is no time limit to appeal a debt. See our factsheet on Appealing to Centrelink at www.nssrn.org.au/factsheets/ for more information.

My client has used all their compensation and cannot get a Centrelink payment due to the preclusion period

Centrelink can shorten the preclusion period, but this is very rare. A compensation preclusion period may be waived (not applied or ended early) if a person has special circumstances.

Social security law doesn't define 'special circumstances'. A person will need to show not only that they are in financial hardship but will need to show other reasons for the period to be waived. Centrelink considers a range of factors when determining whether a person qualifies for special circumstances. The primary focus is on "unusual, unforeseen or exceptional circumstances". Some examples could be serious illness or injury, a risk of homelessness or family violence.

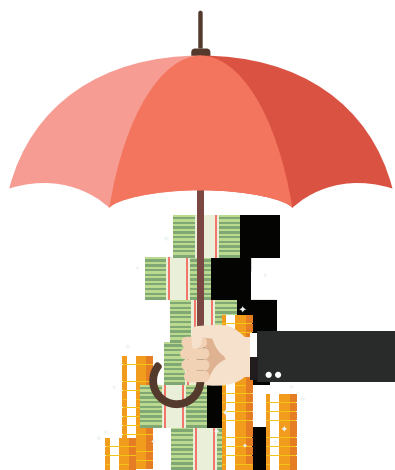


Further information

Your client can contact Centrelink's Compensation Recovery team on 1800 777 653. They can also refer to our factsheet on Compensation Preclusion Periods at www.nssrn.org.au/factsheets/.

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Income Protection payments



Income Protection payments replace the income lost when a person is unable to work due to injury or sickness. Often, a person will have Income Protection insurance through their superannuation fund.

My client is receiving income protection — how will this affect their eligibility for Centrelink?

Income Protection payments are treated as part of a person's 'ordinary income'. Centrelink adds up payments a person receives from their insurance, and any other income, to assess whether the person is eligible for a Centrelink payment. Currently, the first \$172 per fortnight in income protection payments is usually exempt. Thereafter, Centrelink payments reduce by 50 cents for every dollar earned above \$172. If a person's ordinary income is greater than the fortnightly payments provided by Centrelink they will not be eligible for any payments.

Income protection offset clauses

Some (but not all) income protection insurance policies offset Centrelink payments. This means that if you are receiving Centrelink payments, your income protection payments will either be reduced dollar-for-dollar by those Centrelink payments or income protection will only top up your Centrelink payments.

However, in that situation, Centrelink will deem you to have received the full income protection payments and reduce your Centrelink payments accordingly. It would then be possible to go back to the insurer to increase the income protection payments on the basis that the Centrelink payments were reduced.

My client has just received an income protection payment — do they have to notify Centrelink?

Your client should notify Centrelink as soon as they start receiving Income Protection payments. They will likely then have to report the amounts they receive each fortnight.

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My client has been told by Centrelink they have a debt due to receiving income protection

Centrelink may calculate that there was an overpayment if a person's insurance backpays them a lump sum of income protection for a period when the person was receiving a Centrelink payment. This may result in Centrelink raising a debt.

In special circumstances, it may be possible to appeal this decision and have some or all of the money paid back to the person. There is no time limit to appeal. See our factsheet on Appealing to Centrelink at www.nssrn.org.au/factsheets/ for more information.

Are income protection insurance payments different from 'compensation' payments?

Centrelink has specific rules for how it treats compensation payments. 'Compensation' under social security law usually refers to payments from statutory compensation schemes (bodies such as WorkCover or motor accident compensation, for example) or common law claims.

Income Protection payments are **NOT** compensation for Centrelink purposes and do not have the same effect on Centrelink payments.



Where can my client get more information?

Your client can refer to our factsheet on Income Preclusion Periods at www.nssrn.org.au/factsheets/.

Income maintenance periods



My client recently left work and has been paid out for unused leave and/or redundancy — how will this affect their eligibility for Centrelink payments?

Centrelink calculates a person's income maintenance period to determine eligibility for payments. A person's social security payments may be reduced to nil until the maintenance period ends, and their partner's social security payment may also be affected.

An income maintenance period generally lasts for as many weeks as the person was paid out by their former employer. It is really important that your client plans their finances to last the length of this period.

The income maintenance period applies to the following payments:

- Newstart Allowance
- Partner Allowance
- Widow Allowance
- Sickness Allowance
- Parenting Payment
- Youth Allowance
- Austudy Payment
- Disability Support Pension

What should my client do when they receive their unused leave or redundancy payment?

