

APPEALING A CENTRELINK DECISION

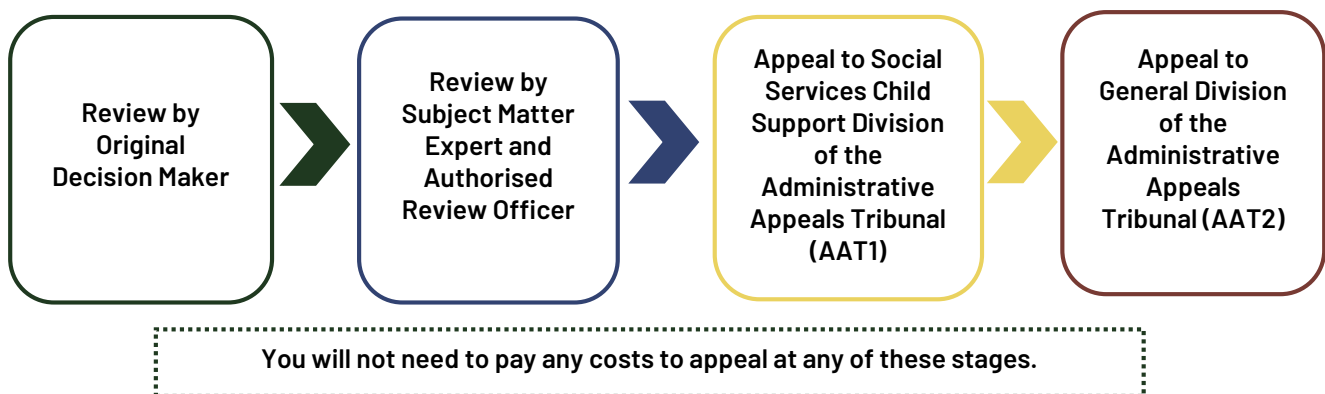
This factsheet is for people who want to appeal a decision made by Centrelink. You have the right to appeal a Centrelink decision and Centrelink won't treat you differently if you appeal.

It is a good idea to get legal advice before you appeal. You can also be represented by a lawyer on appeal, but this is not required.

This factsheet covers:

- How do I appeal Centrelink's decision?
- What happens to my payment while I appeal?
- Timeframes for appeal

How do I appeal Centrelink's decision?



In very limited cases, you might have grounds to appeal to the Federal Court of Australia on a question of law. This requires being able to show the Court that AAT made an error of law and that the error contributed to the decision that is being appealed.

Appeals to the FCA are expensive. It is important to obtain legal advice before you decide to lodge an appeal to the FCA.

Review by Original Decision Maker

If Centrelink has made a decision you do not agree with, it can be a good idea to contact Centrelink and ask them for an explanation of the decision first.

This gives you the chance to correct any misunderstandings and present new information. In some cases, Centrelink may change the decision without the need for a formal appeal.

Review by Subject Matter Expert and ARO

If you do not agree with the explanation provided by the Original Decision Maker, you have a right to appeal to a Centrelink Authorised Review Officer (ARO).

How do I appeal?



You can appeal the decision by either:

- Phoning Centrelink or visiting a Centrelink office and telling them you wish to appeal. If you submit a request for review by phone, keep a record of the date and time of the call and ask the Centrelink call centre officer for a receipt number so you have proof of the conversation.
- Completing and providing to Centrelink a form called "Review of Decision" which can be found [here](#).

Time limits



If you are appealing the rejection, cancellation or rate of payment you must lodge the appeal within 13 weeks of being given written notice of the original decision. If you lodge later, you may not receive back payment. There are no time limits to submit a request for a review of a Centrelink debt.

If you are appealing a decision to raise a debt against you, there is no time limit for appealing to an ARO, even if you have paid off the debt completely.

See the timeframe table at the end of this factsheet for full details of appeal timeframes for different payments.

Appeal process



Your request for a review may first be allocated to a Subject Matter Expert (SME) if your matter is complex.

An SME is a Centrelink officer who has specialist knowledge of particular payment type or payment and eligibility criteria. The SME must either decide completely in your favour or refer your matter to an ARO. Sometimes the SME will call to ask for additional evidence. If the SME makes a decision you do not agree with, you are entitled to have the decision reviewed by an ARO.

An ARO is a senior Centrelink officer who is independent from your matter and has experience in reviewing decisions. They will:

- Where possible, talk to you about the decision
- Look at the facts, the law and policy
- Change the decision if it is not correct
- Advise you in writing about the result of the review

Usually the ARO will try to call you before you make a decision. If you do not answer, they will make their decision without obtaining any further information from you.

It can take many months for the ARO to make a decision. If you have no sources of income and your appeal is about being paid a Centrelink payment, you should tell Centrelink to treat your appeal as urgent. This means you should hear from the ARO within 7 to 10 days. You should also seek legal advice from your nearest NSSRN member centre.

AAT1

If you disagree with the decision made by the ARO, you have the right to appeal to the Social Services Child Support Division of the Administrative Appeals Tribunal (AAT1). The AAT1 is independent from Centrelink.

How do I appeal?



You can lodge your appeal:

- By completing an application form which you can ask AAT1 to send to you or printing the form found at www.aat.gov.au
- [Online at www.aat.gov.au](http://www.aat.gov.au);
- By phoning AAT1 on **1800 228 333**.

When the AAT-1 has received your application, you will receive a letter confirming that your application has been received.

