

Compensation Preclusion Periods

If you receive a lump sum compensation payment, you may not be entitled to a Centrelink payment for a period of time. This is known as a compensation preclusion period.

This factsheet covers:

- What do I need to do if I receive a lump sum compensation payment?
- What is a compensation preclusion period?
- How long is a compensation preclusion period?
- When can the compensation preclusion period be reduced?

WHAT DO I NEED TO DO IF I RECEIVE A LUMP SUM COMPENSATION PAYMENT?

Lump sum compensation is a one-off payment made to compensate for lost earnings or lost capacity to earn resulting from personal injury. You should contact Centrelink to check whether a payment you have received is a lump sum compensation for the purposes of Centrelink payments.

If you are yet to settle a compensation claim, it is important you take the compensation preclusion period into account in the settlement. You can discuss this with a compensation lawyer. You can also contact a free financial counselling service, which can be found [here](https://www.moneysmart.gov.au) (<https://www.moneysmart.gov.au>) or by searching 'ASIC financial counselling'.

If you are currently receiving a Centrelink payment and you or your partner receives a lump sum compensation payment, you are under a legal obligation to notify Centrelink of this within 7 days of receipt. A failure to do so may result in you being overpaid and Centrelink raising a debt against you.

You can notify Centrelink of your lump sum compensation payment by printing and uploading the form or going to your closest Centrelink office.

If you are not currently receiving a Centrelink payment and you receive a lump sum compensation payment you should be aware that a compensation preclusion period may prevent you from accessing Centrelink payments in the future.

WHAT IS A COMPENSATION PRECLUSION PERIOD?

A compensation preclusion period is a period of time during which you are not entitled to Centrelink payments due to receiving lump sum compensation. The preclusion period applies because you are expected to live on the compensation payment during this period.

It is very difficult to access Centrelink support if you use up your compensation payment before the preclusion period is over.

You should plan your finances carefully and obtain advice from a financial counsellor to make sure you are able to support yourself over the entire preclusion period.

This applies to almost all Centrelink payments.

You may also have to repay money to Centrelink if you were paid a social security payment during the preclusion period. This is called a compensation charge. In rare cases, you may be able to successfully appeal the compensation charge and have the money paid back to you. You should

contact your closest Economic Justice Australia member centre for further advice on this. You can find your closest member centre at: <https://ejaustralia.org.au/legal-help-centrelink/>

See our factsheet 'Appealing a Centrelink Decision' for more information on this process: <https://www.ejaustralia.org.au/fact-sheets/>

Some Centrelink payments are not subject to a preclusion period. You should contact Centrelink to see if you are eligible for any of these payments:

- Family Tax Benefit, if you have children and provide them with care,
- Carer Allowance, if you care for a person on a daily basis, or
- Mobility Allowance, if you require substantial assistance to use public transport because of a disability (closed to new entrants from 1 July 2020).

You might be eligible for a Low-Income Health Care Card 12 months after you receive compensation.

HOW LONG IS A COMPENSATION PRECLUSION PERIOD?

In most cases, the preclusion period is calculated from the date you lost your capacity to earn, which is usually the date of the personal injury that relates to the compensation payment.

Centrelink uses a specific formula for working out the length of your preclusion period. The specific length of your preclusion period will be determined by Centrelink after you have given them information about your compensation payment. You can get an estimate of the preclusion period length by using Centrelink's online calculator.

Your total lump sum compensation payment is used to calculate the preclusion period even if you did not receive all of the money. For example, even if you used some of the compensation payment to pay for legal fees, the total amount you settled for is used to calculate the preclusion period.

WHEN CAN A COMPENSATION PRECLUSION PERIOD BE REDUCED?

In most cases, the preclusion period cannot be reduced. You will need to show that there are 'special circumstances' for the period to be reduced. 'Special circumstances' means that your situation is unusual, unforeseen or exceptional and that this creates extreme hardship or an unjust or unreasonable situation.

If you have received a compensation lump sum and you no longer have enough left to live on, you should lodge a claim for a Centrelink payment. If it is rejected, you can ask for a review of the decision by an Authorised Review Officer. Decisions about preclusion periods are rarely changed, so it is a good idea to get legal advice from one of our member centres before asking for a review. You can find your closest member centre at: <https://ejaustralia.org.au/legal-help-centrelink/>

See our factsheet 'Appealing to Centrelink' for more information on this process: <https://www.ejaustralia.org.au/fact-sheets/>

It is important to supply Centrelink with evidence about your compensation payment and special circumstances. See the next page for examples of the types of evidence you can provide.

Evidence about how you spent the compensation money	
how much you were paid in compensation and how much money you actually received	letter from the lawyer who represented you in the compensation matter and/or letter showing your legal fees
expenditure	bank statements and/or receipts for major purchases such as a house, car, renovations to accommodation your disabilities, loans, funerals, etc.
Evidence showing your circumstances are unusual, unforeseen or exceptional	
the impact of a health condition or disability suffered by you or a member of your family	medical report
the impact of severe emotional stress on your health	medical report
addiction, including pathological gambling	medical report and/or social worker report
domestic violence	medical report and/or social worker report
incorrect or insufficient legal advice	legal documents and/or third party report
failure of a well-considered investment or business	financial records
fraud	third party report and/or financial records and/or legal documents
family property law settlement	financial records and/or legal documents
Evidence showing circumstances of hardship	
financial evidence	bank statements and/or overdue notices for bills, credit cards or rent and/or letter of support from a financial counsellor (available free by calling the National Debt Helpline on 1800 007 007)

If you have any major assets, you need to disclose these to Centrelink and explain why you are unable to sell them. This is because you would be expected to sell your assets, such as a car, prior to relying on the safety net.

Where can I get help?

You can get free legal advice from your closest Economic Justice Australia member centre which can be found at <http://www.ejaustralia.org.au/legal-help-centrelink/>

This factsheet was informed by previously published factsheets from Social Security Rights Victoria.

This factsheet does not constitute legal advice.

Please contact any of our member centres if you wish to obtain free legal advice.
Find your closest member centre at www.ejaustralia.org.au