If they have not found a new job, they should lodge a claim for a social security payment. At the same time, they should provide Centrelink with an employment separation certification, which details the payment they received from their employer. Centrelink will calculate their income maintenance period and advise them in writing of the date from which they can be paid.

If their employer has not provided an employment separation certificate or has filled it out incorrectly, the person should notify Centrelink. Centrelink can contact the employer directly or obtain the necessary information after granting the payment. It is the employer's responsibility to provide the employment separation certificate to Centrelink. A person's payment should not be delayed or refused if they have difficulty obtaining the certificate through no fault of their own.

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My client has run out of money before their income maintenance period has ended

Your client can request a waiver of their income maintenance period or make a claim for Special Benefit. However, it is rare for either a waiver or a claim for Special Benefit to be granted in these circumstances.

Waiver

A request for a waiver may be made at the same time as the claim for a social security payment. The period may be waived if a person is in severe financial hardship due (only) to **unavoidable or reasonable expenditure**. Severe financial hardship for a single person means that the total value of their liquid assets is less than the maximum fortnightly social security payment rate they would receive if it were not for the income maintenance period.

When requesting a waiver, a person should therefore provide evidence showing they are in severe financial hardship, such as their current bank account, and evidence of their unavoidable or reasonable expenses, such as bank statements or receipts.

Special Benefit

A claim for Special Benefit can be lodged at the same time as they request a waiver of the income maintenance period. Special Benefit is a discretionary payment for people who are unable to support themselves for reasons beyond their control.

If Centrelink refuses to grant a waiver or Special Benefit, your client can lodge an appeal with an Authorised Review Officer. The appeal must be lodged within 13 weeks of the original decision to ensure back payment if the decision is reversed. See our factsheet on Appealing to Centrelink at www.nssrn.org.au/factsheets/ for more information.



Where should I direct my client for further information?

Your client can refer to our factsheet on Income Maintenance Periods at www.nssrn.org.au/factsheets/.

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Centrelink debts



A Centrelink debt is raised when a person has been paid more social security benefit than they were entitled to. The person will have usually received an Account Payable letter stating the amount of the debt, the payment it was raised in relation to and why it was raised.

My client has been told they have a debt and must enter into a repayment arrangement with Centrelink — what should they do?

If a person is not on a Centrelink payment and does not enter into a repayment arrangement before a required date, Centrelink may:

- Add a penalty charge of 10%,
- Add an additional recovery fee charge,
- Garnishee the person's tax refund or their bank account,
- Make an order to stop them from travelling outside Australia, and/or
- Send their debt to an agency, such as Dun and Bradstreet, which will try to recover the debt.

A repayment plan can be arranged or re-negotiated by calling the Centrelink Debt Recovery number on 1800 076 072.

The instalment amount a person is paying should not cause them financial hardship. They should negotiate with Centrelink about the amount to ensure they are paying what they can afford.

Centrelink can place the debt on hold for 13 weeks at the person's request.

My client disagrees with the debt raised

A person can ask Centrelink to review the decision to raise a debt. There is no time limit for filing a review. Even if the person plans to appeal against the debt, they should enter into a repayment plan – part or all of the money they have paid under the plan may be returned to them if the appeal is successful.



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It is important to note that there are risks in appealing a debt, as:

- the debt could increase after further investigation by Centrelink, and
- any information provided to Centrelink can be used to make a referral to the Commonwealth Department of Public Prosecution ('CDPP') for prosecution.

All or part of a debt may be waived if:

- the debt did not result from the person (or another person) **knowingly** making a false statement or representation, or not complying with requirements under social security law (such as notifying Centrelink of their income), and
- special circumstances exist (other than financial hardship alone) that make it desirable to waive the debt. It is often difficult to demonstrate such circumstances exist.



My client was told their debt has been referred to the Commonwealth Director of Public Prosecutions (CDPP)

The CDPP can prosecute an individual for failing to provide information or making false statements about their circumstances. If your client has been told they have been referred for prosecution, tell them to contact an NSSRN member as soon as possible.



Where can my client find further information?

Your client can refer to our factsheets on Centrelink Debt and Appealing to Centrelink at www.nssrn.org.au/factsheets/. If a client wants legal advice on their debt, please refer them to a NSSRN member, which can be found at www.nssrn.org.au/services/.