Within a few weeks of the application being lodged, the AAT1 will send another letter with a hearing date. Hearings can be held by phone but it is better to appear in person.

Time limits



If you are appealing the rejection, cancellation or rate of payment, you must appeal to the AAT1 within 13 weeks of being given notice of the ARO decision in order to receive full back pay if you appeal is successful.

If you are appealing a decision to raise a debt against you, there is no time limit for appealing to an ARO, even if you have paid off the debt completely.

Appeal process



What to expect at your hearing:

- Your hearing will be relatively informal
- In most cases, the hearing will be held with just you and one AAT1 member
- Centrelink will not be present at most AAT1 hearings. You will be provided with a copy of the papers prepared by Centrelink in relation to its decision. These documents will also be provided to the AAT1 Member who will hear your matter.

What you should do to prepare for your hearing:

- You can bring a support worker with you to the hearing
- You should obtain as much evidence as possible to demonstrate your circumstances. This can be very important, as new evidence is often the reason why appeals are successful.
- You can send in any documents to the AAT by email, post or in person before the hearing date
- You can also present new information or documents at the hearing.
- It does not matter if you did not give this information to Centrelink.

AAT2

If you disagree with the decision made by the AAT1 member, you have a right to appeal to the General Division of the Administrative Appeals Tribunal (AAT2). If you are successful at AAT1, Centrelink may also choose to appeal the decision to the AAT2.

How do I appeal?



You can lodge your appeal:

- By completing an application form which you can ask AAT1 to send to you or printing the form found at www.aat.gov.au
- [Online at www.aat.gov.au](http://www.aat.gov.au);
- By phoning AAT1 on **1800 228 333**.

When the AAT2 has received your application, you will receive a letter confirming that your request for review has been received.

Within a few weeks of the application being lodged, the AAT2 will send another letter with a date for the Preliminary Conference. If a hearing date is set, the AAT2 will send another letter with the details.

Time limits



An appeal to the AAT2 must be made within 28 days of receiving the decision made by the AAT1.

If you appeal after the 28 days has expired, you can apply for an extension of time, although this will only be granted in certain circumstances.

Appeal process



You should get legal advice on whether it is a good idea to proceed with an appeal from your closest NSSRN member centre. To ensure you comply with time limits, you can lodge the claim and later withdraw it if you do not wish to proceed.

The AAT2 is more formal but it is still flexible.

First, there will be at least one meeting between you, a representative from Centrelink, and the Tribunal Registrar to discuss the issues about your case to see if the matter can be resolved without a hearing. This is called a Preliminary Conference and is often conducted by telephone.

At the Preliminary Conference you can negotiate with Centrelink to resolve your issue. Centrelink may be willing to settle the matter. You should seek advice from your nearest NSSRN Member Centre before you accept or reject any offer from Centrelink.

Any settlement agreed to at the Preliminary Conference will be the final binding decision.

If the matter is not resolved at the Preliminary Conference, or you or Centrelink do not otherwise withdraw the appeal, a date will be set for a hearing and your case will be heard by an AAT2 Tribunal Member who will then give their decision on the matter.

What happens to my payment while I appeal?

Payment pending review enables you to continue to be paid whilst you are waiting a decision from an ARO or an AAT1 member.

It is up to Centrelink to decide whether to grant payment pending review.

In deciding whether to grant payment pending review, Centrelink will consider whether you will be placed in severe financial hardship and/or your caring responsibilities, medical condition(s), accommodation will be significantly adversely affected if not granted. Your appeal also needs to have merit.

Payments made during a period of payment pending review are not recoverable as a debt.

Payment pending review is not available for AAT2 decisions. However, you may be able make a request for a 'Stay Order' from the AAT2.

A request for a 'Stay Order' must be done in writing by filling out the AAT 'Request for Stay Order' form. The form can be found [here](#).

Before lodging a request for a 'Stay Order' it is a good idea to receive legal advice. If the decision is not in your favour, Centrelink will recover any payments made to you under the Stay Order.

If you have no sources of income and your appeal is about being paid a Centrelink payment, you should tell Centrelink to treat your appeal as urgent. This means you should hear from the ARO within 7 to 10 days. You should also seek legal advice from your nearest NSSRN member centre.

TIMEFRAMES FOR LODGING A REVIEW REQUEST			
Payment	ARO	AAT1	AAT2
Most payments	13 weeks from date of notification about original Centrelink decision	13 weeks from date of notification about ARO decision	28 days from date of AAT1 decision
Abstudy and Assistance for Isolated Children Payments (including debts)	3 months from date of notification about original Centrelink decision	13 weeks from date of notification about ARO decision	28 days from date of AAT1 decision
Family Assistance Payments (e.g. Family Tax Benefit, Child Care Benefit, Baby Bonus)	52 weeks from date of notification about original Centrelink decision	13 weeks from date of notification about ARO decision	28 days from date of AAT1 decision
Paid Parental Leave Scheme	28 days from date of original Centrelink decision	13 weeks from date of notification about ARO decision	28 days from date of AAT1 decision
Debt (except for Abstudy or Assistance for Isolated Children payments)	No time limit	No time limit	28 days from date of AAT1 decision

You can still request a review by ARO or AAT1 after 13 weeks. However, if the review is successful, you may only get your payment from the date you requested the review.

Where can I get help?



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

This factsheet was informed by previously published factsheets from Social Security Rights Victoria, Basic Rights Queensland and Welfare Rights Centre Sydney.

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