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Centrelink penalties



My client has had a Centrelink penalty imposed

A Centrelink penalty is applied when a person fails to fulfil an activity requirement that was a condition of them continuing to receive their payment. These requirements are applied to those receiving Newstart and Youth Allowance as a job seeker, Parenting Payment and some types of Special Benefit.

A penalty may be in the form of a payment suspension, payment cancellation or demerit points. Suspensions and cancellations can usually be remedied by re-engaging with the activity requirement, such as attending an appointment with the person's job agency.

If an individual accrues enough demerit points, a financial penalty may be applied. An individual may have a demerit point removed by showing they had a valid excuse for not complying with the obligation.

My client wants to appeal against the penalty

Suspensions and cancellations must be appealed within 13 weeks of the decision to ensure back payments. A suspension or cancellation may be reversed if it can be shown the decision was not correct or was made in error. For example, a person shows they had given Centrelink reasonable notice of their inability to meet the obligation or had a reasonable excuse for not meeting the obligation.

Demerit points cannot be appealed, but they may be internally cleared (if Centrelink considers they were improperly applied). You can refer your client for legal advice regarding the penalty to an NSSRN member, which can be found at www.nssrn.org.au/services/

General information can also be found at: <https://bit.ly/2kNmtEZ>.

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Eligibility for income support



The full list of Centrelink benefits can be found at:

www.humanservices.gov.au/individuals/services/centrelink

Centrelink's Payment and Service Finder (<https://bit.ly/2wsawJR>) may also be used to determine initial eligibility. A person should contact Centrelink and advise it in detail of their circumstances to determine which benefit they are eligible for.

A person has appeal rights if their application for income support has been rejected. The first step is asking for an internal review of the decision by a Centrelink Authorised Review Officer. This must be done within 13 weeks of the decision to ensure back payment if the decision is reversed. The person should seek legal advice from an NSSRN member (www.nssrn.org.au/services/) before asking for a review.

Domestic violence and Centrelink payments



If a client's financial problem is related to their experience of domestic violence, certain Centrelink payments are available to provide additional support. These include:

- **Crisis Payment** – a one-off payment that can be paid to a person:
 - › leaving a violent relationship if that person is eligible for social security,
 - › is in severe financial hardship, and
 - › has recently experienced an extreme life change such as leaving a violent relationship which includes one party leaving the family home.

The payment is equal to one week's payment of the person's current Centrelink benefit. For more information on the crisis payment:

<https://www.humanservices.gov.au/individuals/forms/su510>

- **Urgent payment** – an instalment of the benefit may be paid in advance if the person is in severe financial hardship as a result of exceptional and unforeseen circumstances (which may include domestic violence). The advance is repaid fortnightly.

See: <https://bit.ly/2kztnh6>

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A person who is under 22 and cannot live at home due to extreme circumstances (including domestic violence) may be able to claim the Independent Youth Allowance rate. Centrelink will assess the situation when the person lodges a claim for Youth Allowance and asks to be treated as independent.

If a person is receiving a payment that requires them to complete participation activities they may be able to obtain an exemption from them by showing they have been subject to domestic violence.

For individuals receiving Newstart, Youth Allowance and Parenting Payment, the domestic violence incident must have occurred in the 26 weeks before requesting the exemption. The exemption is granted for an initial 16 weeks, with the possibility of extension.

- For individuals receiving Disability Support Pension, the domestic violence incident may be treated as a major personal crisis which qualifies the individual for an exemption of up to 13 weeks.
- For individuals receiving Special Benefit, the domestic violence incident may be treated as a major personal crisis which qualifies the individual for an exemption of two weeks, which can be extended to four weeks in extremely traumatic circumstances.

If a person is receiving a payment that may be affected by them being a member of a couple, Centrelink considers domestic violence as a factor in assessing their relationship status.

Last resort for debt waivers



The Department of Finance provides a last-resort option for people with Commonwealth debts (including to Centrelink, the Australian Tax Office and the Department of Education) to seek waivers if all other appeal avenues have been unsuccessful.

Appeal avenues include seeking a review of a Centrelink debt with an Authorised Review Officer and lodging a dispute with the Administrative Appeals Tribunal phase 1.

People can apply for a waiver on the grounds of unaffordability – that payment will put them into hardship. More information is available from the department's website at <https://bit.ly/2kZiFQW>. It can take up to two years for the process to be completed but it is well worth the wait if a waiver is granted.

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